

Supplemental Report
on the
First Periodic Report of Uganda
on the
Convention on the Rights of the Child

CRC/C/65/Add.3 (State Party report)

Submitted by



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UOBDU

**United Organisation
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EXECUTIVE SUMMARY

This supplemental report has been prepared by the Batwa organisation United Organisation for Batwa Development in Uganda (UOBDU) and the international NGO, Forest Peoples Programme (FPP), in order to provide the Committee on the Rights of the Child with information about the situation and rights of indigenous Batwa children in Uganda and to comment on Uganda's First Periodic Report to the Committee.

We conclude that the rights of Batwa children are not adequately recognized and respected in Ugandan law and practice, and that Batwa children are substantially worse off than other children in Uganda. The Ugandan government has never addressed the Batwa's land dispossession and does not have in place any protective measures designed to address the severe discrimination faced by this community.

Originally, the Batwa, so-called 'Pygmy' peoples, were semi-nomadic hunter-gatherers, based in the Great Lakes region of central Africa, and they are widely accepted as prior inhabitants of the region. The estimated Batwa population is 86,000 to 112,000 people, with approximately 3,500 living in Uganda, mainly in the south-west. The Batwa identify as indigenous, however in violation of its international obligations, Uganda does not recognise the Batwa as indigenous.

Neither Uganda's Initial State report submitted in 1996, nor the Periodic State report currently under examination by the Committee mentions the Batwa people or Batwa children. None of Uganda's policies and laws on children, including the 2004 Ugandan National Strategic Programme Plan of Interventions for Orphans and Other Vulnerable Children, the National Orphans and Other Vulnerable Children Policy and the Children Statute 1996 pay any particular attention to Batwa children, whose extreme vulnerability is directly linked to the discrimination, landlessness, marginalisation and exclusion they and their parents continue to suffer.

Batwa children do not enjoy rights and fundamental freedoms on the same footing as other Ugandan children. For instance, the Ugandan Universal Primary Education (UPE) programme, a nationally recognised success story, has failed to benefit many marginalised Batwa children, who are forced to abandon school because of poverty and prejudice from other students and teachers. The Batwa's landlessness, caused by being forcibly expelled from their traditional lands, resulting in many having to squat on neighbours' land is an important factor that prevents Batwa children from enjoying most of the rights enshrined in the Convention on the Rights of the Child.

Finally, a series of suggested questions are respectfully proposed:

General Implementation Measures

- *Does Uganda intend to disseminate information about the Convention to Batwa children? Will this be done in a culturally appropriate manner and, if requested by the Batwa, in an appropriate language?*
- *Does Uganda intend to review laws affecting Batwa children to ensure their compatibility with the Convention, the rights of indigenous children and the rights of indigenous peoples in international law generally? If so, is there a proposed schedule*

for doing this and how does Uganda intend to ensure Batwa children's and peoples' participation and consensus?

- *Does the government cooperate with Batwa organizations to protect the rights of Batwa children?*

General Principles

- *What measures will be taken to ensure that the Batwa's right to self-identification as indigenous is upheld as guaranteed in international law?*
- *What measures does Uganda intend to take to guarantee the right of Batwa children to be free from discrimination?*
- *Does the government keep disaggregated statistics concerning the situation of Batwa children? If not, how does it determine what their special needs may be?*
- *What measures does Uganda intend to take to ensure the progressive realisation of economic, social and cultural rights for the Batwa and the immediate provision of basic social services for the Batwa?*

Civil Rights and Freedoms

- *What measures does Uganda propose to guarantee the right of Batwa children to their identity with particular regard to their relationship to lands, territories and resources?*
- *What institutional mechanisms exist that permit Batwa participation in decisions that affect them, particularly Batwa children?*
- *Do Batwa people and children participate in decision making about development policies and projects? If so, how?*
- *How is consensus reached in relation to development projects and policies?*

Basic Health and Welfare

- *What measures will Uganda take to ensure that Batwa children are guaranteed a safe and healthy environment?*
- *What measures will Uganda take to ensure that Batwa people and children have equal access to healthcare services and medicine?*
- *What measures will Uganda take to ensure that disaggregated quantitative and qualitative data on the Batwa's healthcare situation is gathered to help determine their special needs?*

Education, Leisure and Cultural Activities

- *What measures will Uganda take to ensure that Batwa children, especially Batwa girls, enjoy equal access to education?*
- *What measures does Uganda propose to implement to respond to the special needs of Batwa children's education, as was done for the pastoralist community in Karamoja?*
- *What measures does Uganda propose to implement to respond to the high drop-out rate of Batwa children from schools?*
- *What measures will Uganda take to ensure that disaggregated quantitative and qualitative data on the Batwa's education situation is gathered to help determine their special needs?*

- *What measures will Uganda take to ensure that positive information about the Batwa is included in the school curriculum?*

Special Protection Measures

- *How does Uganda intend to resolve the issue of Batwa rights to land and resources and how will Batwa participate in and agree to this process?*
- *What measures does Uganda intend to take to ensure that the participation rights of Batwa people and children are upheld?*
- *What measures does Uganda intend to take to ensure the recognition of Batwa children as vulnerable and their inclusion in policies and programmes intended for vulnerable children?*
- *What measures does Uganda intend to take to ensure the livelihood rights of Batwa people and children, in particular the rights to housing and a decent standard of living, are upheld?*

I. Introduction

1. Having read Uganda's first periodic report ("Periodic State report") due in 1997 and submitted pursuant to article 44 of the Convention on the Rights of the Child ("the Convention")¹, which will be examined by the Committee on the Rights of the Child ("the Committee") at its 40th session in September 2005, the United Organization for Batwa Development in Uganda (UOBDU) and the Forest Peoples Programme (FPP) ("the submitting organizations") respectfully submits this supplementary report to the Committee.
2. This report has been prepared in order to provide the Committee with information about the situation and rights of indigenous "Batwa" children in Uganda and to comment on Uganda's Periodic State report. Uganda's Initial State report to the Committee denied the existence of indigenous peoples in the country, and the Periodic State report makes no mention of Batwa children². Adequate information about Batwa children is therefore sadly lacking in the Periodic State report, and no Batwa organisations were consulted in its preparation. We hope that the Committee finds this report to be of assistance.
3. 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 1999.
4. The United Organisation for Batwa Development in Uganda (UOBDO) aims to support Batwa in South West Uganda to address their land problems and help them develop sustainable alternative livelihoods. UOBDU, registered in 2001, is a national NGO formed by Batwa. All Batwa are eligible to join and its governing board is made up of Batwa from three districts of South West Uganda.

II. Overview – Basic Information about Indigenous Batwa peoples

5. Originally, the Batwa were semi-nomadic hunter-gatherers, based around the high mountainous forest areas round Lake Kivu and Lake Edward in the Great Lakes region in the heart of Africa. The Batwa are widely accepted as prior inhabitants of the region (as forest-dwelling hunter-gatherers), who were later joined by farmers and pastoralists. The Batwa are still to be found living in Rwanda, Burundi, eastern Congo and Uganda, with an estimated population of 86,000 to 112,000 (approximately 3,500 in Uganda, mainly located in the south-west). As the forests were destroyed by agriculturalists and pastoralists, the Batwa were forced to abandon their traditional lifestyle based on hunting and gathering. Some were able to develop new means of survival as potters,

¹ *First Periodic Report of the UN Convention on the Rights of the Child (CRC) in Uganda*, Ministry of Gender, Labour and Social Development, CRC/C/65/Add.33, December 2001, para.1 (hereinafter "*Periodic State report*").

² "*Initial reports of State Parties due in 1992: Uganda. 17/06/96*", CRC/C/3/Add.40, 17 June 1996, para. 283, (hereinafter "*Initial State report*").

dancers and entertainers. Others become dependant on occasional work and begging. As the Batwa lost their forest refuge they encountered prejudice and discrimination on the part of the dominant culture, which referred to them as so-called “Pygmies”. After forested land fell into the control of agro-industry and conservation, the Batwa became landless squatters living on the edges of society, and this situation continues today. Their customary rights to land are not recognized, and they have no recourse to compensation, resulting in a situation where the majority of Batwa are landless.³

6. Many Batwa communities are highly stressed through unremitting, severe poverty, prejudice and conflicts from their neighbours and internal frictions between households, as well as the devastating impacts of the frequent and ongoing wars in the region, which have spilled over into south-west Uganda, resulting in additional threats to the Batwa.
7. The discrimination and marginalization experienced by the Batwa from neighbouring communities is deeply entrenched. Discrimination takes the form of rights violations, negative stereotyping (the Batwa are seen as backward and childish, incapable of speaking for or representing themselves, as thieves, dirty, ignorant and immoral), and segregation (Batwa people 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).⁴
8. Although discrimination like this is gradually disappearing, it is still widespread in rural areas and impacts negatively on Batwa lives on a daily basis. Discrimination, poverty and exclusion directly affect the Batwa’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. Although there is one Batwa senator in Rwanda and several Batwa political representatives in Burundi, there are no known Batwa holding positions of political responsibility in Uganda today.
9. Batwa living in the Bwindi and Mgahinga forests of south west Uganda were officially evicted in the 1960s but only finally excluded from using the forests in 1991 when they were gazetted as national parks. No compensation was provided for the displaced Batwa, either in cash or as alternative lands. In Uganda 44% of Batwa do not even have land on which to build a hut⁵, and landless Batwa have no-where left to go. They remain transient squatters constantly looking for somewhere they can lodge until they are moved on. As one Batwa women recently noted:

“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,

³ Information on the Batwa can be found in: Lewis, J, *The Batwa Pygmies of the Great Lakes Region*, MRG, London, 2000; Lewis, J. and Knight, J., *The Batwa of Rwanda: Assessment of the situation of the Batwa and Promotion of Batwa Rights in Post-War Rwanda*, WRM and IWGIA, Copenhagen, 1995; 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.

⁴ Lewis (2000), pp. 13-18.

⁵ United Organisation of Batwa Development in Uganda (UOBDU), *Report about Batwa data*, August 2004, Uganda, p.3.

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.’⁶

III. The Convention

A. General Implementation Measures (State report paras. 55 to 75)

10. There is a lack of specific remedies in place in Uganda to enforce the rights of Batwa children as set forth in the Convention, particularly article 30. The Committee has previously requested States parties to “provide the Committee with specific information on laws, policies and programmes for the implementation of indigenous children’s rights when the Committee reviews the implementation of the Convention at country level.”⁷ However, there is no information in the Periodic State report referring to Batwa children, their situation, or how the government is implementing their rights as contained in the Convention.
11. Furthermore, there has been little if any dissemination of the Convention, the Initial State report, and the Periodic State report to Batwa communities and schools teaching Batwa children. The vast majority of Batwa communities have no information about the Convention. Additionally, no attempt has been made to disseminate information in a way appropriate to and respectful of Batwa culture or in an appropriate language, a crucial factor. Following examination of Uganda’s Initial State report, the Committee recommended that “greater efforts be made to ensure that the provisions of the Convention are widely known and understood by both adults and children”.⁸

Suggested Questions:

- Does Uganda intend to disseminate information about the Convention to Batwa children? Will this be done in a culturally appropriate manner and, if requested by the Batwa, in an appropriate language?
- Does Uganda intend to review laws affecting Batwa children to ensure their compatibility with the Convention, the rights of indigenous children and the rights of indigenous peoples in international law generally? If so, is there a proposed schedule for doing this and how does Uganda intend to ensure Batwa children’s and peoples’ participation and consensus?
- Does the government cooperate with Batwa organizations to protect the rights of Batwa children?

⁶ Interview with a middle-aged Batwa woman, Nyakabande/Kisoro, Uganda, May 2003, noted in Jackson, D “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.

⁷ *Day of General Discussion on the Rights of Indigenous Children, Recommendations*, Committee on the Rights of the Child, 34th Session, 15 September – 3 October, 2003, para.5 (hereinafter “*CRC Recommendations*”).

⁸ *Concluding observations of the Committee on the Rights of the Child: Uganda. 21/10/97, Doc. No. CRC/C/15/Add.80, para.28* (hereinafter “*Concluding observations*”).

B. General Principles (State report paras.80 to 91)

12. In its recommendations on Indigenous Children, the Committee “Strongly recalls the obligations of State parties under articles 2 and 30 of the Convention to promote and protect the human rights of all indigenous children.”⁹ The Committee further calls on “States parties to implement fully article 2 of the Convention and take effective measures, including through legislation, to ensure that indigenous children enjoy all of their rights equally and without discrimination, including equal access to culturally appropriate services including health, education, social services, housing, potable water and sanitation.”¹⁰
13. Batwa children in Uganda are subject to multiple forms of discrimination, which is particularly evident in current legislation, state policies and programmes relating to the rights to self-identification and land; the lack of special protection measures for the Batwa; and the respect for livelihood rights as seen through access to basic services such as health and education, which is palpably worse for the Batwa than for other ethnic groups in Uganda. This has been acknowledged by the Committee on the Elimination of Racial Discrimination, which was “concerned by reports of the difficult human rights situation of the Batwa people, particularly in relation to the enjoyment of their rights over lands traditionally occupied by them”.¹¹
14. Most disturbingly, the Ugandan government does not recognise the Batwa as indigenous. In its Initial State report, submitted in 1995, the Ugandan Government states:

*“None of the ethnic groupings in Uganda is officially regarded as minor or indigenous for the purposes of article 30 of the Convention on the Rights of the Child.”*¹²

15. Few would deny that the Batwa are the original inhabitants of the Great Lakes region, and even Ugandan school books describe them as thus.¹³ The Batwa identify as indigenous, an association that has been supported by several studies and official documents¹⁴. The Committee recognised the Rwandan Batwa as indigenous when commenting on Rwanda’s Second Periodic report in 2004¹⁵, while a recent report of the African Commission on Human and Peoples’ Rights, states:

“Those identifying as indigenous peoples in Africa have different names, are tied to very differing geographical locations and find themselves with specific realities that have to be evoked for a comprehensive appreciation of their situation and issue. The peoples who have identified with the

⁹ CRC Recommendations, para.1.

¹⁰ *Ibid.*, para.9.

¹¹ Concluding observations of the Committee on the Elimination of Racial Discrimination: Uganda. 02/06/2003, CERD/C/62/CO/11, 2 June 2003, para. 14.

¹² Initial State report, para.283.

¹³ Lewis (2000), p.7

¹⁴ Luling, V. and Kenrick, J., *Forest foragers of tropical Africa. A dossier on the present condition of the ‘pygmy’ peoples*, Survival International, London. pp.vi and 1

¹⁵ Concluding Observations on the Second Periodic Report of Rwanda: Unedited version, CRC/C/15/Add.234, 4 June 2004, para. 76.

worldwide indigenous peoples movement in their struggle for recognition of fundamental human rights are mainly different groups of hunter-gatherers and pastoralists...Among hunter-gatherer communities, the ones that are best known are the Pygmies of the Great Lakes region."¹⁶

16. In General Recommendation VIII, the UN Committee on the Elimination of Racial Discrimination stated that membership in a group "shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned."¹⁷ The language 'if no justification exists to the contrary' recognizes that membership in a community or people requires the consensus of the community or people in general as arrived at through traditional customs and practices. This statement is reminiscent of ILO Convention No. 169, which provides that self-identification as indigenous or tribal shall be a fundamental criterion in determining to whom the Convention applies.
17. The Ugandan Social Development Sector Strategic Investment Plan (SDIP) and National Policy on Equal Opportunities refer to 'ethnic minorities' but not to 'indigenous peoples'. Although most indigenous peoples are also minorities, these two groups are protected by different sets of rights in international law. Substituting the term 'indigenous' with the term 'minority' is in fact watering down the claims and rights of indigenous peoples. This could be particularly relevant in a country like Uganda where several groups could qualify as minorities and indigenous.
18. Following examination of Uganda's Initial State report, the Committee noted its concern that "no adequate measures have been taken for the systematic collection of disaggregated quantitative and qualitative data in all areas covered by the Convention", and that Uganda has "limited...capacity to collect and process data, as well as to develop specific indicators to evaluate progress achieved and assess the impact of policies adopted on children, in particular the most vulnerable groups of children."¹⁸
19. The vast majority of government statistics do not disaggregate Batwa from other people, and therefore do not provide an accurate picture of the dire situation of the Batwa in Uganda, to be used as a basis for determining special measures required to recognize and realize the rights of Batwa children¹⁹. As the Committee stated in 2003, the "non-discrimination obligation requires States actively to identify individual children and groups of children for whom recognition and realisation of their rights may demand special measures."²⁰ The Committee has further recommended that "States parties

¹⁶ African Commission on Human and Peoples' Rights (ACHPR), *Report of the Working Group on Indigenous Populations/Communities*, 13 May 2003, Banjul, pp.5-6

¹⁷ *General Recommendation VIII concerning the interpretation and application of article 1, paragraphs 1 and 4 of the Convention 1990*. See also *Concluding observations of the Committee on the Elimination of Racial Discrimination: Denmark*, 21/05/2002, para. 18: "The Committee reiterates its previous concern regarding the delay in resolving the claims of denials by Denmark of the identity and continued existence of the Inughuit as a separate ethnic or tribal identity, and recalls its general recommendation XXIII on indigenous peoples, general recommendation VIII on the application of article 1 (self-identification) and general recommendation XXIV concerning article 1 (international standard).

¹⁸ *Concluding observations*, para.10.

¹⁹ As Jackson notes, recent census data in Uganda (which is disaggregated by ethnic origin and notes that the national Batwa population is about 3,500) is likely to underestimate the numbers of marginalized, isolated and mobile communities, such as the Batwa. Aside from the limited studies cited in this supplementary report, there is very little published quantitative socio-economic data for the Batwa. Jackson (2003), p.36.

²⁰ *General measures of implementation for the Convention on the Rights of the Child (Articles 4, 42 and 44(6))*, CRC/GC/2003/5, para. 12.

strengthen mechanisms for data collection on children so as to identify existing gaps and barriers to the enjoyment of human rights by indigenous children, and with a view to developing legislation, policies and programmes to address such gaps and barriers.”²¹

20. The Committee has previously commented on Botswana’s State report by expressing its concerns over a lack of “disaggregated quantitative and qualitative data on persons under the age of 18 years in all areas covered by the Convention, especially the most vulnerable groups, including ... indigenous children”.²²
21. In its concluding observations on the examination of Rwanda’s Periodic State report, the Committee noted it is “concerned at the situation of children belonging to minorities, including Batwa children and at their limited access to basic social services, including health care, immunization and education, and the violation of their rights to survival and development, to enjoy their own culture and to be protected from discrimination.”²³
22. It is apparent that the progressive realisation of livelihood rights (including the rights to health, education, land, food, and water) and access to basic social services has not been realised for the Batwa as it has for the general population. The main reasons the Batwa give for their poor access of social services is lack of means and discrimination from other sectors of Ugandan society. Of an estimated 2,370 adults of working age living in south-west Uganda, 98% are unemployed.²⁴

Suggested questions:

- What measures will be taken to ensure that the Batwa’s right to self-identification as indigenous is upheld as guaranteed in international law?
- What measures does Uganda intend to take to guarantee the right of Batwa children to be free from discrimination?
- Does the government keep disaggregated statistics concerning the situation of Batwa children? If not, how does it determine what their special needs may be?
- What measures does Uganda intend to take to ensure the progressive realisation of economic, social and cultural rights for the Batwa and the immediate provision of basic social services for the Batwa?

C. Civil Rights and Freedoms (State report paras. 92 to 99)

23. As already noted, the right of the Batwa to identify as indigenous is not respected in Uganda. The identity of Batwa children is further undermined by the failure of Uganda to fully recognise, respect and guarantee the Batwa’s rights to possess, manage and peacefully enjoy their lands, territories and resources traditionally owned or otherwise occupied and used. As the United Nations Commission on Human Rights’ Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples states, he:

²¹ *CRC Recommendations*, para. 6.

²² *Concluding Observations of the Committee on the Rights of the Child: Botswana, 3/11/04, CRC/C/15/Add.242*, para.21.

²³ *Concluding observations: CRC: Rwanda*, para. 75.

²⁴ UOBDU (2004), pp.11, 15, 19.

*“considers ... that land, territory and resources together constitute an essential human rights issue for the survival of indigenous peoples ...”*²⁵

and, that,

*“[f]rom time immemorial indigenous peoples have maintained a special relationship with the land, their source of livelihood and sustenance and the basis of their very existence as identifiable territorial communities”*²⁶

24. and, by the UN Special Rapporteur on indigenous land rights:

*“(i) a profound relationship exists between indigenous peoples and their lands, territories and resources; (ii) this relationship has various social, cultural, spiritual, economic and political dimensions and responsibilities; (iii) the collective dimension of this relationship is significant; and (iv) the intergenerational aspect of such a relationship is also crucial to indigenous peoples’ identity, survival and cultural viability.”*²⁷

25. The Committee recommends that “In light of article 12, as well as articles 13 to 17, of the Convention ... that States parties work closely with indigenous peoples and organizations to seek consensus on development strategies, policies and projects aimed at implementing children’s rights, and set up adequate institutional mechanisms involving all relevant actors and provide sufficient funding to facilitate the participation of children in the design, implementation and evaluation of these programmes and politics.”²⁸

26. Uganda’s Constitution states that “Minorities have a 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.”²⁹ In pursuance of Article 32 of the Constitution, an Equal Opportunity Commission (EOC) was established, with the objective of ensuring that everyone has equal access to, participation in, and enjoyment of benefits accruing from development programmes and services³⁰. Uganda finalized the SDIP having concluded that numerous social groups remained “marginalized or excluded from the benefits of development [and that for addressing this imbalance the Plan would create]... an enabling environment for social protection and social transformation of

²⁵ *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen, submitted pursuant to Commission resolution 2001/57.* UN Doc. E/CN.4/2002/97, para.57.

²⁶ *Ibid.*, para.39.

²⁷ *Indigenous peoples and their relationship to land: Final working paper prepared by Mrs. Erica-Irene A. Daes, Special Rapporteur.* UN Doc. E/CN.4/Sub.2/2001/21, para.20.

²⁸ *CRC Recommendations*, para.8.

²⁹ *The Constitution of the Republic of Uganda 1995*, Article 36

³⁰ Article 32 of the Ugandan Constitution states: “Notwithstanding anything in this Constitution, the State shall take affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against them.”

communities, while the vision is a better standard of living, equity and social cohesion.”³¹

27. Despite these efforts, and the fact that Uganda has some of the most progressive policies related to land and poverty alleviation in the region, implementation is still ineffective and the Batwa feel left behind in Uganda’s development process. There is little to no Batwa participation in the formulation of development strategies, policies and projects in general and there is no institutional mechanism for ongoing Batwa participation. There was no Batwa participation in the formulation of Uganda’s Poverty Reduction Strategy Paper, known as the “Poverty Eradication Action Plan” (PEAP), and there are no legal guarantees or remedies giving effect to the internationally guaranteed rights of indigenous peoples and children to meaningfully participate in and, in some cases, give or withhold consent to development policies, programmes and initiatives that affect them.
28. As stated in ILO Convention No. 169, indigenous peoples have “the right to decide their own priorities for the process of development ... and they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.”³² The right of indigenous peoples like the Batwa to participate in development programmes is frequently overlooked, because of exclusion and discrimination, and special efforts are often necessary to ensure that they participate.
29. The vast majority of Batwa children are unable to access television, radio, newspapers and other media. We are not aware of any government efforts to improve Batwa access to information sources.

Suggested questions:

- What measures does Uganda propose to guarantee the right of Batwa children to their identity with particular regard to their relationship to lands, territories and resources?
- What institutional mechanisms exist that permit Batwa participation in decisions that affect them, particularly Batwa children?
- Do Batwa people and children participate in decision making about development policies and projects? If so, how?
- How is consensus reached in relation to development projects and policies?

D. Basic Health and Welfare (State report paras. 109 to 143)

30. The Committee has recommended that “States parties ... develop and implement policies and programmes to ensure equal access for indigenous children to culturally appropriate health services”³³, however, as stated above, Batwa peoples and children in Uganda do not enjoy equal access to health services. One of the main reasons is that

³¹ Government of Uganda, *The social development sector strategic investment plan (SDIP) 2003-2008: Integrating human progress with economic growth for sustainable development*, Ministry of Gender, Labour and Social Development (MGLSD), December 2003, p. iv (hereinafter “SDIP”).

³² *Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries*, 27/6/89, Art.7.1.

³³ *CRC Recommendations*, para.18.

most Batwa do not have enough money to pay for consultations and medicine³⁴. Some Batwa have reported discrimination and poor treatment from health workers and fellow patients³⁵.

31. Batwa are regularly left out of health programmes and projects, and one study has found that Batwa childhood mortality was higher than that of the general population³⁶. Batwa women are more prone to ill health than Batwa men due to their childbearing role. They are also mainly responsible for the children's wellbeing. Batwa women and girls are at risk from the beliefs of other groups in Uganda, who believe that a non-Batwa man who sleeps with a Batwa woman can be cured of back-ache and/or protected against HIV/AIDS, both of which put Batwa women and girls at increased risk of infection and STDs³⁷.
32. Unfortunately there is virtually no statistical information available on the status of Batwa women's or children's health, and again the government's lack of disaggregated data means that there is a paucity of information on which to determine the special measures required to recognize and realize the health rights of Batwa people and children.

Suggested questions:

- What measures will Uganda take to ensure that Batwa children are guaranteed a safe and healthy environment?
- What measures will Uganda take to ensure that Batwa people and children have equal access to healthcare services and medicine?
- What measures will Uganda take to ensure that disaggregated quantitative and qualitative data on the Batwa's healthcare situation is gathered to help determine their special needs?

E. Education, Leisure and Cultural Activities (State report paras. 149 to 169)

33. Uganda has adopted an Education Strategic Investment Plan (ESIP), which includes strategies for ensuring equal access for all, to all levels of education. Within the framework of the ESIP a Universal Primary Education scheme (UPE) has been put in place. This scheme consists of scrapping primary school fees and providing things like books, good sanitary facilities and similar services, except food. Despite these efforts, however, Batwa children in Uganda are discriminated against in the provision of education services and this discrimination is evident in all levels of education.
34. The Committee has recommended that "the school environment itself must ... reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin."³⁸ Despite the fact that "most Batwa see education as critical in

³⁴ Lewis (2000), pp. 14-15.

³⁵ *Ibid.*; Jackson (2003), p.13.

³⁶ 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, pp. 72-74.

³⁷ Jackson (2003), p.13.

³⁸ *General Comment No. 1: The aims of education*, 17/04/2000, CRC/GC/2001/01, para.19.

their desire for a better standard of living”,³⁹ data compiled by UOBDU indicates that there are only 5 Batwa children in secondary school in the three districts of Kabale, Kanungu and Kisoro where an estimated 70% of the Batwa population in Uganda resides⁴⁰. In Kisoro only 30% of Batwa children attend primary school, and in Kabala around 40% of Batwa children go to primary school⁴¹. The Committee has recommended that “State parties ensure access for indigenous children to appropriate and high quality education while taking complementary measures to eradicate child labour”,⁴² however the main reasons the children give for non-attendance and abandonment of school are: (a) lack of funds to buy uniforms, school materials, and lunch; (b) harassment from other students; (c) lack of land and housing; and (d) the need to support their family in meeting urgent basic needs like food, clothing and shelter⁴³.

35. The Ugandan authorities have recognised the difficulties that the poor and marginalised in Uganda face in trying to access education. The second Draft of the Ugandan National Equal Opportunities Policy recognises that: “although the Universal Education Programme (UPE) has created opportunities for all children, the hidden costs like ...assistive equipments ...still limits marginalised group’s opportunities. Even where access is made possible, the retention of marginalised groups in schools is a challenge”⁴⁴. A more specific assessment by the Ministry of Finance, in charge of monitoring progress of the PEAP says that: “another area of concern to quality learning under UPE is the issue of school feeding. Many poor children cannot concentrate in class especially in the afternoon on an empty stomach ... parents who could not pay for school meals had asked that children go back home for lunch. However a number of such homes are very far from school”⁴⁵. The PEAP takes the same stand on education: “Low incomes also lead to poor ... and limited education”⁴⁶. Despite this recognition, there have been no specific measures undertaken by the Ugandan authorities to ensure continued access by Batwa children to education.
36. An assessment by the organisation ADRA (Adventist Development and Resettlement Aid) has noted that:

*“because the school can not cater for them and yet their parents are economically disadvantaged to the extent that they can not even provide scholastic materials for their children’s education. These [Batwa] children can not even afford being day scholars because they come from very far places over 18 km from school.”*⁴⁷

³⁹ Lewis (2000), p.26.

⁴⁰ UOBDU (2004), p.3.

⁴¹ *Ibid.*, pp. 8, 13.

⁴² *CRC Recommendations*, para.19.

⁴³ UOBDU (2004), pp.8, 13.

⁴⁴ Government of Uganda, 2nd *Draft National Equal Opportunities Policy*, Ugandan Ministry of Gender, Labour and Social Development, p.5.

⁴⁵ Government of Uganda, *Uganda Poverty Status Report 2003*, Ugandan Ministry of Finance, Planning and Economic Development, p.158.

⁴⁶ Government of Uganda, *Poverty Reduction Strategy Paper: Uganda’s Poverty Eradication Action Plan*, Ministry of Finance, Planning and Economic Development, Kampala, 2000, pp.8, 10 (hereinafter “PEAP”).

⁴⁷ Adventist Development and Resettlement Aid (ADRA), *Pygmy Children Sponsorship Program*, Uganda, 2004.

37. A similar conclusion is made by Save the Children Uganda's Programme Manager for Basic Education:

*"the Twa community is a very disadvantaged community in Uganda ... There is virtually no participation of the Twa [Batwa] in modern schooling, which calls for urgent intervention".*⁴⁸

38. UNICEF's 2001 evaluation report of the Ugandan Complementary Opportunities for Primary Education (COPE), asserts that "economic necessities are the principal force excluding children from schooling" and "children whose parents do did not attend school and/or who do not have need for literacy and numeracy in their economic activities ... are also forces pushing away children from formal schooling."⁴⁹
39. Although the numbers of Batwa girls and boys who start primary school are similar, the participation of Batwa girls at secondary school drops dramatically, because families tend to invest in their son's education, believing that girls will marry and be supported by their partners. Literacy rates for Batwa women in the Great Lakes region are generally much lower than literacy rates of Batwa men⁵⁰.
40. There is no single member of the Ugandan Batwa community who can read and write professionally. This is a unique situation for the Batwa community in Central Africa, amongst whom a handful of individuals in all other countries have either finished schooling or adult education. Even if Batwa children start primary school, the pressure on them to leave is enormous, either in the search of income and food for their families, or because they are forced to live as street children⁵¹.
41. A 2003 report by the Ugandan Ministry of Finance on the achievements of the PEAP underlines the need for positive discrimination on behalf of particularly marginalised groups. The report says: "The biggest challenge is with areas that suffer both poor access and quality problems. To this effect, Government has made deliberate efforts to provide special education programs for the hard-to reach areas. In case of Karamoja, a special program of ABEK (Alternative Basic Education for Karamoja) is in place".⁵² The programme is designed to deliver education to nomadic pastoral children; however Uganda has not made similar efforts on behalf of the Batwa.
42. Due to their indigent nature, few Batwa children enjoy leisure activities on any meaningful basis. There is little or no money for toys and books, and the constant demand to meet basic needs means Batwa children spend most spare time helping their parents search for food or supplemental incomes. The traditional dance and drumming of the Batwa is renowned throughout the region, and tourism activities around the Bwindi and Mgahinga Natural Parks offer some Batwa communities the means to earn money direct from tourist visitors, but in many cases they are unfairly exploited⁵³. Visitors to the Bwindi Impenetrable National Park pay \$5 to go on a guided walk that

⁴⁸ Charles, Wabwire, *Save the Children Uganda: Kasese-Bundigyo Field Visit Report*, Kisoro, 2004.

⁴⁹ Dewees, A., *An Economic Analysis of the COPE Program in Uganda: Current Costs and the Recommendations for Meeting the Educational Needs of Disadvantaged Children*, UNICEF, 2000, p.26.

⁵⁰ Jackson (2003), p.14.

⁵¹ UOBDU (2004), p.3.

⁵² *Uganda Poverty Status Report 2003, op. cit.*, p.154.

⁵³ Jackson (2004), p.56.

includes a Batwa dance and drumming display. Each month the Batwa are supposed to receive 15% of the total income, which usually amounts to a maximum of \$20. There are 20 adults and children in the community, which means a maximum income of around \$1 per individual per month. The Batwa have no way of knowing if they are receiving the correct proportion of the visitor payment, and there have been reported instances where additional payments given to Batwa women (for baskets) have been confiscated by local tour guides⁵⁴.

Suggested questions:

- What measures will Uganda take to ensure that Batwa children, especially Batwa girls, enjoy equal access to education?
- What measures does Uganda propose to implement to respond to the special needs of Batwa children's education, as was done for the pastoralist community in Karamoja?
- What measures does Uganda propose to implement to respond to the high drop-out rate of Batwa children from schools?
- What measures will Uganda take to ensure that disaggregated quantitative and qualitative data on the Batwa's education situation is gathered to help determine their special needs?
- What measures will Uganda take to ensure that positive information about the Batwa is included in the school curriculum?

F. Special Protection Measures (State report paras. 170 to 189)

43. As already noted, Uganda's Periodic State report makes no mention of the situation of indigenous Batwa children and the measures taken to ensure their rights under the Convention are upheld. We have also pointed out that Uganda's Initial State report denied the existence of indigenous people and children in the country. The Committee has stated that "the enjoyment of rights under article 30, in particular the right to enjoy one's culture, may consist of a way of life which is closely associated with territory and use of its resources. This may particularly be true of members of indigenous communities constituting a minority."⁵⁵ With the establishment of conservation areas in the early 1990's, the park authorities have managed to remove the Batwa from the forests, thereby destroying their forest-based economy and reducing them to virtual serfdom and poverty.⁵⁶
44. The account of Batwa's forced expulsion from their ancestral lands has been confirmed by numerous reliable reports, including the African Commission on Human and Peoples' Rights, which noted:

⁵⁴ Schuurman, D., 'A People Betrayed', in *Africa Geographic*, November 2003, pp. 73-77.

⁵⁵ *CRC Recommendations*, para.4

⁵⁶ Further information on the devastatingly negative impact of these World Bank/GEF funded conservation areas on the Batwa of south west Uganda can be found at: Kenrick, J., and UOBDU, *The Batwa of South West Uganda: World Bank Policy on Indigenous Peoples and the Conservation of the Bwindi and Mgahinga National Parks*, Forest Peoples Programme, Moreton-in-Marsh, 2000; Jackson, D., *Implementation of international commitments on traditional forest-related knowledge: Indigenous peoples' experiences in Central Africa*, Forest Peoples Programme, Moreton-in-Marsh 2004; Kabanankye and Wily (1996), *op. cit.*; Lewis (2000), *op. cit.*; Nelson and Hossack (2003), *op. cit.*

*“In Uganda, the Batwa were driven out of their ancestral lands in the forests of Bwindi, Mgahinga and Echuya by the English colonial administration in 1930 in order to create conservation zones. The establishment of the Bwindi and Mgahinga National Parks for gorillas in 1991 enables the authorities to evict the Batwa definitively from the forest”*⁵⁷

45. Uganda’s 2003 Poverty Status Report also recognised that:

*“current PEAP (Ugandan Poverty Eradication Action Plan) is noted to be weak in meeting the principle of strategies for sustainable development when it comes to the integration of environment and natural resources issue ... other important factors reported to have resulted in land shortages are ... evictions to make way for forest and game reserve...”*⁵⁸

46. ADRA concluded in one of its reports that:

“the Government of Uganda through Wild Life Department in 1991 turned some forests into game reserves, Mgahinga forest was among those and the pygmies who stayed and earned their livelihood from this forest were expelled and left landless and destitute with no mean of production”.⁵⁹

47. A report by Uganda’s Ministry of Gender also asserts that:

*“traditionally, [Batwa] were forest dwellers, but they have recently suffered eviction from forest-land (Mgahinga Game Reserve) because of voluntary and involuntary factors. These factors include population pressure due to “newcomers” entering their land and the biodiversity conservation movements in the early 1990s, which limited their access to forested areas. Thus, they have lost their territorial rights and accessibility to ancestral forested lands. 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’.”*⁶⁰

48. The same report recommended that “freedom and means of livelihood of minorities should be respected, especially with regard to land use.”⁶¹

49. World Bank / Global Environment Facility funding was directed to a trust fund concerned with managing the conservation areas. The overall objective of the Mgahinga and Bwindi Impenetrable Forest Conservation Trust Fund (MBIFCT) is the protection of the forests; however it was also established to support research and small projects for local people. The Trust is also responsible for a Batwa component which

⁵⁷ ACHPR (2003), p.22.

⁵⁸ Uganda Poverty Status Report 2003, *op. cit.*, pp.115, 117.

⁵⁹ ADRA Uganda, *Mabuyemeru Annual Report 2004*, p.1

⁶⁰ Government of Uganda, *Social protection in Uganda: A study to inform the development of a framework for social protection in the context of the poverty eradication action plan*, Ministry of Gender, Labour and Social Development, p.44 .

⁶¹ *Ibid.*, p.45

specifically seeks to address the needs of the Batwa who were so adversely affected by the creation of the National Parks. However, a statement by a representative of the MBIFCT at the 5th World Park Congress confirms that “As National Parks, access to forest products was denied to the communities ... This government action without consultation with locals created a lot of local communities’ hostility against the protected areas.”⁶²

50. Part of the MBIFCT Batwa component was a land-purchase scheme to compensate the evicted Batwa for their forcible expulsion from the forests. Despite this, there were delays in land purchase, and a shortfall of funds has meant that hundreds of Batwa families remain without land or permanent homes, or any other form of compensation or reparation for the forcible expulsion from their traditional lands.
51. Of the 622 Batwa families living in the three districts of south west Uganda, 271 are without land (44%). Of all the issues affecting Batwa peoples and children in Uganda, lack of recognition of and respect for rights to land and resources traditionally occupied and used is one of the most acute. Denial of access to land and resources has had a direct impact on the Batwa’s health, wellbeing and general standard of living. They are malnourished, impoverished and without homes. Many children in these circumstances are forced to live as street children, or into prostitution, in order to survive⁶³.
52. Many reliable sources have underlined the severe landlessness of the Batwa of Uganda. A report by the Ugandan Makerere Institute of Social Research sees the Batwa community as one of the most landless in Uganda and notes that most Batwa live by squatting on neighbour’s lands. Their conclusion is that “[a]vailing the Batwa pygmies of some land appears to be one of the lasting solutions to their problem.”⁶⁴
53. A detailed report by Minority Rights Group International (MRG) has confirmed that “many Twa communities are transient squatters, constantly looking for land where they can lodge until they are moved on.”⁶⁵ MRG has also noted that:

“In Uganda [in 1995] 82 per cent of Batwa were entirely landless and those with land found it insufficient for their food needs... The establishment of Bwindi and Mgahinga National Parks in south-western Uganda in 1990 is the most recent case of forced alienation of Batwa forest...From historical records and oral histories, only the Batwa inhabited this area until at least the mid sixteenth century.”⁶⁶

54. The Ugandan authorities have noted the link between landlessness and poverty. The PEAP has noted that “[a]t the level of the household, poverty is related to rural

⁶² Geo Z. Dutki, *Mgahinga and Bwindi Impenetrable forest conservation Trust Fund*, Vth World Parks Congress: Sustainable Finance Stream, September 2003, Durban, p.2

⁶³ UOBDU (2004); Jackson (2003).

⁶⁴ Kabanankye K., *Status of minorities and marginalised communities in Uganda*, Makerere Institute of Social Research, Uganda, 1997, p.11.

⁶⁵ Jackson (2003), p.7.

⁶⁶ Lewis (2000), pp.17 and 19

residence ... to land shortage”.⁶⁷ The SDIP has also recognised that “the landless ...are likely to be poor”.⁶⁸

55. Although the 1998 Ugandan Land Act and the 2001-2011 Land Sector Strategic Plan are progressive by responding to communities’ own concepts of land rights and administration of these rights, they are of little benefit to the indigenous Batwa who have already been forcibly excluded from their customary ancestral forest lands⁶⁹.
56. The Constitution of Uganda recognises and protects the rights of minorities to participate in decision-making, ensures the equal representation of marginalized groups, and protects ethnic diversity and cultural rights⁷⁰. The Constitution also prescribes affirmative action in favour of marginalized groups and special protection for vulnerable children.⁷¹ Despite this, no affirmative action has been taken to ensure the equal participation of Batwa people and children, and Batwa children are nowhere listed as vulnerable in Uganda’s policies and programmes⁷².
57. This omission of Batwa children from the list of Uganda’s most vulnerable children is in contradiction with the Orphans and Vulnerable Children Policy that states unequivocally that the Convention on the Rights of the Child will guide all its implementing measures⁷³. Nevertheless, there is no mention of Batwa children in the National Strategic Programme Plan for Interventions for Orphans and other Vulnerable Children, despite the information below, contained in the 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 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

⁶⁷ PEAP, p.8.

⁶⁸ Government of Uganda, *The social development sector strategic investment plan (SDIP) 2003-2008*, Ugandan Ministry of Gender, Labour and Social Development, p.5.

⁶⁹ Jackson (2004), p.52

⁷⁰ See Section XXIV of the Preamble (“Cultural Objectives”), Article 36 and Article 37 of the Ugandan Constitution.

⁷¹ Articles 32 and 34(7) of the Ugandan Constitution

⁷² There is no mention of Batwa in either the *National strategic programme plan for interventions for orphans and other vulnerable children*, Ministry of Gender, Labour and Social development, November 2004, nor the *National Orphans and other Vulnerable Children Policy*, Ministry of Gender, Labour and Social Development, November 2004

⁷³ Government of Uganda, *National Orphans and other Vulnerable Children Policy*, Ministry of Gender, Labour and Social Development, November 2004, p.5

*against them. As a result of all these problems, they are demotivated as a group and seem to be resigned to their situation ”*⁷⁴

Suggested questions:

- How does Uganda intend to resolve the issue of Batwa rights to land and resources and how will Batwa participate in and agree to this process?
- What measures does Uganda intend to take to ensure that the participation rights of Batwa people and children are upheld?
- What measures does Uganda intend to take to ensure the recognition of Batwa children as vulnerable and their inclusion in policies and programmes intended for vulnerable children?
- What measures does Uganda intend to take to ensure the livelihood rights of Batwa people and children, in particular the rights to housing and a decent standard of living, are upheld?

⁷⁴ 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 on the internet at: <http://www.ids.ac.uk/ids/pvty/pdf-files/UgandaCh3.pdf>.