

Uganda

The Indigenous Batwa People and Protected Areas in southwest Uganda



A review of Uganda's implementation of the CBD Programme of Work on Protected Areas

January 2008

Forest
Peoples
Project



UOBDO

United Organisation
for Batwa Development
in Uganda



FPP series on Forest Peoples and Protected Areas

I The Indigenous Batwa people and protected areas in Uganda

Originally, the Batwa were forest-dwelling hunter-gatherers, living and practising a traditional cultural and economic way of life in the high mountainous forest areas around Lake Kivu and Lake Edward in the Great Lakes region of Central and East Africa. The Batwa are widely accepted as the first inhabitants of the region, who were later joined by farmers and pastoralists. The Batwa are still to be found living in Rwanda, Burundi, Uganda and eastern Democratic Republic of Congo.

While accurate figures are difficult to determine and estimates from different sources vary, it is believed that approximately 6,700 Batwa now live within the present State boundaries of Uganda, mainly in the south-west region. The Batwa people in this region are former inhabitants of the Bwindi, Mgahinga and Echuya forests, where they lived since time immemorial in harmony with their natural environment and in full reliance on the forest for their sustenance, herbal medicines, religious rites and socio-economic activities. Recently, however, they have been evicted and excluded from their forests primarily for the creation of protected areas that were established without their participation or their free, prior and informed consent.

The English colonial administration established forest reserves on these three traditional forested territories in the 1930s, probably serving to protect the forests from destruction by cultivators. The Batwa continued to consider the forests as theirs, to worship their ancestors there, and to use the forest to derive their livelihood and practice their culture. The establishment in 1991 of the Bwindi Impenetrable National Park (Bwindi) and the Mgahinga Gorilla National Park (Mgahinga) for the conservation of gorillas, however, resulted in the definitive eviction and exclusion of the Batwa from their homeland.



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Bwindi comprises 321 km² and Mgahinga comprises 33.7 km², and both are used for tourism activities including gorilla tracking. Echuya Central Forest Reserve comprises 34 km².

As a result of their exclusion from their ancestral forests and the loss of their traditional lifestyle, the majority of Ugandan Batwa suffer severe isolation, discrimination and socio-political exclusion. The Batwa's customary rights to land have not been recognized in Uganda and they have received little or no compensation for their losses, resulting in a situation where almost half of Batwa remain landless and virtually all are living in extreme poverty.

II Implementation of activities of the CBD Programme of Work on Protected Areas relevant to the Indigenous Batwa People

Considering the desperate conditions in which the Batwa find themselves as a result of the establishment of protected areas on their ancestral lands without their participation and recognition of their rights, and the fact that Uganda ratified the Convention on Biological Diversity (CBD) on 8 September 1993, this brief report analyses the extent to which the CBD Programme of Work on Protected Areas (PoWPA), adopted by COP7 of the CBD in 2004, has been implemented by Uganda in respect of the Batwa people and the Bwindi, Mgahinga and Echuya national parks.

Decision VII.28 (on Protected Areas) of COP7:

22. *Recalls* the obligations of the Parties towards indigenous and local communities in accordance with article 8(j) and related provisions and *notes* that the establishment, management and planning of protected areas should take place with the **full and effective participation of**, and **full respect for the rights of**, indigenous and local communities consistent with national law and applicable international obligations (emphasis added);

The Programme of Work is composed of four elements:

1. Direct actions for planning, selecting, establishing, strengthening, and managing, protected area systems and sites.
2. Governance, Participation, Equity and Benefit Sharing
3. To provide an enabling policy, institutional and socio-economic environment for protected areas
4. Standards, assessments, and monitoring

Under element 2, Goal 2.2 and its related Target, focus on indigenous peoples as follows:

Goal 2.2 To enhance and secure involvement of indigenous and local communities and relevant stakeholders.

Target: Full and effective participation by 2008, of indigenous and local communities, in full respect of their rights and recognition of their responsibilities, consistent with national law and applicable international obligations, and the participation of relevant stakeholders, in the management of existing, and the establishment of new, protected areas.

However, many other 'suggested activities' of obvious relevance to indigenous peoples were also included in the Programme of Work.¹ This section of the report analyses the implementation of specific activities contained in the four elements of the Programme of Work that we consider most relevant to indigenous peoples.

Activity 1.1.4 National level reviews of conservation methods with indigenous participation

To our knowledge there has not been any national level review of existing and potential forms of conservation and there have been no consultations with or participation on the part of the indigenous Batwa in respect of such a process. The Bwindi and Mgahinga national parks and the Echuya forest reserve continue to be managed and administered with a top-down approach by the Uganda Wildlife Authority (UWA) and National Forestry Authority (NFA) respectively without any meaningful participation by the indigenous Batwa.

Activity 1.5.6 Taking sustainable customary resource use by indigenous communities into account

Since 1993, the government of Uganda has authorised a Multiple Use Programme (MUP) in protected areas, through which neighbouring communities are permitted (under Memoranda of Understanding) to access medicinal plants, basketry materials and certain other non-timber forest products. This programme later led to the establishment of a Collaborative Forest Management (CFM) programme covering approximately 20 percent of the forest area of Bwindi. The MUP and CFM programmes are now operating in 12 of the 24 parishes bordering Bwindi.

While these have been positive developments to some extent for some local communities, they remain flawed in their implementation and have provided little benefit to the Batwa. Firstly, the government of Uganda continues to operate under a power-relationship approach, with government officials holding all the knowledge, information and decision-making power and communities having little understanding of their rights and virtually no real say in either process or outcomes. As one report notes:

Rather than entering into open-ended negotiations, with compromises made on both sides, the quality of [the] process was limited by the willingness of park management to concede (or even discuss) access to resources of any significant value.²

Resource use thus continues to be treated as a privilege rather than a right, and the privilege is by most accounts meagre at best.

Secondly, the small amount of resource use that does accrue to local communities is not adapted to Batwa needs, and they are thus once again excluded and marginalised by the MUP and CFM programmes. The MUP has primarily helped local beekeepers and other local associations, which rarely include Batwa, to engage in activities that are considered beneficial by the dominant society. The forest uses considered critical by the Batwa community – including collecting firewood and building materials, hunting small animals, fishing, collecting wild

¹ For details see: Griffiths, T., Lasimbang, J and Ferrari, M, 2004, *The CBD COP-7 and Related Conferences/Meetings, Kuala Lumpur, 6-20 February 2004*. International Indigenous Forum on Biodiversity : Summary Report on COP 7 – Protected Areas. Available at www.forestpeoples.org

² Mutebi, Jackson, *Co-managed Protected Areas: from conflict to collaboration. Experience in Bwindi Impenetrable National Park, Uganda*, CARE Uganda (September 2003), p. 7.

honey, yams, mushrooms and fruit, and worshiping their ancestors – have not been addressed by these programmes despite being widely known. Their forms of forest offtake are thus treated as illegal. A number of experts³ have recommended that the Batwa, as the original inhabitants of the forest, the group with the greatest cultural dependence on the forest, and the community most adversely affected by conservation programmes, be treated as a special group with special permissions to access the forest in recognition of their rights. This advice, however, has yet to be taken up by the government.

Thirdly, the Multiple Use MOUs were supposed to have been revised every two years but with one exception this was not done, and thus there has been no systematic method for ensuring the MOUs address changing needs. A review of the MOUs was done in 2004 to consider the needs and demands of Batwa, however despite being accepted to date these needs and demands have never been implemented. Further, protected area authorities have not taken on resource use or collaborative management issues on their own initiative without external pressure from NGOs or donor funded projects.

In terms of national legislation, the *National Forestry and Tree Planting Act* (2003) allows local communities to access forests for traditional uses provided such uses are compatible with sustainable development. The Act also recognises historical rights of persons who resided inside conservation areas. These provisions, however, have yet to be implemented for the Batwa.

Activity 2.1.1 Assessments of social, economic and cultural costs and benefits to indigenous people

There has been no recent assessment by government of the economic and socio-cultural costs and benefits of protected areas for indigenous Batwa communities. At the time the parks were created, the Batwa – who were by far the people most heavily dependent on the forest for their sustenance, livelihood and culture – were recognized as having been particularly adversely affected socially, economically and culturally. The Global Environment Facility (GEF) provided funding to Uganda to support the management of these national parks, through the Mgahinga and Bwindi Impenetrable Forest Conservation Trust Fund, now known as the Bwindi Mgahinga Conservation Trust, BMCT (the 'Conservation Trust'). The 1995 Project Document for the Conservation Trust states:

When [Bwindi and Mgahinga] became Forest and Game Reserves in the 1930's, with human occupation and hunting formally banned, [the Batwa] began to shift out of the shrinking forest area and began spending more time as share-croppers and laborers on their neighbors' farms. However, they still had access to many forest resources and the forests continued to be economically and culturally important to them. The gazetting of the areas as national parks has virtually eliminated access to these opportunities for all local people, but the impact has been particularly harsh on the Batwa because they are landless and economically and socially disadvantaged, and have few other resources or options.⁴

³ See for instance Kabanankye, K. and Wily, L, *Report on a Study of the Abayanda Pygmies of South Western Uganda*, Kabale, Mgahinga and Bwindi Impenetrable Forest Conservation Trust, 1996.

⁴ World Bank, *Uganda: Bwindi Impenetrable National Park and Mgahinga Gorilla National Park Conservation*, Global Environment Facility, Project Document 12430 – UG. Global Environment Coordination Division, World Bank, Washington DC, (January 1995), Annex 6.



Bwindi Impenetrable National Park Image: Dorothy Jackson

At the time the Conservation Trust was established, the World Bank required the Government of Uganda to provide an Indigenous Peoples Plan to ensure the participation and benefit of the Batwa.⁵ A comprehensive socio-economic assessment and consultation for this purpose was not, however, completed until 1996 after the Trust had become fully operational. The resulting report recommended recognizing Batwa use rights to certain resources in the parks, rights of passage to sacred sites, the attribution of forest and farmland to evicted communities, capacity building, and educational, health and economic assistance. However, these recommendations were not fully implemented. Instead, compensation efforts focused on the creation of “multiple-use zones” within the parks and grants of small parcels of land to a small minority of Batwa. As discussed above, due to flawed implementation and institutional discrimination Batwa access to park resources through the multiple-use zones has not materialized.

Activities 2.1.2 & 2.2.4 Community conserved areas

Although there are frameworks in place for community conserved areas, they have yet to be meaningfully used to involve the Batwa in forest conservation and related decision-making. For instance, UWA has policy guidelines on Community Protected Area Institutions (CPIs) and has developed a Strategic Partnership Policy (2002-2007) to coordinate the efforts of different actors towards conservation. The establishment of CPIs has gone only some way to enhance community participation in general, since members feel they are simply surrogates of the protected area managers and government administrators as opposed to meaningful and equal participants. Further, these institutions have not involved the Batwa as the current mode of representation requires prior participation in leadership structures where the Batwa are not represented.

⁵ World Bank Operational Directive 4.20

The Forestry Policy also calls for the establishment of community forest reserves as well as collaborative management of private forests. However, since the Batwa were evicted from their traditional forest areas these provisions remain outside their reach unlike private forest owners.

The *Wildlife Act* empowers the responsible Minister to create community wildlife areas, pursuant to which communities enjoy certain property rights and may carry out activities provided they are not harmful to wildlife. Wildlife use rights can also be granted for activities like hunting, farming and resource extraction. As with other existing frameworks, however, the poverty and illiteracy of the Batwa population are major obstacles to their ability to exploit these opportunities and the government is doing little to address this reality. In addition the buy in and commitment of the resource managers is low, limiting opportunities for Batwa.

Activity 2.1.4 Use of social and economic benefits for poverty reduction

Social and economic benefits generated by protected areas have only marginally been used to reduce the poverty of the Batwa communities.

The Conservation Trust's annual funds are to be utilised at 20 percent for park management, 20 percent for research, and 60 percent for local communities through the funding of small projects. The Trust's management board, which contrary to the original GEF guidelines has no Batwa representation, is responsible for allocating these funds. There is also a Local Community Steering Committee (LCSC) which consists of 12 voting representatives of local communities, one of whom is supposed to be a Batwa although this is not always the case in part due the failure of the Trust to develop a Batwa Representation Committee – an initiative that was agreed with the Trust's donors and budgeted for but was never implemented. When there is a Batwa representative, she or he has a very token presence since Batwa are not taken seriously in decision making and the LCSC is more concerned with projects such as schools and clinics that also tend to exclude the Batwa in practice. Adding to this is the Batwa's lack of confidence and skills to fully articulate their issues.

Despite bearing the vast brunt of the adverse consequences of the park creation, the Batwa get only a small proportion of the 60 percent of Trust funding allocated to local community projects. Moreover, according to information received from the Conservation Trust, the Trust's expenditure on Batwa-specific initiatives has diminished extensively over the last few years. Total Batwa expenditure in 2003 was 324,163,724 Uganda shillings (approx. \$190,000 USD at current exchange rates), including 277,231,524 shillings (\$160,000 USD) on land purchases. In 2004 the total figure dropped to 141,597,300 shillings (\$82,000 USD), and in 2005, 2006 and 2007 it ranged between merely 20,588,072 (\$12,000 USD) and 22,734,600 (\$13,000 USD). Despite the ongoing extreme landlessness among the Batwa, no Trust money has been put towards land purchases after 2003. The funds have been used, however, on things such as agricultural inputs, education, water provision and training and workshops providing some poverty-reduction benefits to Batwa communities.



Batwa in southwest Uganda Image: Treva Braun

Similarly, under the *Wildlife Act* UWA is obliged to allocate 20 percent of park entry fees paid by tourists to local community initiatives through the CPIs mentioned above. However, virtually all projects funded by this revenue sharing scheme are social infrastructure projects such as roads, schools and health facilities. These generalised projects rarely benefit marginalised communities such as the Batwa. For example, Batwa children face particular hurdles in accessing and staying in school, and these obstacles have not been addressed by government.

Further, in Mgahinga and Bwindi national parks, park entry fees are rather insignificant compared to revenues from gorilla tracking permits. Since 2005 a \$5 levy fee has been collected on gorilla tracking permits in favour of community benefits. However, the mechanisms for sharing these funds have not yet been negotiated amongst the different stakeholders and the money collected is still with UWA (approximately \$200,000).

Activities 2.2.1 & 2.1.5 Participation of indigenous communities in protected areas management in recognition of their rights

The *National Environment Act* (1995) and the National Environment Management policy advocate for involvement of local communities in environmental planning and management, creating opportunities for communities to participate in decision-making and implementation of strategies. UWA has attempted to engage local communities around both Bwindi and Mgahinga through the appointment of representatives to Local Environmental Communities (LECs). The selection process, however, which draws candidates from the parish local council committees in surrounding areas, has institutionalised the exclusion of the Batwa who are not represented on these committees.

Further, while UWA's Strategic Plan (2002-2007) includes Collaborative Management relating to protected areas and wildlife among its programmes, the government's strategic partners tend to be from the private sector and therefore profit-oriented.

CFM agreements, as discussed above, have been negotiated and implemented. Around Bwindi at least 40 families are benefiting from the MUP with 10 families located in Mpungu, 15 in Rutugunda, 10 in Byumba, and 4 in Karangara and Kanungu town Council respectively. None of the beneficiaries are Batwa. In October 2007, Collaborative Forest Management agreements relating to the Echuya forest reserve were signed between the National Forests Authority and four communities in the districts of Kisoro and Kabale. Five Batwa (four male and one female) are currently members of these four community associations.

Overall, the voice of the Batwa is yet to be meaningfully heard, their active participation has yet to be achieved and their rights have yet to be recognized in protected area governance. Similarly, there are no measures in place to ensure the equitable involvement of Batwa women.

Activity 2.2.2 Removing barriers to adequate participation

No systematic mechanisms have been put in place by government to identify and remove the barriers to effective Batwa participation or to effective participation of Batwa women. Government officials often cite low education and literacy levels as a barrier to Batwa participation, however there has yet to be a targeted government programme to study and address these barriers.

Activity 2.2.5 Resettlement of indigenous communities

The Conservation Trust began purchasing resettlement land for the Batwa in the late 1990s. In 1999, 69.7 acres of land were purchased for 38 Batwa households. By 2000, a total of 326 acres had been purchased and distributed in 1.5 acre parcels per household. Title to this land has yet to be transferred to the Batwa, however, which means they remain in a position of dependency and lack security of land tenure.

Further, the resettlement scheme has since ground to a halt, leaving approximately 40 percent of Batwa completely landless still today.

Activity 3.2.1 Protected area capacity building

No capacity-building needs assessments have been carried out by government with the Batwa and no protected area capacity-building programmes have been established with their involvement.

Activity 3.2.2 Traditional knowledge on protected area management

Similarly, no mechanisms have been established to document Batwa traditional knowledge and experiences on protected area management in accordance with Article 8 (j) and Related Provisions.

Activity 3.5.2 Communication programmes to improve mutual understanding of science-based and indigenous knowledge amongst communities, policy makers and civil society

There has been limited action by civil society organisations to document Batwa indigenous knowledge, their culture and natural resource dependency, however the dissemination of the information and its use by the government and other stakeholders is limited. The government has taken no steps of its own in this regard.

Activity 4.4.4 Collaborative research between scientists and indigenous communities

There has been no encouragement or initiation of collaborative research between scientists and indigenous Batwa communities in accordance with Article 8(j) in connection with the establishment and the effective management of protected areas. Most research done with the Batwa has been at best extractive and not beneficial to Batwa.

III Key Obstacles to Implementation and How to Overcome them

The key obstacles to effective implementation of the Programme of Work and some potential measures for overcoming them are summarised in the table below.

Obstacle	Potential Measures
Government views indigenous and local communities as part of the problem, not part of the solution, in promoting conservation.	<p>New attitudes must be promoted at all levels of government to view communities as equal partners in development and conservation.</p> <p>Stronger mechanisms are needed for participation, including direct involvement of indigenous Batwa people in project design and implementation and the administration of funds.</p>
Government is taking a 'privilege' instead of a rights based approach.	<p>Stakeholders at both the national and international level should continue to educate relevant government agencies on legal and human rights obligations as they relate to indigenous land and natural resource rights.</p> <p>Batwa communities should be recognized by government as a special group whose rights to access and use their ancestral lands must be protected in the establishment and implementation of national legislation and policy.</p> <p>Where rights are being violated, legal action should be considered.</p>

Obstacle	Potential Measures
<p>Government agencies do not take into proper account the unique historical and cultural situation of indigenous Batwa communities in the planning or implementation of protected area management. Government development approaches assume a homogeneous local community.</p>	<p>Building on the numerous existing studies, government should develop and implement, in consultation with the Batwa, a targeted 'Batwa and Protected Areas programme' that recognises and addresses Batwa needs and realities, including:</p> <ul style="list-style-type: none"> • Their unique historical land and resource rights in respect of their ancestral lands, with reference to international human rights law; • Their particular cultural and socio-economic needs in respect of forest resource use and access;
<p>Batwa capacity to participate meaningfully is limited and capacity-building is not being meaningfully supported by any government agencies</p>	<p>Government should implement with urgency a targeted and long-term programme, developed in consultation with the Batwa, to increase Batwa capacity to participate in decision-making bodies and processes, including:</p> <ul style="list-style-type: none"> • Culturally appropriate initiatives to improve Batwa access to education; • Adult literacy programmes; • Batwa community sensitisation and consultations on collaborative park management; • Improved access to information for Batwa on protected area management in appropriate languages and formats; • Training and support for Batwa communities to strongly and independently represent themselves; • Prompt establishment of the Batwa Representation Committee that was meant to be created with funding and assistance from the Conservation Trust.

IV Summary

In summary, while certain frameworks exist and there is growing recognition of community rights in relation to protected areas, genuine participation of communities based on positions of equality remains illusory in Uganda. Government authorities continue to act in a paternalistic manner toward communities and merely pass on a few responsibilities to communities rather than empowering communities to be active partners in decision making and implementation.

The Batwa in particular continue to suffer multiple layers of marginalisation in protected area management. Not only were they arbitrarily evicted from their homeland thereby suffering the greatest injustices, they also now get the least amount of attention from government in the ongoing efforts to make protected area management more socially responsible.

Immediate and concerted efforts are required on the part of the Ugandan government to address these injustices and to put into real action the CBD Programme of Work on Protected Areas.



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