



Submission to the Committee on the Elimination of Racial Discrimination
By Minority Rights Group International,
International Non-governmental Organisation with ECOSOC Consultative Status

Rwanda

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Introduction

Minority Rights Group International (MRG) is an international NGO working to secure the rights of ethnic, religious and linguistic minorities worldwide. MRG has consultative status with the United Nations Economic and Social Council (ECOSOC), and observer status with the African Commission on Human and Peoples' Rights (ACHPR). MRG and its Rwandan partners have studied firsthand the situation of the Batwa, and MRG has published recent reports on the Batwa: "Uncounted: the Hidden Lives of Batwa Women" (2010) and "The Right to Learn: Batwa Education in the Great Lakes Region of Africa" (2008).

In line with the mandate of MRG, this report addresses the rights of the Batwa¹ as a minority and indigenous community in Rwanda. First, this report provides an overview of the situation of the Batwa in Rwanda. Then, it focuses on the issues of recognition of Batwa's indigenous status, equal access to education, violence against Batwa women, and the right to housing.

Overview of the Batwa People

The Batwa are an indigenous 'hunter-gatherer' people, traditionally inhabiting the forests of the Great Lakes Region of Africa, who have been evicted from their forest homes over many decades beginning in pre-colonial times. The Batwa can claim to be the original inhabitants of Rwanda, being related to other 'Pygmy' peoples of Central Africa. Although no official figures exist and it is difficult to estimate the numbers of the Batwa, estimates place the population in Rwanda at 33,000, or about 1% of the country's population.² The Batwa are dispersed throughout the country in small groups, and none are believed to maintain a traditional existence as forest-dwellers. Most Batwa work as potters, though others earn a living as day labourers or porters. Almost none own land or cattle.

The Batwa people can be considered the forgotten victims of the Rwandan genocide, and their suffering has gone largely unrecognised. It is estimated that up to 30% of the Rwandan Batwa population died or were killed as a consequence of the genocide and ensuing war.³ The Batwa now live as a neglected and marginalised minority, mostly in conflict and post-conflict regions. The Batwa are widely stigmatised by both Hutus and Tutsis who consider them ignorant and uncivilised. Taboos surround eating together or even using utensils used by Batwa. Social and economic integration of Batwa in Rwandan society is extremely limited.⁴ Furthermore, despite the prohibition on mentioning ethnicity, Kinyarwanda radio stations continue to broadcast racist jokes insulting the Batwa.⁵

The Batwa also remain disadvantaged in education, healthcare, and land rights. Restrictions imposed by the Government of Rwanda on Batwa organisations that actively promote their indigenous status

¹ MRG uses the term *Batwa*, which is the plural form of Twa or Mutwa.

² CAURWA (now COPORWA), "Enquête sur la condition de vie socio-économique des ménages bénéficiaires de la Communautés rwandais." January 2004, p15.

³ Lewis, Jerome. "The Batwa Pygmies of the Great Lakes Region," Minority Rights Group International: June 2000, p25.

⁴ Ibid, p6; Ramsay, Kathryn. "Uncounted: the Hidden Lives of Batwa Women." Minority Rights Group International: May 2010, p2; Warrilow, Fay. "The Right to Learn: Batwa Education in the Great Lakes Region of Africa." Minority Rights Group International: December 2008, p16; Report of the African Commission's Working Group on Indigenous Populations/Communities: Mission to the Republic of Rwanda. 1-5 December 2008. p31. The African Commission on Human and People's Rights adopted this report at its 47th Ordinary Session, 12-26 May 2010.

⁵ This was reported by an MRG staff member on a Rwanda visit in February 2011.

as a distinct people has hindered actions to improve the lives of the Batwa. In 2004, the Rwandan Justice Ministry refused to grant legal status to the Batwa rights NGO Communauté des Autochtones Rwandaises (CAURWA) unless it stopped identifying the Batwa as Rwanda's first inhabitants, and stopped referring to Batwa people. In April 2006, the Secretary General of the Rwandan Ministry of Justice explained to IRIN News, "Such ethnic divisions have only caused conflicts between the people of this country... It is now time to pass over these petty differences and pursue the goal of national unity that will benefit everyone in Rwanda." In 2007, CAURWA was forced to change its name, as the government refused to budge on the issue of renewing its charity licence, until it had dropped the word 'indigenous' from its title.⁶

Recognition of Batwa Indigenous Status

In the aftermath of the 1994 Rwandan genocide, the Government of Rwanda has sought national unity and reconciliation by implementing policies and laws aimed at entirely eliminating distinctions among ethnic groups. Thereby, the Government of Rwanda refuses to recognise the existence of minority and indigenous groups in Rwanda. The Batwa live not only in Rwanda, but also in Burundi, Uganda, and the Democratic Republic of Congo and are generally considered an indigenous people in the region.

The Government report⁷ mentions the Batwa in relation to a description of the origins of the Rwandan people in paragraphs 8-11, merely to state that all Rwandans are the same, and 'myths' of different ethnic origins among the Hutus, Tutsis, and Batwa 'were discounted'. Paragraph 12 then states that no distinct ethnic groups exist in Rwanda, because no ethnic difference has ever existed. Thereby, the Government report argues that Rwanda is home to only one shared ethnicity resulting from a common ancestry: 'the ethnic group of Banyarwanda'. While the Government has criminalized mention of ethnic distinctions⁸ and does not consider the Batwa as a distinct indigenous people, the Government report includes two mentions of 'historically marginalised groups' (paragraphs 192 and 228). Although the report gives no definition of who this group includes or what their situation is, in Rwanda it is widely understood that 'historically marginalised groups' refers to the Batwa.

The Government of Rwanda's position is not in line with ICERD Article 1. As the Committee has highlighted in General Comment 8 on Article 1, identification with a particular racial or ethnic group is "based upon self-identification." CERD General Comment 24 on Article 1 further supports the right to recognition based on self-identification.⁹ Furthermore, CERD General Comment 23

⁶ Report of the African Commission's Working Group on Indigenous Populations/Communities: Mission to the Republic of Rwanda, Note 4, p31.

⁷ Thirteenth to seventeenth periodic report submitted by the Government of Rwanda on the current implementation status of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). U.N. Doc. CERD/C/RWA/13-17 (2008).

⁸ *Law No 47/2001 of December 2001 instituting punishment for offences of discrimination and sectarianism* provides for penalties to be imposed on people for divisionism or sectarianism, meaning "the use of any speech, written statement, or action that divides people, that is likely to spark conflicts among people, or that causes an uprising which might degenerate into strife among people based on discrimination." In essence, public mention of a distinction of groups into Hutu, Tutsi, and Twa is prohibited and considered 'divisionism', and therefore, a criminal offence.

⁹ CERD General Comment 24(3) on Article 1 states "Some States parties fail to collect data on the ethnic or national origin of their citizens or of other persons living on their territory, but decide at their own discretion which groups constitute ethnic groups or indigenous peoples that are to be recognized and treated as such. The Committee believes that there is an international standard concerning the specific rights of people belonging to such groups, together with generally recognized norms concerning equal rights for all and non-discrimination, including those incorporated in the

specifically calls upon States parties to recognise and respect indigenous peoples and ensure that members of indigenous groups have equal rights and can exercise those rights. By refusing to recognise the Batwa as an ethnic indigenous minority, the Government fails to meet its obligations under these ICERD provisions.

The Government's position also runs contrary to the Human Rights Committee's approach to Article 27 of the International Covenant on Civil and Political Rights (ICCPR). The HRCtee in General Comment 23 echoes the assertions set forth in the CERD General Comments mentioned above by stating that '[t]he existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by that State party but requires to be established by objective criteria'.

While government sensitivities to ethnic differences are understandable given the 1994 genocide, MRG believes that the Rwandan Government's position is more likely to aggravate ethnic conflict in the future rather than reduce ethnic tensions. Rwanda has a history of ethnic conflict between the Hutu majority and Tutsi minority populations (with the Batwa often caught in the middle). Prior to the 1994 genocide, ethnic violence including massacres of Tutsis occurred during the 1960s and 1970s. Tensions within Rwandan society were not addressed after that violence and thus reoccurred in the 1990s. The current government's policy that everyone is Rwandan and no minority ethnic groups exist in the country does not address the deep-rooted tensions that continue to exist in Rwandan society. Moreover, it allows a situation to develop in which a group can enjoy a de facto position of privilege, while others are forbidden to challenge it. This provides fertile ground for frustrations, which movements wishing to challenge the state through violence can exploit. Thus, minority rights provisions enable these groups to enjoy human rights equally with the rest of the population, and allow historical grievances and discrimination to be tackled, without which the cycle of violence could continue in the future.

As a result of the Government's refusal to recognise minorities, official data to document the problems of the Batwa is not collected. For example, the estimate of the size of the Batwa population in Rwanda comes from research by NGOs instead of from a government census. While the Government's report does mention that some communities have been historically marginalised and deserve special assistance so that their full socio-economic integration can be achieved, the failure to recognise these communities as an indigenous group, and prevent discrimination on this basis, means that the effective implementation of ICERD is hindered. When minorities are not recognised, the Government cannot know whether its programmes are tackling their problems effectively.

The Government's stance also prevents or impedes development agencies and NGOs from addressing the marginalisation of the Batwa. For example, as mentioned above, Rwandan local NGOs working to improve the situation of the Batwa have faced restrictions on their activities and work under the threat that they could be accused of inciting ethnic divisions in the country. In 2008, the government prevented MRG and its Rwandan partner organizations from holding a training event on Batwa women's rights; MRG had to move the event to Uganda.

Equal Access to Education

The education level of the Batwa remains far below the national average.¹⁰ According to a survey,

International Convention on the Elimination of All Forms of Racial Discrimination.”

¹⁰ Report of the African Commission's Working Group on Indigenous Populations/Communities: Mission to the Republic of Rwanda, Note 4, p19.

only 23% of the Batwa can read and write.¹¹ Education is a fundamental human right and an essential part of human development. The right to education is protected under ICERD Article 5(i)(v), which prohibits discrimination in “the right to education and training,” and the UN International Covenant on Economic, Social, and Cultural Rights (ICESCR). The benefits of education include facilitating participation in society to avoid being overlooked in a society where resources are limited. Many Batwa want an education in order to be literate so they can read road signs and read and write letters.

In paragraph 192 of its report, the Government states that historically marginalised people benefit from programs including ‘universal education for all.’ MRG commends the Government for supporting the higher education of 30 Batwa students under a programme for ‘Historically Marginalised Groups’. However, education (including primary education remains a problem for the Batwa (particularly Batwa women and girls). For example, 54% of Batwa women and girls surveyed recently by NGOs had not been to school and 46% had only received some primary education.¹² To give their children this opportunity, Batwa women send them to school where they can; however, even where Batwa are exempted from school fees, many, especially Batwa girls, are forced to leave school early due to poverty and hunger, lack of materials, and discrimination.¹³ Batwa children face discrimination both directly and indirectly at school, both by classmates, teachers, and textbook materials that portray the Batwa unfavourably.¹⁴ The obligation of non-discrimination in education that the Government of Rwanda has under ICERD includes the obligation to ensure the prevention of both direct and indirect discrimination against Batwa children in access to education. Where Batwa are disproportionately disadvantaged in access to education because of poverty, the principle of equality and non-discrimination requires the implementation of special measures, as set out in ICERD Article 1.4, in order to Batwa are able to enjoy the right to education on a par with others.

Violence against Batwa Women

NGO conducted research in Rwanda in 2009, sought to measure the scale and various manifestations of violence against Batwa women, as well as the perpetrators and the causes.¹⁵ The study asked respondents about the types of violence they thought Batwa women in Rwanda experience. They identified sexual violence such as rape (35.8%), as well as other forms of physical violence (17.9%). 18.6% of the respondents identified marginalisation as one of the forms of violence which Batwa women experience the most frequently. This indicates that the situation of Batwa women and girls is influenced by their social status and their position within society and linked to their gender. 80% of the respondents stated that violence towards Batwa women exists in their neighbourhoods and 55.8% had heard reports of violence towards Batwa women in their neighbourhoods.¹⁶ Although less pronounced in other social spheres, the respondents state that violence committed against Batwa women and girls also arises within the community, at school, etc.

¹¹ CAURWA (now COPORWA), “Enquête sur la condition de vie socio-économique des ménages bénéficiaires de la Communautés rwandais”. January 2004, p14.

¹² Ramsay, Kathryn. “Uncounted: the Hidden Lives of Batwa Women.” Minority Rights Group International: May 2010, p9

¹³ Report of the African Commission’s Working Group on Indigenous Populations/Communities: Mission to the Republic of Rwanda, Note 4, p47.

¹⁴ Ibid, p16, 20.

¹⁵ The research was performed in the three Rwandan districts of Gasabo, Rubavu and Nyaruguru, where 95 Twa women were interviewed. The choice of these districts was motivated by the high number of Twa communities residing there. Effective collaboration between local authorities and Twa community associations facilitated the performance of this research, without comprising its impartiality.

¹⁶ Ramsay, Kathryn. “Uncounted: the Hidden Lives of Batwa Women.” Minority Rights Group International: May 2010, p 10-12

In keeping with obligations under ICERD, the Government has an obligation to ensure that all measures it takes or programmes it implements to prevent violence against women include Batwa women and benefit them equally to other women. Likewise, article 5(a) on equality in the administration of justice requires the Government to ensure non-discrimination when Batwa women report cases of violence to the authorities. 47% of respondents in the survey said that reporting processes needed to be improved to help Batwa women report incidents of violence and 20% said there needed to be more understanding of Batwa women who report violence.¹⁷

Right to Housing

MRG is concerned about the effects of the 'Bye Bye Nyakatsi' programme described in detail to the Committee in the report by the Unrepresented Nations and Peoples Organisation (UNPO) (p. 20-21) on the right to housing of the Batwa in Rwanda.

In addition to the information presented in that report, an MRG staff member who visited Rwanda in February 2010, reported that although the president had made a statement that the programme would be changed to ensure Nyakatsi houses would not in future be destroyed before alternative accommodation had been provided, the Bye Bye Nyakatsi programme is continuing in its original form.

Conclusion and Recommendations

The rights of the Batwa in Rwanda have been ignored systematically. The lack of data on the Batwa population and their scarce mention in the Government report further supports the conclusion that the Batwa are marginalised and disregarded. This denial of rights extends to every part of public life. Article 2 of ICERD requires that "States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races." In order to comply with ICERD, MRG recommends the Committee make the following recommendations to the Government of Rwanda:

- The Government should recognise the existence of the Batwa as a prerequisite to fully understanding and tackling the discrimination and marginalisation that they face.
- The Government should acknowledge that accurate data disaggregated by ethnicity (and gender) is essential to develop and monitor effective programmes to ensure non-discrimination and improve the situation of the Batwa.
- The Government should collect data sensitively and should work on a consultative basis with the Batwa community and should collect and use the data in accordance with basic principles, e.g. self-identification, transparency in reasons for data collection, confidentiality and data protection.
- The Government of Rwanda should continue its programme to support the education of Batwa university students and undertake a systematic study of the causes of lack of access to education by Batwa paying particular attention to Batwa girls. Programmes to ensure Batwa children can access education on an equal footing with other children should be implemented.

¹⁷ Ibid. p.12

- The Government of Rwanda should ensure that its strategies on violence against women include, and are culturally relevant to, Batwa women. Programmes should be implemented in conjunction with Batwa communities, Batwa organizations, and women's rights organizations to educate Batwa women about their rights, and Batwa men about women's human rights. Public education programmes should also address discrimination and violence against Batwa women perpetrated by majority communities. The operation of the justice system at the local level should be reviewed to ensure that Batwa women have full and effective access to justice. Monitoring should take place at the local level to ensure that Batwa women are not denied access to the justice system because of lack of money or official corruption. Judges, police and government officials should receive training on women's rights and violence against women, including domestic violence.
- The Government should ensure that no Nyakatsi houses are demolished before alternative accommodation has been provided to Batwa families.