

**Observations on the State of Indigenous Human Rights in
Uganda in Light of the
UN Declaration on the
Rights of Indigenous Peoples
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CULTURAL SURVIVAL

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

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I. Executive Summary

Uganda has had a turbulent history of violent regimes of ruthless dictators since gaining independence from the United Kingdom in 1962. Since some stability has been achieved after current president Yoweri Museveni seized power, industrialization and globalization have marginalized minorities and Indigenous Peoples, violating the United Nations Declaration of Rights on Indigenous Peoples (UNDRIP)¹. The two Indigenous groups currently facing the most pressing issues are the Batwa and the Karamojong.

The Batwa have been struggling with forced eviction and securing land rights for over twenty years, as well as discrimination and abuse from other communities. There has been a violation of the community's right to Free, Prior and Informed Consent regarding mining in the Karamoja region, where the Karamojong are facing discrimination and substance abuse. Along with food scarcity, droughts and exploitation when forced to move to the capital, Kampala, these issues are all evidence that the Ugandan government must address concerns of minority and Indigenous Peoples whose rights are specified in the UN Declaration on the Rights of Indigenous Peoples, which Uganda, while absent at the voting of the UNDRIP in 2005, must abide by. The Outcome Document from the World Conference on Indigenous Peoples specifies actions State governments should take into account in order to respect, protect, and fulfill Indigenous rights.

II. Introduction & Background

While Uganda was one of the few African countries that escaped European settlement during the period of colonization, the country was heavily abused for its natural resources, and did not escape the unrest that often followed independence in 1962². The following dictators, Idi Amin and Milton Obote, are responsible for 300,000 and 100,000 separate deaths, respectively, from 1971 to 1986³. The overarching government gained some stability with Museveni's regime, but the country has remained subject to armed fighting among ethnic groups as well as from rebels and armed gangs.

The Batwa and Karamojong, as well as a number of other Indigenous groups in Uganda are all located in remote regions throughout the country, far away from Kampala, the capital, where much of the society is centralized. The Batwa number around 6,700 people and live in southwest Uganda near the Bwindi Impenetrable National Park, which is their homeland⁴. The Karamoja region of Uganda is in the northeast corner of the country and the Karamojong have a population of over 260,000¹.

The government of Uganda does not implicitly recognize any group within its borders as Indigenous. The 1995 constitution promises "no express protection for indigenous people." While Article 32 of the constitution promises "affirmative action for those who have historically disadvantaged," it has been primarily invoked for the protection of children, women and people with disabilities. In 2005, a referendum to end one-party politics was passed – another essential democratic development that is promising for Indigenous groups currently disadvantaged.

III. First Cycle of UPR Recommendations

The following recommendations were accepted by Uganda during the 2011 review but have yet to be fully implemented:

A. *"Pursue accommodative dialogue with indigenous communities, with a view to minimize disruptive approaches to their lifestyle and traditions while improving their life conditions."*

(Algeria)

B. *"Continue to take legislative and administrative measures to improve the rights of BATWA people."* (Republic of Congo)

C. *"Continue to take measures to ensure an effective compliance with the legislations regarding the most vulnerable groups of the population."* (Costa Rica)

D. “Continue efforts to protect the rights of marginalized and vulnerable population.” (Nepal)

E. “Align policies to ensure access to land and water for pastoralists with the African Union Framework on Pastoralism and conclude regional agreements to facilitate cross-border pastoralism.” (Netherlands)

IV. Rights Violations

Land Rights to the Bwindi Impenetrable National Park (UNDRIP Articles 8, 10, 25, 26, 27 28)

The Bwindi Impenetrable Forest is home to a teeming biodiversity of flora and fauna, the endangered mountain gorillas, and to the Batwa peoples, known as pygmies, for thousands of years. In 1992, the forest was made into a protected national park and the Batwa were forcibly evicted from their homeland of an estimated 60,000 years. Since the government does not recognize them, they had no title to the land and were “thrust into a world that was alien and unforgiving⁴.”

In addition to this violating a number of articles in the United Nations Declaration of Rights on Indigenous Peoples, the treatment of the Batwa by the Ugandan government also violates domestic laws, including the Ugandan Land Act of 1998 and National Environmental Statute of 1995 that aims to respect and protect customary and traditional uses of land. While an updated land policy was unveiled in 2013 that is supposed to better allocate national land to specific entities, the International Working Group for Indigenous Affairs feel that is going to be slow to implement.

The Batwa have never been compensated for the eviction of their traditional forests. Rather, they have been turned into low-wage tour guides within the park. The administration that now handles the park, the Uganda Wildlife Authority⁵, employs a number of Batwa to work on the Batwa Trail for tourists.

Indigenous Land Rights vs. Conservation

40.2 percent of Karamoja’s total land under protection of Uganda Wildlife Authority. Karamoja communities were violently evicted by the government from these fertile protected areas, which they had traditionally used for grazing animals. Desertification and climate change have contributed to a reduction in quality soil for agriculture on the lands, which are left for the Karamoja, causing frequent floods and irregular rain patterns that exacerbate malnutrition. This led to loss of human life and destruction of property, in which the argument arose that the government seemed to care more about wild animals than rights-holding citizens⁶.

Through a window in the Ugandan Wildlife Authority Act, communities are allowed to participate in wildlife management. It allows collaborative arrangements for wildlife, meaning communities can stay within these areas and manage their own land instead of it being taken away from them by the government. This provision applies to the Batwa, as well as Indigenous groups in Karamoja. However this opportunity for collaboration has not been utilized. Cooperation between the Uganda Wildlife Authority and these communities can bring about positive solutions that ensure conservation but do not disadvantage the Indigenous communities in the area in any way.

Mining in the Karamoja Region & Violation of FPIC (UNDRIP Articles 10, 11, 19, 28, 30)

The Karamoja region of Uganda is home to over a million people, and a great percentage of those are Indigenous Peoples. An in depth study carried out by Human Rights Watch in 2013 has found that companies have explored for minerals and actively mined on lands owned and occupied by Karamoja’s Indigenous People, violating land rights established in the UN Declaration on the Rights of Indigenous Peoples, including the right to Free, Prior and Informed

Consent. The government of Uganda has allowed concessions to mining companies, such as East African Mining, Indian jewelry company Jan Mangal, and DAO, a Saudi /Kuwaiti construction firm, without the consent of the Indigenous Peoples in the area. Instead, the Karamoja people only found about mining concessions on their lands when “employees and soldiers entered their lands and began taking soil samples from their gardens and even within their homes⁷.” A Karamoja man from Lois parish, in Kathile, Kaabong explained:

“Eight men in yellow uniforms just entered my garden and started excavating – they said nothing.... They just started digging and taking my soil. I just looked at them. I was afraid. So, I couldn’t get near them. They stepped on some of our crops and damaged them. I asked them, ‘Why are you destroying our crops?’ They said, ‘It will be good for your survival...’ We were afraid and feared to stop them. They moved around like a rooster, like this was their land.”

The Ugandan government has accelerated licensing of companies to carry out exploration and mining operations – a more than 700 percent increase between 2003 and 2011.

Due to excessive mining in the Karamojong region, basic survival of the traditionally semi-nomadic cattle raising has been increasingly jeopardized, thus increasing the vulnerability of food insecurity for the 1.2 million residents.

Mining companies have expressed that because land in Karamoja is owned communally, it’s then difficult for the mining companies to identify the rightful owners for compensation or consultation. Although Simon Peter Nangiyo, chairman for Karamoja Mines Association, told the Guardian that speculators have been holding licenses for many years but the government has kept quiet about it. The abundance of these precious and expensive minerals like gold and marble are supposed to transform this remote corner of Uganda but instead it has exacerbated and even increased the chronic poverty.

The Indigenous Peoples of Karamoja are aware of their rights and are insisting that the operations of the companies be carried out differently: “If companies come, as a visitor comes to your home, they should first consult you. They should consult us, make us an offer, before they start work... Instead, they go to the government only, they don’t come to us... You can tell whether a government is a good by whether they consult with us [in making decisions that affect us],” said one elder from the region⁷. The government of Uganda must take steps to ensure a process of Free, Prior and Informed Consent is carried out in the Karamoja region before any future projects are negotiated.

As one elder puts it “People would not refuse as long as we agree what we really want and they agree what they [the company] want from us.... We could only give a portion [of our land], not the whole area. We would need to keep part of the land for our cultivation, part of the land for our animals to graze.... It would be essential that the land could and would be rehabilitated⁷.”

Human Rights Watch interview with L.R., Dodoth elder, Kaabong town, July 4, 2013. In addition to emphasizing the importance of land for cultivation and grazing, several other community members further explained that they would not consent to exploration or mining at spiritual sites or gravesites.

Mining companies in Karamoja include East African Mining Ltd. (EAM), a local subsidiary of East African Gold, incorporated in Jersey, holds exploration licenses covering several hundred square miles of Kaabong district. DAO Uganda Ltd., a Ugandan limited liability company incorporated on August 1, 2012, by two business men, Mohammed Aoun and Qasim Askari, based in Kuwait, Aoun is the chairman of the Kuwaiti construction company DAO Group. DAO’s Ugandan holdings include a cement plant in Budaka, southeast Uganda, which was opened in November 2012⁷.

Ending Abuse and Discrimination (UNDRIP Articles 2, 7, 8, 15, 16, 21, 22, 24)

The Batwa disproportionately experience high levels of extreme poverty. The conditions that they live in are “squatter-like and abject poverty”. Surrounding communities discriminate against the Batwa, describing them as “backwards, primitive and lacking civic consciousness⁹.” This discrimination has allowed for very serious abuses to go unaccounted for. Due to a lack of opportunities, the Batwa regularly take on low-wage jobs in which they are exploited for their labor. Sexual abuse toward Batwa women is a particularly rampant problem, escalating in recent years due to a myth that has spread through surrounding communities that sex with a Batwa woman cures AIDS. This has led to a huge number of HIV-infected Batwa, who often shy away from receiving treatment because they lack financial resources and will face discrimination from those who provide the services¹⁰.

Providing Quality Education (UNDRIP Articles 14, 15, 17, 21)

School drop out rates due to discrimination from other children is a common occurrence with Batwa children. The Batwa had their first university graduate in 2015, a young woman named Alice, who believes that education is the key to the success of the Batwa people. Alice speaks about the discrimination that she faced while completing her education⁸: “The [non-Batwa] never wanted to sit in the classroom with [me]... the non-Batwa, even the teachers, they never wanted to share anything with me, because they used to say, ‘Look at that [Batwa]’.... it wasn’t easy for the Batwa to continue their studies.” Stopping discrimination in schools and providing quality culturally relevant education that is accessible and affordable, and in Indigenous languages to Batwa children is a key goal to ensure a successful future for the Batwa community that has yet to be fulfilled.

Addressing Malnutrition in Karamoja (UNDRIP Articles 21, 24, 29)

Uganda suffers from extremely high rates of child malnutrition, leading to stunting, a range of health problems, and lack of productivity in the workforce. Rates of malnutrition, food insecurity and conflict are especially high in the Karamoja Region. Nearly 20 percent of Karamojong children do not survive past their 5th birthday, and the maternal mortality rate in Karamojong is 72.4 percent higher than the average figure for Uganda. In children, chronic malnutrition, which results in stunted growth, was at a high of 45 percent in the region compared to 33 percent nation-wide. Almost 45 percent of children in Karamoja eat only one meal per day⁷.

As Uganda invests in preventative healthcare and nutrition programs, it should involve community leaders from the most affected areas in the design of these projects. Education levels of mothers has shown to be among the major determining factors in child nutrition, therefore, any funding for nutrition programs should include as a priority the access to education for women, particularly Indigenous women. Iron-deficiency anemia remains the single most threatening condition to women of reproductive age, and the government of Uganda needs to help provide Indigenous communities with the means to ensure food security and properly maintain the health and continuation of their populations¹¹. Food insecurity stems from the inability of farmers to increase agricultural activity and the lack of employment opportunities, which results in the inability of most households to generate sufficient income. Low crop productivity in 2013 was aggravated by dry spells, diseases, and pests. Since the mining boom in the Karamoja region, local communities have been voicing “serious fears of land grabs, environmental damage, and a lack of information as to how and when they will see improved access to basic services or other positive impacts” A community member expressed, “Famine has killed many people in this place. Drought has dried the crops. Even wild animals are suffering.”

The Karamoja region is also severely lacking healthcare infrastructure. With many families needing to walk up to 20 km to reach services, receiving quality healthcare can become secondary to those who consider travel too expensive or dangerous¹¹. Karamoja’s health system consists of 101 facilities of different sizes and types: one regional referral hospital, four general hospitals, four health centre IVs (HC IVs), 35 HC IIIs and 57 HC IIs. Of these facilities, 22 are

owned by the private not-for-profit sector, while the remaining 79 are public owned. There are hardly any private for-profit facilities in the region.

V. Questions

1. How is the government of Uganda going to tackle the crisis of the Batwa people regarding their land rights to the Bwindi Impenetrable National Park?
2. What steps is the Ugandan government taking to combat the food and water crises of the rural regions in the country and stabilize the communities?
3. What steps is the Ugandan government taking to implement a process of consultation with local communities before mining projects are carried out on their lands?

VI. Recommendations

Cultural Survival recommends that the government of Uganda:

1. Officially Endorse the UN Declaration on the Rights of Indigenous Peoples
2. Recognize Indigenous Peoples in the Ugandan Constitution
3. Recognize the Batwa people as customary owners of the lands now known as the Bwindi Impenetrable National Park, and compensate them for their forced eviction in 1992.
4. Re-admit the Batwa to their homeland and engage the Batwa in a co-management of the forest.
5. Ensure that all Batwa children have access to a quality, culturally relevant education, free from discrimination.
6. Take concrete steps to discourage the discrimination of the Batwa by members of surrounding communities and to dispel harmful myths.
7. Ensure the Batwa have access to healthcare free of discrimination.
8. Ensure a process of Free, Prior and Informed Consent is implemented before any development projects, especially mining, are initiated where the Batwa or Karamojong Indigenous Peoples may be affected.
9. Ratify ILO Convention 169.
10. Invite UN Special Rapporteur on the Rights of Indigenous Peoples to visit Uganda
11. Create a National Action plan on implementing the rights of Indigenous Peoples based on the World Conference on Indigenous Peoples' Outcome Document.
12. Amend the Mining Act to include a requirement for clear evidence of Free, Prior and Informed Consent from affected communities prior to the granting of exploration licenses, and again prior to the granting of mining leases.
13. Urgently implement a land tenure registration system that increases land tenure security, particularly for communal land owners.

¹ *International Working Group for Indigenous Affairs. "Uganda." International Working Group for Indigenous Affairs. Accessed November 10, 2015.*

- <http://www.iwgia.org/regions/africa/uganda>.
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 - ³ *Central Intelligence Agency*. "Uganda." In *The World Factbook*. N.p.: n.p., 2015. Accessed November 10, 2015. <https://www.cia.gov/library/publications/the-world-factbook/geos/ug.html>.
 - ⁴ *The Batwa Experience*. "Batwa History." *The Batwa Experience*. Accessed November 10, 2015. <http://www.batwaexperience.com/batwa-experience-history>.
 - ⁵ *UNESCO*. "Bwindi Impenetrable National Park." *UNESCO*. Last modified 2015. Accessed November 30, 2015. <http://whc.unesco.org/en/list/682>.
 - ⁶ *Ochom, Iduwat*. "Wildlife Conservation Vs Community Land Rights: A Battle for Resources". *Academia*.
 - ⁷ *Human Rights Watch*. "Uganda: Rights at Risk in New Mining Region." *Human Rights Watch*. Last modified February 3, 2014. Accessed November 14, 2015. <https://www.hrw.org/news/2014/02/03/uganda-rights-risk-new-mining-region>.
 - ⁸ "Forced Out of the Forest: The Lost Tribe of Uganda." Video file. *Vice News*. Posted by *Vice News*, July 17, 2015. Accessed November 12, 2015.
 - ⁹ "Uganda 2014 report (on 2013)."
 - ¹⁰ *Kawczynska*..
 - ¹¹ *The Government of Uganda*. "UGANDA NUTRITION ACTION PLAN 2011–2016." Last modified 2011. Accessed November 30, 2015. p. 7, 18. <http://www.gafspfund.org/sites/gafspfund.org/files/Documents/Note%201.%20Uganda%20Nutrition%20Action%20Plan.pdf>.