

**Observations on the State of Indigenous Human Rights in Rwanda in Light of the
UN Declaration on the Rights of Indigenous Peoples
Rwanda
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Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous peoples' rights in countries throughout the world and publishes its findings in its magazine, the *Cultural Survival Quarterly*; and on its website: www.cs.org.

Executive Summary

The Republic of Rwanda has made great strides in creating and promoting equality among all people in that state. Efforts on the part of the Government to forge unity and social cohesion behind a Rwandan national identity and to diminish ethnicity as a destructive force in society are praiseworthy. The unrecognized Indigenous of Rwanda are the Batwa (Twa) people.

The government, working with COPORWA (NGO for the advancement of the rights of the Rwandese community of potters), has taken action in in the fields of education, health and housing in favor of the Batwa. However, many of the issues faced by the Batwa people surround the government's stance on not recognizing the Twa as an Indigenous people.

Many groups, conventions and previous UPR reports have called for the government of Rwanda to recognize the Twa as an Indigenous people. The African Commission on Human and People's Rights has recognized the Twa as having Indigenous status and that they suffer from marginalization and discrimination. The committee on the UN Convention on the Elimination of Racial Discrimination urged Rwanda to recognize the Twa as Indigenous and to respect their rights as provided for in the convention. In the 2011 UPR, Spain called for the government to adopt concrete measures to avoid discrimination and protect the rights of the peoples of the Batwa community and other minorities as well as request technical assistance from the United Nations to identify their basic social needs. The government of Rwanda refuses to recognize the Twa as an Indigenous group for the fear of creating an ethnical ideology and divisionism, which had led to the genocide against the Tutsis in 1994. This governmental policy of equality has hampered the ability of national and local authorities to respond to particular Twa economic and social circumstances.

Background

Under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) the right of Indigenous people to self-determination establishes a right to own and control their territories and resources and to be effectively involved in decision-making processes that may affect them. By not being recognized as Indigenous peoples, the Twa are denied the rights and protections as laid in UNDRIP.

Rwanda is a State Party to numerous international and regional human rights instruments, including the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the Protocol to the African Charter on Human and Peoples' Rights on the establishment of the African Court on Human and Peoples' rights, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).¹

¹ Report of the African Commission's Working Group on Indigenous Peoples/Communities (2010). *Report of the African Commission's Working Group on Indigenous Peoples/Communities: Mission to Rwanda* 1-5 December 2008. p. 18.

The Indigenous population of Rwanda is known by many names: Twa, Pygmies, Potters, or the historically marginalized, but the most common title is the Batwa (Twa). The Twa population is approximately 35,000 people or 0.3% of the total population of the country. Historically, the Twa lived in the forest region of the country as hunter/gathers. This group has inhabited Rwanda for approximately 2000 years, making it the oldest ethnic group of Rwanda. In the 1990s, the Twa were evicted from their ancestral lands without compensation or means of subsistence when the Rwandan government created the national parks of Mgahinga, Bwindi, and Echuya.²

From April to June 1994, members of the Hutu ethnicity committed a genocide of approximately 800,000 people. The target of the Hutu majority was mostly people of Tutsi decent. However, during the genocide both Hutus and Tutsis victimized the Twa. The aftermath of the 1994 genocide prompted the Rwandan government to enact **Law Number 47/2001 on Prevention, Suppression and Punishment of the Crime of Discrimination and Sectarianism**. This law is informally known as the divisionism law, which bans identification by ethnicity in order to prevent similar atrocities in the future. As a result of this law the Twa are not recognized by the government as an Indigenous people, but instead have been recognized as a historically marginalized group. This well-intentioned law has prevented the government from enacting specific laws to protect Twa rights or promote targeted measures to enhance Twa standard of living. The Twa are a distinct group with distinct challenges, none of which can be met while under the Divisionism law.

The current situation of the Twa remains hazardous because of very low education levels, lack of access to land, severe discrimination, and low levels of political representation. Being dislodged from their land without compensation, or skills to survive outside of the forest, the Twa have struggled to survive, let alone integrate, in this new environment.

Identity and Recognition

Under the **Divisionism Law**, reference to the distinction between the bahutu, batutsi, and batwa is a criminal offense. It provides for the penalties for divisionism, meaning: the use of 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. As a consequence, the policy of the government does not recognize the Batwa as an Indigenous people. This makes it extremely difficult to design policies to specifically address the needs of this community.

Divisionism is rejected in the Rwandan Constitution of 2003. Art 9 “the state of Rwanda commits itself to conform to the following fundamental principles and to promote and enforce the respect thereof: 2° eradication of ethnic, regional and other divisions and promotion of national unity. Art 33 Propagation of ethnic, regional, racial or discrimination or any form of division is punishable by law. Art 54 ... (P)olitical organizations are prohibited from basing themselves on race, ethnic group, tribe, clan or other division. All three articles show the government taking preventative measures to avert another genocide from occurring. Unfortunately, the Twa suffer from the collateral damage of these efforts to sustain stability and forge unity among the people.

² <http://www.culturalsurvival.org/Rwanda%20Country%20Profile>

For Indigenous peoples, the right to self-determination establishes a right to own and control their territories and resources and to be effectively involved in decision-making processes that may affect them. This right is also affirmed in, inter alia, Articles 3 and 25-30 of the UN Declaration on the Rights of Indigenous Peoples, approved by the Human Rights Council in June 2006.

By preventing designation of people based on ethnicity, the divisionism law puts the Twa at a severe disadvantage denying them access to government assistance. The government categorized the Twa as a “historically marginalized population,” and has adopted a series of measures to improve living conditions, and encourages their integration into society.³ Article 8 of UNDRIP states that Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture. The challenges faced by the Twa from not being able to call themselves Twa pose serious cultural threats to the small population, and the government’s integration policy is threatening extinction of the Twa culture.⁴ The category of Indigenous is perceived as divisive; while the category of historically marginalized people is ambiguous as to who falls under the group evidenced by the fact the government also includes other vulnerable groups within this category.

Little objective data is available on the historically marginalized people. The Senate Commission on Social Affairs, Human Rights and Social Issues publish the *Report on the Conditions of Some Rwandans Disadvantaged Throughout History* (hereinafter known as the Senate Report) was focused mostly on the Twa. The Senate Report showed that the Twa have unique problems that need to be treated as a matter of urgency. Some of these problems include: not seeing themselves as people with important rights; lacking income and jobs; education of children; living without adequate housing; socialization with other Rwandans; early marriage; and no access to land.⁵ This lack of identity has caused new generations of the Twa to lose the distinct hunter-gatherer identity and their deep knowledge of the forests.

Land Rights and Housing

In the 1990s, the Twa were evicted from their ancestral lands without compensation or means of subsistence when the Rwandan government created the national parks of Mgahinga, Bwindi, and Echuya. This forced the hunter-gatherers to leave these areas and establish new homes without sufficient skills to support themselves.

This confiscation of land without reparations for conversion to national parks and training grounds for the military has caused the Twa to become landless and live in poverty. While they have adapted to this change, they continue to their survival. Much of the available land in Rwanda is under cultivation as Rwanda is the most densely populated nation in Africa. Being unable to access their ancestral lands, the Twa have turned to pottery as their main source of their economy. The Twa face significant competition in this area due to cheap industrialized products and struggle with clay

³ Report of the African Commission’s Working Group on Indigenous Peoples/Communities (2010). *Report of the African Commission’s Working Group on Indigenous Peoples/Communities: Mission to Rwanda* 1-5 December 2008. p. 44.

⁴Secorun Palet, Laura, *Rwanda’s Untouchable Tribe*. <http://www.ozy.com/acumen/rwanda-s-untouchable-tribe/37292>. (November 19, 2014)

⁵ Rwanda, Senate Chamber, Commission in charge of Social Affairs, Human Rights and Social Issues, *Report on the Living Conditions of Some Rwandans Disadvantaged Throughout History* (Kigali, 2007).

harvest because the marshes where the clay is found are quickly being cultivated for rice-growing plantations.

Housing is also a serious problem. The housing conditions of the Twa are far below minimum standards, and are not suitable for human habitation. Housing typically consists of thatched huts made of sticks, glass, plastic sheeting, and provide very little protection from the elements.⁶ The government established a program to destroy these shelters and build iron-roofed structures. However, this program to destroy homes continued without any new modern houses being constructed in their place, thus leading to complete homelessness and increased vulnerability on the part of the Batwa people. It is estimated that 80% of traditional Batwa huts have now been destroyed, and that around 70% of the Batwa have been provided with newly constructed houses.⁷

Discrimination

Considering the country's history of ethnic-based violence, the degree of progress regarding discrimination and inequality made to date is impressive. But, still today the Twa suffer from extreme racism. The Twa are considered uncivilized and ignorant. Due to their ancestry, they suffer ethnic prejudice, discrimination, violence, and general exclusion from society.

As the Twa lost their forest lands, territories and resources, they started to experience increasing stereotyping by the rest of Rwandan society as morally, physically and intellectually deficient; gradually becoming social outcasts, despised for their ethnic origins.⁸ Rwandans still have an attitude of despising them, of not seeing them as genuine humans, and use racial slurs to address them.⁹ Taboos surround eating together or using the utensils used by the Twa. Twa communities face this level of marginalization and discrimination across the Great Lakes region and to this day remain among the most invisible and marginalized Indigenous peoples.

Political Representation

As previously stated above, Art 54 of the Rwandan Constitution states that "(P)olitical organizations are prohibited from basing themselves on race, ethnic group, tribe, clan or other division." The Government has stated that some political parties have been refused registration based on grounds of parties based on race, ethnic group or tribe and that do not reflect a unity of the Rwandese.¹⁰

There is almost a complete lack of representation of Twa in government. **According to** Article 82, paragraph 2 of the Rwandan Constitution, it demands eight members of the Senate be appointed by the president to ensure representation of

⁶ McDougal, Gay. HRC Report of the Independent Expert on Minority issues: Mission to Rwanda. (November 2011)

http://www.iwgia.org/iwgia_files_news_files/0442_0442_UN_Report_on_mission_to_Randa.pdf

⁷ <http://www.iwgia.org/regions/africa/rwanda/893-update-2011-rwanda>

⁸ *Report of the African Commission's Working Group on Indigenous Peoples/Communities: Mission to Rwanda*

⁹ *Report on the Living Conditions of Some Rwandans Disadvantaged Throughout History.*

¹⁰ HRC Report of the Independent Expert on Minority issues: Mission to Rwanda.

historically marginalized groups. Currently there is only one Twa representative in the senate, which has caused a problem for them.¹¹ The minimum requirements to be a candidate is six years of education effectively excluding many Twa. Those candidates who meet the education requirements are rarely able to gain the support of non-Twa who are unlikely to vote for them.

The NGO, COPORWA (Communauté des Potiers du Rwanda = Rwandese Community of Potters) is a non-profit-making and non-political organization that works for the promotion and defense of Twa rights in Rwanda. COPORWA officially advocates for the rights of the potter community because the government did not want to recognize the potter community as an Indigenous group. Instead of suspending the favorable work for the vulnerable Twa group, the government and the NGO agreed that the denomination be based on the community's profession of pottery. COPORWA has led to positive changes in the lives of the Twa.

Education and Healthcare

Due to their socio-economic status, the Twa have a very limited access to education. The government has achieved commendable success in the area of education by initiating a policy of free primary and secondary education for children from marginalized and vulnerable communities making Twa children exempt from primary and secondary school fees. Rwanda is striving for universal primary and secondary school. Twa children still have many difficulties in education despite the government's achievements.

A shocking 77% of the Twa population is illiterate, with parents being proud if their children drop out of school after the third grade.¹² The poor living conditions and hunger are often cited as reasons affecting the ability of children to attend or achieve good education outcomes. Around 95% of Twa children attend primary school, as the Government of Rwanda facilitates basic education; however, only around 45% of Twa children are in secondary school and very few (5%) Twa youth go on to study at university.¹³ **In the 2011 UPR, Malaysia recommended that the government of Rwanda** “(i)ntensify measures to improve access of minority groups and Indigenous people to basic social services such as health, education, employment and occupation.” The government rejected this recommendation, which considered it neither applicable nor relevant.¹⁴ The high levels of poverty correlate directly to the high levels of illiteracy. And, because of the high levels of illiteracy, participating in politics is currently inconceivable for many Twa. Many Twa children face discrimination in school and are often chased away from the classroom. While the government has made great strides in the area of education, there is still more work to be done.

As to access to healthcare, the government has enacted a health insurance scheme for the most vulnerable, whereby the government covers half of the fees, and vulnerable persons are required to pay the remaining fees. Not all vulnerable communities have

¹¹ International Working Group for Indigenous Affairs, *Indigenous peoples in Rwanda*, 2011. <http://www.iwgia.org/regions/africa/rwanda>.

¹² . <https://coporwa1en.wordpress.com/programs/education/>

¹³ <http://www.iwgia.org/regions/africa/rwanda/893-update-2011-rwanda>

¹⁴ Recommendation 81.3. A/HRC/WG.6/10/L.2 (Malaysia). <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/117/93/PDF/G1111793.pdf?OpenElement>

benefitted from this program leaving many Twa uninsured. With poor education and health information, the Twa are vulnerable to high rates of HIV/AIDS and sexually transmitted infections. High infant mortality rates are common of such poor living conditions and a lack of access to sufficient maternal health care.¹⁵

Recommendations for this UPR Submission:

1. *Officially recognize the Batwa people as Indigenous Peoples. Thus, allowing the Batwa to identify as a group and form organizations using their own means of identification, which can specifically target Batwa communities for poverty reduction projects, cultural preservation initiatives and community learning schemes.*
2. *Ensure the full or adequate representation of Batwa in government through consulting the Batwa on legislation and programs designed to be affect them.*
3. *Provide for access of ancestral lands to the Batwa.*
4. *Better access to educational facilities to increase literacy, and provide for health education to youth and mothers*
5. *Evaluate and align all legislation and government programs with the UN Declaration on the Rights of Indigenous Peoples*
6. *Implement the UN Declaration on the Rights of Indigenous Peoples*
7. *Implement the World Conference on Indigenous Peoples Outcome Document, beginning with drafting an National Plan of Action to achieve the ends of the Declaration*
8. *Invite the Special Rapporteur on the Rights of Indigenous Peoples to make an official visit to Rwanda.*

¹⁵ HRC Report of the Independent Expert on Minority issues: Mission to Rwanda. P. 17.