



**Alternative Report submitted to the
UN Committee on the Elimination of Racial Discrimination
at the 78th Session during the consideration of the 13th – 17th Periodic
Reports of the Republic of Rwanda**

**Unrepresented Nations and Peoples Organization
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Contents of this Report

Section A: Introduction to the Report	4
Section B: Introduction to the Batwa	5
Section C: Compliance with ICERD	6
Article 1 .4 - Special Measures to Advance Certain Groups is not Racial Discrimination	6
<i>a) Assimilation Policies and the Denial of the Existence of a People</i>	6
<i>b) Inconsistencies and Terminology that is open to abuse and/or negligence</i>	7
Article 2.1 (a) States Eradicate State-Sponsored Discrimination	9
Article 2.1 (c) States must amend legislation which create/generate discrimination	10
Article 2.1 (d) States bring to an end all racial discrimination	10
Article 2. 2 – Special and Concrete Targeted Measures	12
<i>a) Lack of targeted measures taken to promote the situation of the Batwa</i>	12
<i>b) Restrictions on the creation of organizations or programmes targeting the Batwa</i>	13
<i>c) Affirmative Action in the political sphere</i>	14
Article 5 (a) The right to equal treatment before the law	15
Article 5 (d)(v) The right to own property alone as well as in association with others	16
Article 5 (d) (ix) The Rights to Freedom of Peaceful Assembly and Association	18
Article 5 (e) (iii) The Right to Housing	18
<i>a) Inadequate Housing</i>	18
<i>b) Bye Bye Nyakatsi</i>	20
Article 5 (e) (iv) – The right to public health, medical care, social security and social services	22
Section D - Summary of Questions and Recommendations	23

Section A: Introduction to the Report

This is the alternative/shadow report submitted by the Unrepresented Nations and Peoples Organization (UNPO) on the occasion of the 78th Session of the United Nations Committee on the Elimination of Racial Discrimination (from here on “the Committee”) during which the thirteenth to seventeenth Periodic Reports of Rwanda, due in 2008 and submitted in 2010 will be considered.

The framework of the report is such that it comments upon the articles of the International Covenant on the Elimination of all Forms of Discrimination sequentially. At the end of each section, it provides questions that should be posed and recommendations that should be made to the Rwandese delegation at the 78th Session. These questions and recommendations are then summarised in the final section of the report.

This shadow report will focus on the situation of the Batwa population in Rwanda, and the government’s compliance to and implementation of the provisions in the International Convention on the Elimination of all Forms of Racial Discrimination (from here on ICERD) as it affects this particular group. It is immediately disappointing that no organisation directly working on issues related to the Batwa were listed amongst the collaborating stakeholders in the present report.

The Concluding Observations of the Committee following the 8th to 12th Periodic Reports of Rwanda noted in its introduction that the report submitted in 1999 contained “little information on racially discriminatory acts which have been committed”. It must be noted that the 13th to 17th Report submitted in April 2010 is of largely the same constitution.

The Hague, January 2011

Section B: Introduction to the Batwa

The Batwa, also known in some contexts as the pygmies of Central Africa number between 80,000 and 100,000 and reside across the borders of the Democratic Republic of Congo, Uganda, Burundi and Rwanda. Between 28,000 and 33,000 Batwa live in Rwanda although data is not disaggregated by ethnicity, which creates difficulty in making more concrete estimations.

The Batwa, who are indigenous to the Great Lakes region, originally inhabited the wide expanses of Rwanda's forested areas, but as a result of migrating arable farmers and cattle keepers, much of the land was cultivated and communities moved to more remote forest lands. During colonial times and during the 1970s and 1980s, commercial agricultural projects and the creation of National Parks for conservation projects or to regulate tourism forcibly removed the remaining Batwa communities, rendering the majority landless, without compensation and without the means or skills to adapt to their new environments. Traditionally hunter-gatherers, Batwa turned to pottery as a means of generating income. This livelihood is now threatened by the influx of cheap metal and plastic crockery.

It has been long documented that the cultural histories, habits and practices of the Batwa differ from those of other Rwandans¹. In addition, the Batwa suffer from severe impoverishment and exceptionally low socio-economic and health indicators and are almost entirely absent from grassroots, regional or national governing structures. They also suffer from casual but deeply damaging discrimination, based on a common and largely unpunished perception of the Batwa being "backwards", unintelligent or lazy which in turn perpetuates their social exclusion.

These factors are exacerbated by the government's policy of failing to acknowledge the Batwa as a distinct ethnic group who have distinct challenges, the solutions to which are also distinct. A Report submitted to the Senate by the Commission in charge of Social Affairs on the living conditions of the Batwa in July 2007 acknowledged that the communities "do not feel that they are Rwandans like other citizens. This transpires through their comments such as "our relationship with Rwandans", "natives of the land" (Abasangwabutaka), "those are citizens, and we are Batwa²".

The Batwa are largely sidelined from or face challenges to participating in local decision-making procedures. In addition, they have been dispossessed of their land and have been offered little compensation in comparison to other previously disenfranchised citizens³, and moreover, they face challenges in creating support networks that directly focus on the Batwa unlike other vulnerable groups. They form such a small proportion of the electorate that any electoral campaign advocating better protection of Batwa communities will win few votes.

The terms Batwa and Banyarwanda⁴ are not and do not need to be mutually exclusive. However, permitting Batwa-specific targeted action and positive discrimination would raise their standard of living and level of participation in community life and also likely make them feel more Rwandan.

¹ Indeed casual discrimination against the Batwa has been commonplace for many decades and continues to exist in part because of the nature of some such customs and habits, such as marriages that take place at night, social events which take place without communal invitations, and dialects and body language comprehensible only to other Batwa.

² Commission in charge of Social Affairs, Human Rights and Social Issues, *Report on the Living Conditions of Some Rwandans Disadvantaged Throughout History*, (July 2007) Pg 7

³ Such as those forced to flee Rwanda in earlier decades who returned to Rwanda after the genocide and for whom access to land and housing was made a priority.

⁴ Batwa, Banyarwanda, Bahutu and Batutsi are the plural forms of Mutwa, Munyarwanda, Muhutu and Mututsi respectively. At times, references are made to the Twa, Hutu and Tutsi of Rwanda by the government and other sources, but for reasons of uniformity, we retain the Kinyarwanda terms.

Section C: Compliance with ICERD

Article 1.4 - Special Measures to Advance Certain Groups is not Racial Discrimination

Article 1.4 of the International Convention for the Elimination of all forms of Racial Discrimination states that “[s]pecial measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination⁵”.

In recent years, the Government of Rwanda has employed a policy that dissuades the use of ethnic terminology to identify its citizens⁶. The government argues that in the past, such identification has sown divisions and fostered conflict and that a singular homogenous Rwandan identity will maintain national unity. Those who make reference to ethnic identity are susceptible to being charged with “divisionism” which carries severe punishment despite the fact the crime is not well defined.

In the eighth State Party report to the African Commission, the Rwandan submission stated of the Batwa that “in view of facts that led to the 1994 Tutsi genocide, Rwanda refrains from recognising in this or that category of Rwandese, communities willing to identify themselves under ethnic form or under any grouping presenting itself as having some inborn rights that other Rwandese cannot have⁷”.

However, in line with its aforementioned commitments to **Article 1.4** of the ICERD, the identification of Batwa as a minority and as an indigenous group requiring targeted measures should not be seen as threatening. It is a means through which targeted measures can be employed to raise their standard of living which has the additional benefit of reducing the level of inequality in Rwanda as understood by the government themselves to be “rising and high⁸”.

a) Assimilation Policies and the Denial of the Existence of a People

The government’s approach to this demographic policy is inconsistent. The decision to dissuade the use of ethnic terms from official documents has been conflated at times with the outright denial that different ethnic groups exist. As an example, in December 2008, the Justice Minister Mr. Tharcisse Karugarama told visiting African Union delegates that there is “no indigenous group in Rwanda” and that it was a “distortion of Rwandan history” to suggest otherwise⁹. The 13th to 17th Periodic Report of Rwanda to the Committee argues that since all three ethnic classifications share territory, language, history and culture there can be just one ethnic group - the Banyarwanda and that previous delineations were the result of colonial interference and a falsity.

⁵ *International Covenant on Civil and Political Rights*, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49 <http://www2.ohchr.org/english/law/ccpr.htm> (emphasis added)

⁶ As an example relevant to the Committee on the Elimination of Racial Discrimination Paragraph 8 of Part I.I of the 8th-12th Periodic Report submitted to the Committee in 1999, states that “The Rwandan population consists of three ethnic groups: the Bahutu, the Batutsi and the Batwa”. It then continues in Part II. II, para.42; “...in favour of equality of all citizens... it has been decided to remove all references to ethnic origin in official documents”.

⁷ African Commission on Human and Peoples’ Rights, *Eighth Periodical Report of Rwanda* (March 2005)

⁸ MINALOC, *National Social Protection Strategy* (draft), (2010) Pg 12: “The challenge of high poverty levels is exacerbated by rising and high levels of inequality. Inequality as measured by the Gini co-efficient rose from 0.47 in 2000 to 0.51 in 2006.6 To put this in perspective, a Gini co-efficient of 0.40 is regarded as high inequality”

⁹ Save Rwanda, *Rwanda accused of “denying existence of Batwa people”*, (13 August 2009), See [http://www.saverwanda.org/index.php?id=74&tx_ttnews\[tt_news\]=956&cHash=bfd533d9a](http://www.saverwanda.org/index.php?id=74&tx_ttnews[tt_news]=956&cHash=bfd533d9a)

As previously mentioned, the Batwa have markedly different histories and cultures from other Rwandans. At the same time, a Mutwa can equally be Rwandan without precluding the other identity and whilst maintaining the same rights and obligations as other citizens. Fears have already been voiced by fellow African governments as outlined in the Mission Findings of the Country Review Report of Rwanda, as part of the New Partnership for African Development African Peer Review Mechanism which stated “[w]ith respect to the Batwa minority, the approach adopted by the authorities was based on a policy of assimilation. There appears to be a desire to obliterate distinctive identities and to integrate all into some mainstream socio-economic fabric of the country¹⁰.”

This assimilation policy and/or denial of the existence of the Batwa in the name of dissipating potential ethnic conflict not only runs counter to the clarification in **Article 1.4** that targeted measures do not constitute a form of discrimination but also contravenes provisions for freedom of speech as is provided for in **Article 5 (d) (viii)**, and of maintaining the group’s cultural identity as is provided for in **Article 5 (e)**.

b) Inconsistencies and Terminology that is open to abuse and/or negligence

As further evidence of the inconsistencies in the government’s approach, the 13th-17th report submitted to the Committee continues to employ the term “ethnic group”, interchanging it at times with “social group”. Additionally, and very recently, the same Mr Karugarama, who still fills the post of Justice Minister, stated that the situation of the Batwa had been “aggressively addressed” and that they would probably have the same standard of living as other Rwandans by 2020. He made this assertion during his opening remarks to the UN Human Rights Council at the 10th Session of the Working Group on the Universal Periodic Review on January 24 2011¹¹ thus acknowledging not only their existence but also their devastatingly impoverished situation.

In many spheres the term Batwa has been replaced with one or more of the terms “historically marginalised communities”, “historically marginalised people”, “people marginalised in history” and “people disadvantaged throughout history”. This is commonly understood to relate solely to the Batwa, even though other vulnerable groups can equally fall into such a wide category if taken literally.

Nevertheless, this terminology has never been officially defined, leaving it open to abuse. Indeed one Mutwa representative spoke to UNPO in December 2010 of the problems presented by advocating using the government endorsed term; “I can remember, the last time we had a meeting, a workshop with one of the big-shots from the government, and he said- “who told you? – maybe the Historically Marginalised Communities also involve women – how come you complain? Who told you the Historically Marginalised Communities are the Batwa?” Well if that’s the case, then we are not even recognised at all¹²”.

Whilst casual inferences that Historically Marginalised Communities/People is a term that applies purely to the Batwa are manifold, the closest official recognition is in the numerical reference contained in the draft copy of MINALOC’s forthcoming National Social Protection Strategy which states

¹⁰ New Partnership for African Development, African Peer Review Mechanism, *Country Review Report of the Republic of Rwanda, Mission Findings* (June 2006) Para. 153.

¹¹ See the UN webcast for the full opening and closing statement, January 24 2011: <http://www.un.org/webcast/unhrc/archive.asp?go=110124>. H.E. Mr Karugarama’s statement about the Batwa comes in the opening remarks at 29 minutes. He states, “The question about the Batwa has been aggressively addressed and we agree that by 2020 they will probably be at parity with other Rwandans”

¹² UNPO Interview with Mutwa civil society representative, December 2010

“Historically marginalised people – who number around 25,000-30,000 – are believed to experience higher levels of poverty and worse social indicators than the general population, although little objective data is available¹³”.

The numerical information comes from government report that in the footnotes is entitled “MINALOC (2009) Historically Marginalised Communities: the Rwanda Case, Unpublished Manuscript”. There is no information provided on the paper, nor why the findings in the paper were not made public. Since the Batwa population is estimated by several other organizations to be in this region, we assume therefore that the “Historically marginalised people” are the Batwa.

The qualification in the citation above regarding the nature and quantity of data in existence appears to be a criticism of the rudimentary studies that have been conducted without government backing that throw light on the situation of these communities. As it happens, it only serves to underline the need to collect disaggregated information on the situation of Rwanda’s various vulnerable groups to ensure they are not being intentionally sidelined from national programmes and to provide greater information that will contribute to finding targeted solutions. This is perhaps an area of negligence on the part of the Rwandan government, but to ensure they are not accused of intentional discrimination, immediate plans to collect adequately disaggregated data should be undertaken.

Question: Why were the findings of the MINALOC report entitled “Historically Marginalised Communities: the Rwanda Case” written in 2009 unpublished?

Question: Why have the terms “historically marginalised communities”, “historically marginalised people”, “people marginalised in history” and/or “people disadvantaged throughout history” never been officially defined, for purposes of clarification and transparency?

Question: What advantages has the new terminology had on promoting the rights of the Batwa, protecting their culture and livelihoods, raising their socio-economic indicators and reducing the levels of poverty they suffer?

Question: What actions have been implemented to ensure that racial discrimination is not the cause for the persistency of poverty experienced by the Batwa, through intentional sidelining of communities from national poverty reduction strategies.

Recommendation: At a minimum, officially define the term “Historically Marginalised Communities” (and related terms) to avoid abuse of the term, or allow identification of the Batwa as an ethnic group that is indigenous to Rwanda with a particular history, culture and set of traditions.

Recommendation: Ensure accountability in local government to ensure the Batwa are not being sidelined from poverty reduction strategies intentionally or otherwise by local officials.

Recommendation: Ensure that data collected alongside the distribution of materials and management of poverty reduction projects is disaggregated along ethnic lines to ensure that Batwa communities are not the target of racial discrimination.

¹³ MINALOC National Social Protection Strategy (draft), (2010)

Article 2.1 (a) States Eradicate State-Sponsored Discrimination

Article 2.1 (a) states that “[e]ach State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local shall act in conformity with this obligation”

Often development and assistance programmes designed to target the neediest of Rwanda’s population do not reach the Batwa, either because they do not fulfil the minimum requirements¹⁴ or because staff at a local level have the power and inclination to direct assistance away from Batwa communities¹⁵. Where local authority staff are responsive and engaged, policies reach the appropriate communities. A case of good practice is in Byumba Sector, Gicumbi District where local authorities are reported to be highly proactive and assist the work of 5 organisations who work on poverty alleviation projects in communities with sizeable Batwa populations. In other districts, instances have been reported to UNPO of authorities who have tried to appropriate materials assigned to poor, largely Batwa communities for income-generating projects.

Since data is not disaggregated by ethnicity, it is near impossible for Rwandan national authorities to distinguish when discrimination is the reason for the inappropriate implementation of their poverty combating policies in Batwa communities.

Question: The draft National Social Protection Strategy paper indicates that it will build an effective monitoring system, with full disaggregation of data by sex, age, disability, ethnicity and status as genocide survivor¹⁶. How will the government create an effective monitoring system with full disaggregation of data by ethnicity when use of ethnic terminology is strongly dissuaded?

Question: What actions have been implemented to ensure that racial discrimination is not the cause for the persistency of poverty experienced by the Batwa, through intentional sidelining of communities from national poverty reduction strategies.

Recommendation: Ensure accountability in local government to ensure the Batwa are not being sidelined from poverty reduction strategies intentionally or otherwise by local officials.

Recommendation: Ensure that data collected alongside the distribution of materials and management of poverty reduction projects is disaggregated along ethnic lines to ensure that Batwa communities are not the target of racial discrimination.

¹⁴ The much vaunted one-cow-per-poor-family policy, Girinka, requires that the receiving family have 0.7 hectares of land on which to feed it. Evidently, the poorest families lack even that provision and as such are rendered ineligible.

¹⁵ Other instances reported to UNPO include cows intended for Batwa families who *do* have the means that have been appropriated by local authority staff.

¹⁶ MINALOC *National Social Protection Strategy* (draft), (2010) Pg 36. It does later however note that disaggregation of data will be undertaken but without mentioning ethnicity. This is another area of inconsistency.

Article 2.1 (c) States must amend legislation which create/generate discrimination

Article 2.1 (c) states that “[e]ach state Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.”

Whilst the Government of National Unity took the decision to remove references to ethnicity in official documents under the auspices of fostering one common identity, constitutional amendments were made in 2008 to reword any reference of the 1994 genocide to the 1994 “genocide committed on Tutsis”¹⁷. Indeed the combined 13th-17th Periodic Report submitted by the Government of Rwanda on the implementation of ICERD contains multiple references to “the 1994 Tutsi genocide” or “genocide of 1994 of Tutsi”. Whilst not at all detracting from the great loss of life, tragedies experienced and suffering endured by the Batutsi population, the exclusive institutionalised terminology serves to efface the loss of life of the Batwa and moderate Bahutu people in 1994. Additionally the new terminology contradicts the Government of National Unity’s previous decision to remove all references to ethnicity and is evidence of double standards. Moreover, the relabeling of the genocide, “genocide committed on Tutsis”, officially excludes any Bahutu or Batwa victims from support provided through the various mechanisms available for “Genocide Survivors” such as the Funds for the Support of Genocide Survivors (FARG).

Significantly, it is highly difficult to access a copy of the Rwandan Constitution other than that of 2003, in any of the three official languages. Since it is reported that over 50 constitutional amendments were made in 2008¹⁸, clarification regarding the content of the new Constitution is required to uphold normal procedures of governmental transparency.

Question: Have Bahutu or Batwa survivors ever received governmental assistance from any of the networks, programmes, scholarships or funds for survivors of the genocide?

Recommendation: Ensure double standards are not employed in the treatment of the different ethnic groups in Rwanda.

Recommendation: Make readily available in all three official languages the text of the most recent Constitution, and ensure transparency throughout all future amendment procedures.

Article 2.1 (d) States bring to an end all racial discrimination

Article 2.1 (d) states that “[e]ach state party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization.

¹⁷National Government of Rwanda, “Ex- presidents given immunity”, (July 18 2008) http://www.gov.rw/page.php?id_article=23 (last accessed Feb 3 2011)

¹⁸National Government of Rwanda, “Ex- presidents given immunity”, (July 18 2008) http://www.gov.rw/page.php?id_article=23 (last accessed Feb 3 2011)

Alternative Report - Rwanda CERD/C/RWA/13-17

It is commendable that the criminal code contains the provisions to “repress any form of discrimination caused to individual or groups of people¹⁹”.

However, casual discrimination against the Batwa is common and goes unchecked. As Beswick notes, “the Batwa remain the only ethnic group who can be discriminated against with relative impunity²⁰”. Batwa school children often hide their ethnicity, for fear of harassment by fellow students and teachers. Many do not attend school as a result of harassment. Their severe state of impoverishment and status as a Mutwa means their clothing, footwear or level of hygiene is deemed insufficient or inadequate by teachers. Mutwa or Batwa is a common insult directed at an individual who is lazy, late or unclean and Batwa families are often not invited to social gatherings in rural areas where communal events are commonplace.

Provisions in criminal codes and legal documents do not guarantee their implementation. Since the Batwa occupy the margins of society, it is evident that discrimination on a local basis is much harder to eliminate but therefore requires urgent targeted action.

The report submitted to the Senate²¹ in 2007 entitled “The Living Conditions of Some Rwandans Disadvantaged Throughout History”, alongside public comments made by the Speaker of the Parliament in 2001 and the Executive Director of the Rwandan National Unity and Reconciliation Commission²² about commonplace discrimination against the Batwa and the need to take specific targeted measures to bring it to an end prove not only that discrimination is rampant but also that it is acknowledged to be so at the highest of levels.

Question: What legal provisions have been made to facilitate access to local justice for Batwa who have been insulted, mocked, discriminated against or otherwise received derogatory treatment? How often are those services used?

Question: What action was taken to address the concerns outlined in the report authored by the Commission in charge of Social Affairs, Human Rights and Social Issues submitted to the Senate in July 2007 entitled “Report on living conditions of some Rwandans disadvantaged throughout history”?

Question: What provisions for positive discrimination towards the Batwa, as outlined by the Speaker of the Parliament in 2001 and the Executive Director of the Rwandan National Unity and Reconciliation Commission have been undertaken and implemented since these remarks?

Recommendation: Ensure accountability in local government to ensure the Batwa are not being sidelined from poverty reduction strategies intentionally or otherwise by local officials.

Recommendation: Ensure that data collected alongside the distribution of materials and management of poverty reduction projects is disaggregated along ethnic lines to ensure that Batwa communities are not the target of racial discrimination.

¹⁹ 13th-17th Periodic Report of the Government of Rwanda submitted to the Committee for the Elimination of Racial Discrimination, CERD/C/RWA/13-17 (2010), para.116

²⁰ Beswick, D (Forthcoming April 2011) ‘Genocide and the politics of exclusion: the case of the Batwa in Rwanda’ Democratisation vol.18, no. 2.

²¹ Commission in charge of Social Affairs, Human Rights and Social Issues, *Report on the Living Conditions of Some Rwandans Disadvantaged Throughout History* (July 2007)

²² Submission of the Forest Peoples Programme Concerning the Republic of Rwanda and its compliance with the International Covenant on Civil and political Rights, *The Rights of Indigenous Peoples in Rwanda*, (October 2006), Pp 22

Recommendation: Create a dedicated grant system for Batwa students, as is already in place for other vulnerable groups for primary, secondary, tertiary and vocational education which will include provisions for uniforms, equipment and basic necessities.

Article 2.2 – Special and Concrete Targeted Measures

Article 2.2 of the ICERD underlines that special measures should be considered to ensure the protection and promotion of groups that are particularly at risk of discrimination:

“States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, *special and concrete measures to ensure the adequate development and protection of certain racial groups* or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved²³.”

a) Lack of targeted measures taken to promote the situation of the Batwa

Paragraphs 186-192 of the 13th-17th Periodic Report underline the affirmative action and special measures that have been undertaken to “ensure the adequate development and protection of certain racial groups” as is required in **Article 2.2** of ICERD. It is inadequate and inappropriate for the Government of Rwanda to then enlist at length the affirmative action policies related to women, youth and disabled persons when just one note is made of the Batwa, using the term commonly understood to relate to them, historically marginalised people:

192. The support offered to historically marginalised people (HMP). The GoR recognizes the challenges that such marginalised people face. This category of people benefit from representation in the government institutions (like other poor) and different programs (like other people) such as universal education for all, one cow one family policy and other programs as set out in Rwanda’s vision 2020, PRSP and EDPRS among others.

It would have been appropriate for the challenges that the government recognise the Batwa face to be outlined in this submission to the Committee. Moreover, effort is made with the double use of parenthesis to underline that the Batwa are *not* given particular support as a vulnerable group. This would suggest Rwanda is not fulfilling its affirmative action duties as a signatory to the International Convention on the Elimination of Racial Discrimination, and could even be accused of discrimination in light of the multiple initiatives outlining the affirmative policies towards other vulnerable groups.

The Government of Rwanda does report however that specialised institutions have been “created to enhance equality and combat discrimination” in Rwanda (para. 166, 13-17th Periodic Report). It is

²³ *International Covenant on Civil and Political Rights*, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49, Part I, Article 2.2

disappointing to note that amongst the 9 institutions listed, none have been created that relate to the Batwa despite their well-documented status as a group often discriminated against. Many public awareness campaigns, institutions and NGOs promote the idea of equality of women, young people, disabled people, people living with HIV or AIDS, but none are in place for Batwa. Where other vulnerable groups benefit from special governmental programmes, subsidies and scholarships and through self-identification can create their own NGOs to protect and promote their rights, the Batwa do not and cannot.

At frequent points in the 2010 draft National Social Protection Strategy, the target groups set to benefit from socio-economic programmes are listed. As an example, the specific objectives of the social protection sector are listed with the résumé that “all programmes will aim to have a significant impact on the well-being of vulnerable children, women, people with disabilities and genocide survivors²⁴”. Where historically marginalised communities *are* mentioned, the policies and objectives become less precise: “they can be able to support themselves and also instilling in them the culture of helping themselves to do self help projects so that they can graduate from support and be able to sustain themselves economically²⁵”.

Another section provides detailed information about grants and particular programmes and schemes that benefit other vulnerable groups alongside timelines. The small bullet point related to the Batwa states only that the “government seeks to help”, and that the government “will enable them to overcome their disadvantages by providing positive discrimination in terms of access to benefits from public services²⁶”.

b) Restrictions on the creation of organizations or programmes targeting the Batwa

An additional off-shoot of the Batwa’s inability to identify along ethnic lines is that they are hampered from forming associations or run community projects that tackle Batwa-specific problems or challenges. This is supposedly to ensure that no population in Rwanda believes they have “inborn rights that other Rwandese cannot have²⁷. This restriction handicaps any effort that could be taken to fulfil provisions in **Article 2.2** of ICERD outlining specific targeted measures that could be implemented to bring the standard of living of this group up to that of the general population.

Whilst there are multiple associations, forums, NGOs, programmes, scholarships and institutions for other vulnerable groups such as women, youth, people living with disabilities, genocide survivors, and widows, no such national institution exists for the Batwa.

As an example, the closest such organisation for the Batwa entitled CAURWA (Community of Indigenous People of Rwanda) was forced to change its name in 2007 to avoid the abrogation of its legal registration. Government authorities objected to the term “autochtone”, the French term for “indigenous”, that was in its title.

These restrictions not only inhibit any community led special measure to improve the situation of the Batwa as in **Article 2.2 of ICERD** but they also contravene the right to **freedom of association** as

²⁴ MINALOC *National Social Protection Strategy* (draft), (2010) Pg 34.

²⁵ MINALOC *National Social Protection Strategy* (draft), (2010) Pg 21

²⁶ MINALOC *National Social Protection Strategy* (draft), (2010) g 36

²⁷ African Commission on Human and Peoples’ Rights, *Eighth Periodical Report of Rwanda* (March 2005).

outlined in **Article 5 (d) (ix) of ICERD**, as well as Article 33 of the Rwandan Constitution, Article 22 of the ICCPR and other amongst other international legislation.

c) Affirmative Action in the political sphere

Political participation of Batwa is exceptionally low. The Batwa have high levels of illiteracy and as noted in UNPO's 1994 mission report, echoed in anecdotal evidence in UNPO's repeat visit in December 2010 "[a]ctive participation in Rwanda's political life is inconceivable for many Batwa, who are already excessively proud when their ten year old son drops out of school only after the third grade²⁸".

The scattered and numerically small nature of the Batwa in addition to their lower propensity to access to information creates additional obstacles to effective political participation.

Discrimination against Batwa and the public nature of local community elections which require people to line up behind their preferred candidate also inhibits active participation, as reported in correspondence to UNPO: "When a Mutwa ventures to stand for an election, he or she is mocked, abused, harassed and called all sorts of names to discourage the voters to line up behind him or her²⁹". Similar findings were reported to the Senate in 2007³⁰.

Article 14 of the 2003 Constitution of Rwanda declares that "[t]he State shall, within the limits of its capacity, take special measures for the welfare of the survivors of genocide who were rendered destitute by the genocide committed in Rwanda from October 1st, 1990 to December 31st, 1994, the disabled, the indigent and the elderly as well as other vulnerable groups."

No direct mention of the Batwa is made, since Rwanda "refrains from recognising in this or that category of Rwandese, communities willing to identify themselves under ethnic form or under any grouping presenting itself as having some inborn rights that other Rwandese cannot have³¹" but it can be inferred that they are included as a vulnerable group.

Article 76 outlines one such implemented "special measure" for the political welfare of the aforementioned vulnerable groups. The Chamber of Deputies, composed of 80 members, has 24 specially assigned seats for women, 2 for youth representatives elected by the National Youth Council and one seat for a member elected by the Federation of the Associations of the Disabled. None are reserved for any elected Batwa representative.

However, Article 82 states that the Senate which is composed of 26 members shall include "eight (8) members appointed by the President of the Republic who shall ensure the representation of historically marginalized communities".

This has at times been taken to mean that all 8 seats were reserved for historically marginalised communities, commonly assumed to mean the Batwa, but in reality the level of representation is not defined. This position is an appointment rather than an elected position which also reduces the impetus

²⁸ UNPO Mission Report, *Investigating the situation of the Batwa People of Rwanda*, (1994)
<http://www.unpo.org/images/reports/batwa%20report%201994.pdf>

²⁹ Correspondence to UNPO, January 20 2011

³⁰ Commission in charge of Social Affairs, Human Rights and Social Issues, *Report on the Living Conditions of Some Rwandans Disadvantaged Throughout History*, (July 2007), Pg 7.

³¹ African Commission on Human and Peoples' Rights, *Eighth Periodical Report of Rwanda*, (March 2005).

for Batwa communities to become engaged in the political process or a civil society election procedure which would strengthen their participation and integration.

Question: How will the government in line with the draft National Social Protection Strategy draft provide “positive discrimination in terms of access to benefits from public services”?

Question - What action was taken to address the concerns outlined in the report authored by the Commission in charge of Social Affairs, Human Rights and Social Issues submitted to the Senate in July 2007 entitled “Report on living conditions of some Rwandans disadvantaged throughout history”.

Recommendation: Create a dedicated grant system for Batwa students, as is already in place for other vulnerable groups for primary, secondary, tertiary and vocational education which will include provisions for uniforms, equipment and basic necessities.

Recommendation: Create a national institution for the protection and promotion of the Batwa.

Recommendation: Create a single quota seat in the Chamber of Deputies for a Batwa representative. Permit and facilitate the new national institution to run elections for the position.

Recommendation: Define the number of Senate seats specifically assigned to the Batwa. Permit elections for this position which would be conducted by the newly created national institution.

Article 5 (a) The right to equal treatment before the law

Article 5 (a) states that State Parties must guarantee citizens “The right to equal treatment before the tribunals and all other organs administering justice”.

The alternative report of the Forest Peoples Programme to the Human Rights Committee regarding Rwanda’s compliance with the International Covenant on Civil and Political Rights submitted in 2006 enumerated four specific cases where Batwa individuals’ rights to equal treatment and equality before the law were severely violated. The first case involved a family who upon lodging a complaint about land expropriation were imprisoned for five days without charge. The second involved the decision by local authorities that a widow must concede her land to neighbours after the death of her husband, even though no proof of purchase was provided. The third case involved the killing of a Mutwa whilst in custody and where no investigation took place into the nature of his death. A fourth case involved the death of a Mutwa in Gikongoro provincial prison in 2002 in the prison latrine after he had been sent to retrieve staff member’s mobile phone. Local police had not forwarded the file to the local prosecutor, the family was told his death was his own fault. Over two years later, the case was transferred to a District tribunal, but then postponed. The accused was acquitted, and at the time of the submission in October 2006, more than four years after his death, the case was still unresolved and the family uncompensated³².

³² Submission of the Forest Peoples Programme Concerning the Republic of Rwanda and its compliance with the International Covenant on Civil and political Rights: *The Rights of Indigenous Peoples in Rwanda*, (October 2006), Pp 25-26, 28

At the time of these occurrences, Community of Indigenous People of Rwanda, (CAURWA), was able to provide assistance to the Batwa families and follow-up on each particular case. CAURWA's work has since been severely hampered, not only by stricter regulations on the use of terminology employed and the freedom through which they can openly criticise government policy, but also because it is dependent on external international funding. There were and are surely many more cases that go unmonitored. The Batwa often lack the financial resources and legal understanding of their rights to follow-up on instances of violations and discrimination.

Question: What action was taken to follow up on the cases presented by Forest Peoples Programme in 2006 and ensure justice for the families and punishment for the perpetrators?

Question: What action has been taken to guarantee discrimination against the Batwa is eliminated from all levels of Rwandan society?

Question: What action has been taken to provide legal support to the Batwa so that they may access justice on a local, district, regional and national level?

Recommendation: Create a fund specific to the Batwa for facilitated access to justice and implement community based outreach programmes to ameliorate understanding of their legal rights.

Article 5 (d)(v) The right to own property alone as well as in association with others

The 13th-17th Periodic Report submitted to the Committee has noted in Section III. F para.83 the existence of a “clear and elaborate country settlement policy that seeks to improve and respond to the general needs of Rwandans irrespective of whomever in question”. This is done “to save land, space and facilitate easy access of developmental programs” and “for reasons of public utility³³”.

There is a long documented history of forced and often aggressive government-sponsored relocations of Batwa populations in the 1970s, 1980s and 1990s from the forests in order to create National Parks to regulate and promote tourism, or for developmental activities such as logging and tea plantations, one of which was financed by the World Bank³⁴. The legislation that was adopted in 1974³⁵ also prohibited the livelihood activities upon which the Batwa communities survived and thrived, namely fishing, hunting and animal trapping. Very few Batwa were given work in the National Parks³⁶ despite their vast and long-established knowledge of the environs. In past decades this relocation was often conducted without consultation or warning. Compensation was lacking as families were often either left landless or moved to infertile rocky outcrops.

These relocations did not only remove shelter and housing from families in the short-term but also their livelihoods, the consequences of which remain with them today. Batwa communities had lived off

³³ 13th-17th Periodic Report of the Government of Rwanda submitted to the Committee for the Elimination of Racial Discrimination, CERD/C/RWA/13-17 (2010)

³⁴ See for example Jackson, D. *Implementation of international commitments on traditional forest related knowledge: Indigenous peoples' experiences in Central Africa*, Paper presented at the Expert Meeting on Traditional Forest-Related Knowledge in San Jose, Costa Rica, (December 2004) and the Submission of the Forest Peoples Programme Concerning the Republic of Rwanda and its compliance with the International Covenant on Civil and political Rights: *The Rights of Indigenous Peoples in Rwanda*, (October 2006)

³⁵ Republic of Rwanda, Statutory Order of 26 April 1974

³⁶ Forest Peoples First, Submission of the Forest Peoples Programme Concerning the Republic of Rwanda and its compliance with the International Covenant on Civil And Political Rights, *The Rights of Indigenous Peoples in Rwanda*, (October 2006), pg14. The submission cites that only 7 are employed, as outlined in a report of 2003.

the land for centuries, and had no economic or agricultural skills to adapt to their new environments. Many became destitute and today a large proportion are beggars or conduct a hand-to-mouth existence, working perhaps as porters, carrying neighbouring farmers' produce to markets for tiny sums of money or for something to eat.

The 2005 Land law was designed to address competing land claims from returning refugees, other returnees and other disenfranchised groups in light of high population density. Article 96 states that “[p]eople, who have been denied their rights to land ownership, shall be given land by the Government” but as noted by Jackson³⁷ the provision relates largely to the returnees who fled Rwanda in 1959 but who returned after the genocide in 1994 to find their land had been taken by others in the meanwhile. This is supported in the wording of Rwanda’s 13th-17th Periodic Report to the Committee which refers to returnees and subsequent “equitable and fair land distribution” [para.168]. No such article relates to the Batwa who were removed from their land for commercial development projects or the creation of national parks in prior decades.

As the Forest Peoples Programme notes, “the proportion of Twa farming their own lands is negligible compared the national population (0.1% vs. 80%)³⁸”.

Jackson also notes that “while there are provisions for pasturing animals thereby recognising Rwandan herders’ needs, no special measures are envisaged to safeguard access to marshland clay for the many Batwa who have turned to pottery as a livelihood strategy³⁹”.

Indeed, the report submitted to the Senate in 2007 not only acknowledged that Batwa communities “are no longer authorized to dig clay for the sake of environmental protection” but even included amongst its recommendations that Batwa communities should have access to clay to continue their pottery activities and be assisted in the promotion of their work by “finding outlets for their products⁴⁰”.

In addition, as is highlighted by Jackson, the draft version of Rwanda’s 2000 “National Biodiversity Strategies and Action Plan” included the phrase, “The Batwa are recognised by the Rwandan people and the international community as a group that has conserved nature for a long time. They have thus a rich “knowledge/traditional practice” in conservation which should be valued and promoted”. Jackson notes that both this phrase, and “[t]ourism creates employment and including Batwa among staff associated with protected areas would be beneficial for them” were removed from the final document.⁴¹

Question: What consideration was given to the recommendations about clay access and provision, and outlets for pottery products as outlined in the report authored by the Commission in charge of Social Affairs, Human Rights and Social Issues submitted to the Senate in July 2007 entitled “Report on living conditions of some Rwandans disadvantaged throughout history”?

³⁷ Jackson, D. *Implementation of international commitments on traditional forest related knowledge: Indigenous peoples’ experiences in Central Africa*, Paper presented at the Expert Meeting on Traditional Forest-Related Knowledge in San Jose, Costa Rica, (December 2004), P 36

³⁸ Submission of the Forest Peoples Programme Concerning the Republic of Rwanda and its compliance with the International Covenant on Civil and political Rights: *The Rights of Indigenous Peoples in Rwanda*, (October 2006), P 23

³⁹ Jackson, D. *Implementation of international commitments on traditional forest related knowledge: Indigenous peoples’ experiences in Central Africa*, Paper presented at the Expert Meeting on Traditional Forest-Related Knowledge in San Jose, Costa Rica (December 2004), P 36

⁴⁰ Commission in charge of Social Affairs, Human Rights and Social Issues, *Report on the Living Conditions of Some Rwandans Disadvantaged Throughout History*, (July 2007), P 11

⁴¹ Jackson, D. *Implementation of international commitments on traditional forest related knowledge: Indigenous peoples’ experiences in Central Africa*, Paper presented at the Expert Meeting on Traditional Forest-Related Knowledge in San Jose, Costa Rica (December 2004), P 32

Question: What efforts have been made to assist Batwa find employment within the National Parks, thus using their traditional knowledge and understanding of the forests?

Article 5 (d) (ix) The Rights to Freedom of Peaceful Assembly and Association

The restrictions placed upon organizations inhibits community led and nationally supported organizations from forming around a common identity to tackle problems which are specific to the culture and lifestyle of the Batwa. These restrictions contravene the right to freedom of association and assembly as outlined in **Article 5 (d) (ix) of ICERD**.

Question: What advantages has the new terminology had on promoting the rights of the Batwa, protecting their culture and livelihoods, raising their socio-economic indicators and reducing the levels of poverty they suffer?

Recommendation: Permit Batwa to 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.

Article 5 (e) (iii) The Right to Housing

a) Inadequate Housing

In the 8th-12th Periodic Report submitted to the Committee in 1999, Part V.E. Para 3: “Special measures have been taken on behalf of the minority Twa people, who until recently lived in cramped and rudimentary huts. As part of a general aid for the poor, the Government is providing them with subsidies to improve their living environment, notably through supplies of corrugated iron sheeting”.

In Para. 229 of the 13th – 17th Periodic Report submitted in 2010, the exact same wording is employed aside from the new non-ethnically aligned terminology of Historically Marginalised Peoples used to describe the Batwa: “Special measures have been taken on behalf of the HMP, who until recently lived in cramped and rudimentary huts. As part of general aid on behalf of the poor, the GoR is providing them with subsidies to improve their living environment, notably through supplies of iron corrugated sheetings.”

The reiteration of this phrase word for word in two documents submitted more than 10 years apart suggests woeful neglect of the situation of the Batwa. The lack of care and attention to detail in the reports also suggests governmental disregard for their plight. Furthermore, in 1999 and in 2010, there is an inaccurate implication that the Batwa live in housing that is better than cramped and rudimentary.

In early December 2010 field visits to Batwa communities living on the lower slopes of Muhabura volcano (Gahunga, Nyangwe sector, Musanze District) underlined the critical status of Batwa housing. Families of 6 or 7 continue to live in tiny cramped shacks composed of plastic sheeting and grass draped over sticks and wooden poles. These families were forcefully removed from their dwellings in

Alternative Report - Rwanda CERD/C/RWA/13-17

the mid-reaches of the volcano slopes by security officials of the ORTPN – the Office Rwandais du Tourisme et de Parcs Nationaux in 1994. The community had earlier been expelled from the higher reaches in 1959 without compensation.



Image I Batwa housing, lower slopes of Muhabura volcano, December 4 2010



Image II House for Batwa family of 6. Lower slopes of Muhaburu volcano. December 4 2010

It would be inaccurate to suggest that these houses are anything but cramped and rudimentary. In addition, field visits took place to locations in Kigali City province and the Southern Province. In each

community without exception, families with several children were living in single roomed thatched mud huts.

b) Bye Bye Nyakatsi

In addition, the Consideration of the 8th-12th Periodic Report noted its concern about forced relocations, and especially of those relocated for whom no adequate compensatory housing existed.

As of December 2010, widespread dismantling of thatched homes has taken place across Rwanda conducted by local authorities in the presence of Local Defence Force as part of a programme entitled "Bye-Bye Nyakatsi", which will contribute to the success of Rwanda's Vision 20-20 strategy.

The government has set May 2011 as the deadline for the elimination of all thatched homes in the country⁴² which number more than 78,000. Those deemed of the means to build themselves better homes must do so at their own cost. Able-bodied poor are being given iron sheets to replace the thatch and the elderly, widows and sick should be designated new homes.

However, it has been reported that many nyakatsi residents have had their huts pulled down or their thatch removed by local officials eager to fulfil their mandate, without having been provided with new homes, assistance or replacement roofing. This has left thousands of individuals without shelter during the rainy season.

In defence of this tactic, the Governor of the Southern Province, Mr. Fidel Ndayisaba said at a press conference on January 21 2011 that residents of nyakatsi houses required such pressure from authorities in order to take action: "People were seemingly happy to stay in their thatched houses and showed no commitment to leave them. But when such houses are demolished, people who have means are encouraged to look for appropriate accommodation in a short period of time while those who have no means are identified and get help. It is really a good strategy of accelerating the anti-Nyakatsi drive because when people are temporary accommodated by their neighbours or paying for rent, they quickly build their own houses"⁴³.

The Southern Province is said to have had 33,000 thatched huts in November 2010 but by January 21 2011, only 3000 remained. The low figures provided of newly established plots, combined with the fact that voluntary assistance in the region will take place only one day a week⁴⁴ suggests that many thousands of families have been left homeless or are residing with neighbours and that this situation will continue for several months to come.

It has been reported to UNPO that some Batwa families in the Southern Province were initially moved into a school during the Christmas holidays but now that the new 2011 school term has restarted it is uncertain where those families are now residing. It has also been reported that local authorities have used force in some instances to remove dwellers and that there has been little or no consultation and no prior compensation arranged.

⁴² All Africa, *Rwanda: May, Set as Deadline to Eliminate Nyakatsi*, (Jan 8 2011), <http://allafrica.com/stories/201101100189.html>

⁴³ The New Times, *Southern Province Intensifies Nyakatsi Eradication*, (January 24 2011), <http://www.newtimes.co.rw/index.php?issue=14515&article=37687>

⁴⁴ The New Times, *Rwanda: Eradication of Nyakatsi Intensifies*, (January 21 2011), <http://www.newtimes.co.rw/index.php?issue=14512&article=37623>

Alternative Report - Rwanda CERD/C/RWA/13-17

Since the Batwa are largely of the lowest socio-economic tranche of society they have been considerably affected by the destruction of their homes. It is believed that at least 700 of the 4500 Batwa families who were living in nyakatsi houses had already been dislodged by mid January 2011, the vast majority remain without shelter⁴⁵.

In addition to the new higher incidence of homelessness, since the Batwa population is both numerically small and disparate, it has proved difficult for families to find shelter with relatives or other community members. Moreover, Batwa communities were unlikely to be as prepared as other communities when prior warning may have been given. This is owing to the fact that few own radios through which to become informed of local news or initiatives, local authorities are less likely to visit the communities to bring information and/or since the communities themselves do not always take part in local meetings.

In addition, and as noted in the 13th-17th Periodic Report, Article 29 of the Constitution of Rwanda states that "The right to property may not be interfered with except in public interest, in circumstances and procedures determined by law and subject to fair and prior compensation." It appears that the government of Rwanda, whether through badly implemented procedures or rogue local authority employees, is guilty of violating the principle of fair and prior compensation for many thousands of families.

Question: How much forewarning was given to families prior to the dismantling of their homes, especially those living in remote areas without access to radios and who are not well integrated into local community meetings?

Question: What investigations have been made into the use of force on residents protesting the destruction of their homes?

Question: What measures, checks and balances were in place to ensure government officials did not abuse their power in the implementation of the Bye-Bye Nyakatsi programme?

Question: In the case when alternative housing was not provided, and families were left homeless, what immediate provisions were made to ensure their well-being?

Question: Is the justification for the swift demolition of homes as an appropriate means to encourage dwellers to improve their housing situation, as provided by the Governor of the South Province, endorsed by the National Government? If not, what investigation into his statement has been made?

Recommendation: Cease the destruction of homes immediately until residents are consulted, compensated and rehoused. Allow residents to provide their points of view on the programme, and allow them the legal recourse to challenge the decision to modify their home or be relocated.

Recommendation: Provide adequate compensation to all relocated families prior to their removal.

Recommendation: Conduct examinations into the alleged use of force on residents and reprimand anyone found guilty of misconduct.

⁴⁵ Communication with Communauté des Potiers du Rwanda (COPORWA), January 14 2011

Recommendation: Conduct a survey with adequate disaggregated data to shed light on the number of Batwa families affected by the Bye-Bye Nyakatsi programme.

Article 5 (e) (iv) – The right to public health, medical care, social security and social services

It is noted in the 13th-17th report that population growth in 2008 was measured at 2.7% (2.8% in 2009 according to the World Bank) with a fertility rate of 5.8 which contributes to an exceptionally fast growing population. Much of this growth is due to higher survival rates of young children and increasingly better health facilities.

In light of this growth it is worrying that anecdotally and through rudimentary studies, the population of the Batwa is declining or remains stagnant⁴⁶. Again the lack of disaggregated data makes targeted measures to deal with specific cases of Batwa ill health and infant and child mortality exceptionally difficult.

Before their relocation, the Batwa used their traditional knowledge to source herbs, plants and other medicinal elements that they used for everyday ailments. This knowledge beginning to be lost in the community because their relocation prohibits access to some of the most fertile areas for such plants.

Batwa communities do not access healthcare facilities for several reasons. First, even those for whom health insurance has been provided by government or NGO structures, the remaining 10% cost of any healthcare or medicine sought remains beyond reach of this impoverished community. In addition, as was noted in the report submitted to the Senate in July 2007 by a Commission in charge of Social Affairs, Human Rights and Social Issues⁴⁷ “government structures do not sensitise them enough about resorting to healthcare services”. Finally, as is noted in the report to the Senate, Batwa are often reluctant to use these public services. The report argues that this is because “they do not wash their body, and they have no clothes or shoes to put on”. It can be assumed therefore that the Batwa are not made welcome in these health facilities, regardless of their need or ability to pay. Anecdotes related to UNPO in December 2010 suggested that doctors and nurses may refuse to see Batwa patients, or make derogatory or contemptuous comments about them, their clothes or appearance which goes unpunished.

Question: What provisions are in place to ensure that the Batwa face no discrimination in accessing health care in Rwanda?

Question: What public education efforts have been made to ensure the Batwa, most of whom do not own radios, few of whom send their children to school are aware of the health services available and of general public health and hygiene?

Recommendation: Create a dedicated fund for the Batwa to ensure that all health costs of the most impoverished can be covered.

⁴⁶ According to the UN State of the World's Indigenous People, 2009: “Between 1978 and 1991, there was a 40-per cent fall in the Batwa population of Rwanda, compared to a 50% rise in the population of other Rwandans”. P35. UNPO visited communities in three districts of Rwanda in December 2010, and very high numbers of infant mortality were reported in each location.

⁴⁷ Commission in charge of Social Affairs, Human Rights and Social Issues, *Report on the Living Conditions of Some Rwandans Disadvantaged Throughout History*, (July 2007)

Section D: Summary of Questions and Recommendations

Article 1.4 - Special Measures to Advance Certain Groups is not Racial Discrimination

Question: Why were the findings of the MINALOC report entitled “Historically Marginalised Communities: the Rwanda Case” written in 2009 unpublished?

Question: Why have the terms “historically marginalised communities”, “historically marginalised people”, “people marginalised in history” and/or “people disadvantaged throughout history” never been officially defined, for purposes of clarification and transparency?

Question: What advantages has the new terminology had on promoting the rights of the Batwa, protecting their culture and livelihoods, raising their socio-economic indicators and reducing the levels of poverty they suffer?

Question: What actions have been implemented to ensure that racial discrimination is not the cause for the persistency of poverty experienced by the Batwa, through intentional sidelining of communities from national poverty reduction strategies.

Recommendation: At a minimum, officially define the term “Historically Marginalised Communities” (and related terms) to avoid abuse of the term, or allow identification of the Batwa as an ethnic group that is indigenous to Rwanda.

Recommendation: Ensure accountability in local government to ensure the Batwa are not being sidelined from poverty reduction strategies intentionally or otherwise by local officials.

Recommendation: Ensure that data collected alongside the distribution of materials and management of poverty reduction projects is disaggregated along ethnic lines to ensure that Batwa communities are not the target of racial discrimination.

Article 2.1 (a) States Eradicate State-Sponsored Discrimination

Question: The draft National Social Protection Strategy paper indicates that it will build an effective monitoring system, with full disaggregation of data by sex, age, disability, ethnicity and status as genocide survivor⁴⁸. How will the government create an effective monitoring system with full disaggregation of data by ethnicity when use of ethnic terminology is strongly dissuaded?

Question: What actions have been implemented to ensure that racial discrimination is not the cause for the persistency of poverty experienced by the Batwa, through intentional sidelining of communities from national poverty reduction strategies.

Recommendation: Ensure accountability in local government to ensure the Batwa are not being sidelined from poverty reduction strategies intentionally or otherwise by local officials.

⁴⁸ MINALOC (2010) National Social Protection Strategy (draft), Pg 36. It does later however note that disaggregation of data will be undertaken but without mentioning ethnicity. This is another area of inconsistency.

Recommendation: Ensure that data collected alongside the distribution of materials and management of poverty reduction projects is disaggregated along ethnic lines to ensure that Batwa communities are not the target of racial discrimination.

Article 2.1 (c) States must amend legislation which create/generate discrimination

Question: Have Bahutu or Batwa survivors ever received governmental assistance from any of the networks, programmes, scholarships or funds for survivors of the genocide?

Recommendation: Ensure double standards are not employed in the treatment of the different ethnic groups in Rwanda.

Recommendation: Make readily available in all three official languages the text of the most recent Constitution, and ensure transparency throughout all future amendment procedures.

Article 2.1 (d) States bring to an end all racial discrimination

Question: What legal provisions have been made to facilitate access to local justice for Batwa who have been insulted, mocked, discriminated against or otherwise received derogatory treatment? How often are those services used?

Question: What action was taken to address the concerns outlined in the report authored by the Commission in charge of Social Affairs, Human Rights and Social Issues submitted to the Senate in July 2007 entitled "Report on living conditions of some Rwandans disadvantaged throughout history"?

Question: What provisions for positive discrimination towards the Batwa, as outlined by the Speaker of the Parliament in 2001 and the Executive Director of the Rwandan National Unity and Reconciliation Commission have been undertaken and implemented since these remarks?

Recommendation: Ensure accountability in local government to ensure the Batwa are not being sidelined from poverty reduction strategies intentionally or otherwise by local officials.

Recommendation: Ensure that data collected alongside the distribution of materials and management of poverty reduction projects is disaggregated along ethnic lines to ensure that Batwa communities are not the target of racial discrimination.

Recommendation: Create a dedicated grant system for Batwa students, as is already in place for other vulnerable groups for primary, secondary, tertiary and vocational education which will include provisions for uniforms, equipment and basic necessities.

Article 2. 2 – Special and Concrete Targeted Measures

Question: How will the government in line with the draft National Social Protection Strategy draft provide “positive discrimination in terms of access to benefits from public services”?

Question - What action was taken to address the concerns outlined in the report authored by the Commission in charge of Social Affairs, Human Rights and Social Issues submitted to the Senate in July 2007 entitled “Report on living conditions of some Rwandans disadvantaged throughout history”.

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Article 5 (d)(v) The right to own property alone as well as in association with others

Question: What consideration was given to the recommendations about clay access and provision, and outlets for pottery products as outlined in the report authored by the Commission in charge of Social Affairs, Human Rights and Social Issues submitted to the Senate in July 2007 entitled “Report on living conditions of some Rwandans disadvantaged throughout history”?

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Question: How much forewarning was given to families prior to the dismantling of their homes, especially those living in remote areas without access to radios and who are not well integrated into local community meetings?

Question: What investigations have been made into the use of force on residents protesting the destruction of their homes?

Question: What measures, checks and balances were in place to ensure government officials did not abuse their power in the implementation of the Bye-Bye Nyakatsi programme?

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Article 5 (e) (iv) – The right to public health, medical care, social security and social services

Question: What provisions are in place to ensure that the Batwa face no discrimination in accessing health care in Rwanda?

Question: What public education efforts have been made to ensure the Batwa, most of whom do not own radios, few of whom send their children to school are aware of the health services available and of general public health and hygiene?

Recommendation: Create a dedicated fund for the Batwa to ensure that all health costs of the most impoverished can be covered.

