

# Uganda

## Securing Indigenous Peoples' Rights in Conservation: a review of south-west Uganda



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## **Securing Indigenous Peoples' Rights in Conservation: A review of south-west Uganda**

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This review builds upon the previous report,

**'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'**

published in January 2008.

A Uganda case study appears in FPP's book, *Indigenous peoples and  
protected areas in Africa. From principles to practice*,  
published in 2003 to coincide with the 5th World Parks Congress:

**'The impact of (forest) nature conservation on indigenous peoples:  
the Batwa of south-western Uganda. A case study of the Mgahinga  
and Bwindi Impenetrable Forest Conserveation Trust'**

by Penninah Zaninka.

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Cover photograph: A sign highlights the important but limited support given to Batwa communities. It is noteworthy that the provision of land by civil society organisations – in place of government programmes – came 10 years after the Batwa's final evictions from their ancestral forests and still leaves 45% of the Batwa landless.

Photo credits: Christopher Kidd

Map credits: Forest Peoples Programme

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## I Review Process

The [Durban] Accord establishes a new paradigm for protected areas, and issues a call for commitment and action from everyone involved in and affected by protected areas. The accord is supported by the *Message to the Convention on Biological Diversity* also adopted in Durban. To realise the goals of the *Accord*, action involving many stakeholders is needed at global, regional, national and local levels.

This in turn requires that targets are set and progress is monitored and reported upon. The *Durban Action Plan* sets out the required targets and action. The leadership of IUCN, and particularly the members of its World Commission on Protected Areas, will be vital in translating the plan into reality<sup>1</sup>.

The 1990s heralded the call for a radical change in the nature of conservation provision, particularly in Africa, which sought to go beyond the colonial and neo-colonial construct of 'Fortress Conservation' and develop a new conservation paradigm<sup>2</sup>. This demand has gathered pace and at the IUCN 'World Parks Congress' held in Durban in 2003, the participants (who included scientists, politicians, industry leaders, non-governmental organisations, international agencies, and indigenous and mobile peoples) agreed on new commitments and policy guidance for protected areas worldwide. The Durban Accord and Action Plan are outputs of this Congress and reflect the outcomes of the discussions.

The Durban Accord is a message to the world in which the 3,000 participants of the V<sup>th</sup> IUCN World Parks Congress celebrate, voice concern, and call for urgent action on protected areas. It was understood that in order to realise the goals of the Accord, action at global, regional, national and local levels would be needed and this in turn required that targets were set so that progress could be monitored and reported upon. The Durban Action Plan sets out these required targets and actions. It is intended for all who are engaged in, or whose activities affect, protected areas in any way, whether or not they attended the Congress in Durban.

Additionally, decisions in 2004, at the 7<sup>th</sup> Congress of Parties (COP7) to the Convention on Biological Diversity (CBD), called for similar changes in conservation approaches and in particular the inclusion of Indigenous and Mobile Peoples in the management of protected areas. In parallel to the Durban Action Plan the COP7 drafted a Programme of Work on Protected Areas (PoW-PA) to record targets and sets of activities required to achieve these objectives. When taken together the Durban Action Plan and the CBD PoW-PA command a strong voice from groups both outside and inside conservation discourses to commit their efforts to a more meaningful and equitable relationship between indigenous peoples, conservation organisations, protected area managers and nation states.

In 2008, five years after the WPC, and four years after the COP7, this report is today tasked with reviewing and assessing the extent to which the agreements made at both meetings have been implemented in Uganda. In particular it will focus on the protected areas of south-west Uganda and the indigenous communities of the Batwa who once lived inside and depended on the very same areas. Not only will this report attempt to analyse the commitment made by conservationists and protected area managers to the above agreements and therefore to the inclusion of indigenous peoples in their conservation efforts, but also to analyse the suitability of the Durban Action Plan and CBD PoW-PA to respond to the needs of both indigenous peoples and conservation initiatives.



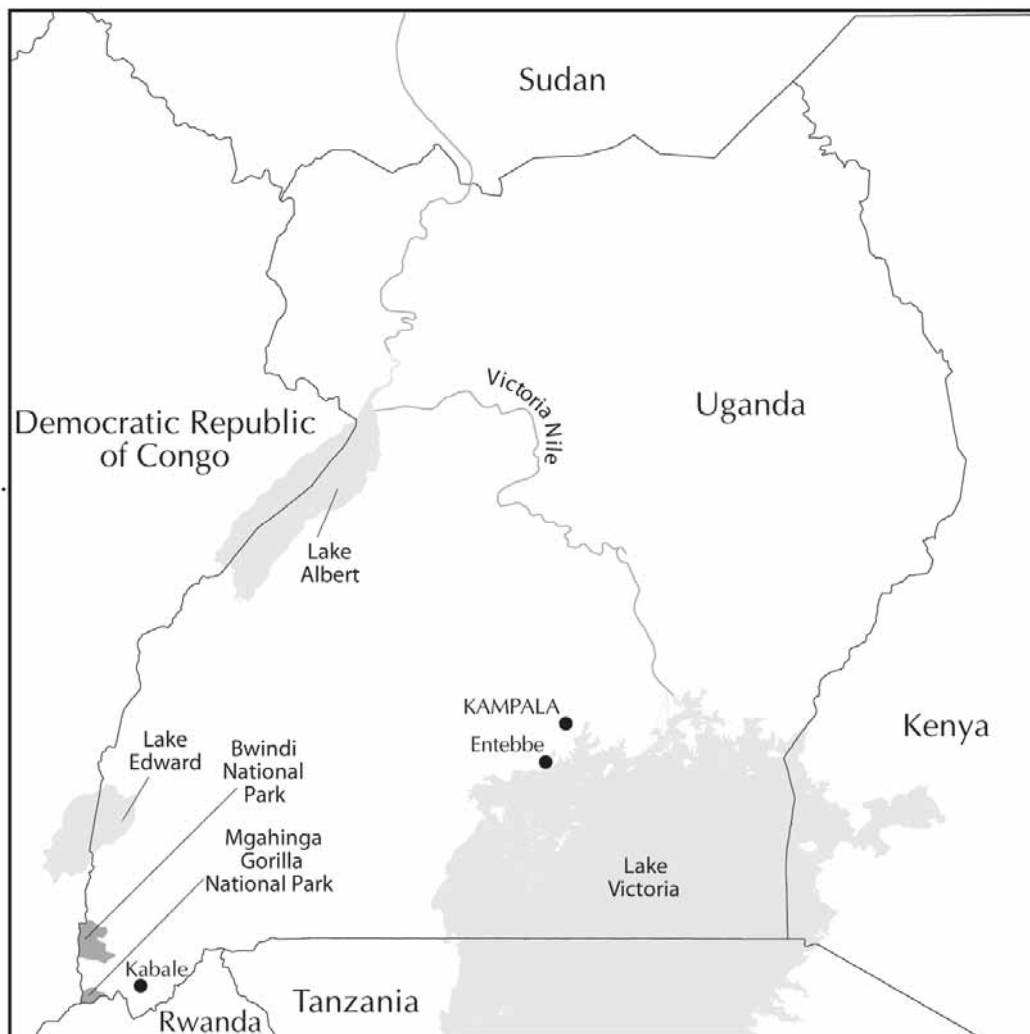
Members of UOBDU being interviewed for the review

In the process of carrying out this review the authors are grateful to their colleagues and partners who were interviewed and generously gave up their time to provide their own experiences and information. In particular the authors would like to thank the Batwa interviewees, the Honourable Minister for Environment, Bwindi Mgahinga Conservation Trust (BMCT), CARE Uganda (CARE), Global Environment Facility – Small Grants Programme (GEF-SGP), Institute for Tropical Forest Conservation (ITFC), International Gorilla Conservation Programme (IGCP), International Union of Conservation Networks (IUCN), Ministry of Water and Environment (MWE), National Environmental Management Authority (NEMA), National Forestry Resources Research Institute (NFRRI), Nature Uganda (NU), Uganda Wildlife Authority (UWA) United Organisation for Batwa Development in Uganda (UOBDU), World Conservation Society (WCS), and the World Wide Fund for Nature (WWF).

## II The Batwa of Uganda

Historically, the Batwa were forest-dwelling hunter-gatherers, maintaining livelihoods within the high altitude forests around Lake Kivu and Lake Edward in the Great Lakes region of Central and East Africa. The Batwa are widely regarded by their neighbours, and historians, as the first inhabitants of the region, who were later joined by incoming farmers and pastoralists approximately 1,000 years ago<sup>3</sup>. Today, the Batwa are still living in Rwanda, Burundi, Uganda, and eastern Democratic Republic of Congo. In each of these countries the Batwa exist as a minority ethnic group living amongst the largely Bahutu and Batutsi populations. In Uganda their dominant neighbours are the Bafumbira and Bakiga People.

While accurate figures are difficult to determine, as estimates vary between different sources, it is believed that approximately 6,700 Batwa now live within the present State boundaries of Uganda, with approximately half living in the south-west region of Uganda<sup>4</sup>. The Batwa in this region are former inhabitants of the Bwindi, Mgahinga and Echuya forests, where they lived since time immemorial in coexistence with the environment and in full reliance on the forest for their physical, economic, spiritual, and social sustenance. Recently, however, they have suffered evictions and exclusions from their forests primarily for the creation of protected areas that were established without their participation or their free, prior and informed consent.



Location of Bwindi and Mgahinga National Parks

As a result of their exclusion from their ancestral forests and the subsequent loss of their forest-based livelihoods, the majority of Ugandan Batwa suffer severe isolation, discrimination and socio-political exclusion. The Batwa's customary rights to land have not been recognised 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 live in absolute poverty. Almost half of the Batwa continue to squat on others' land whilst working for their non-Batwa masters in bonded labour agreements. Those who live on land that has been donated by charities still continue to suffer poorer levels of health care, education, and employment than their ethnic neighbours. Today, the Batwa's political situation on the margins of Ugandan society is analogous with their physical existence in settlements on the edges of their ancestral forests.



### III A History of Protected Areas



Mist rising from Bwindi Impenetrable National Park

The British colonial administration first established protected areas out of the Batwa's forests in the 1930s, measures which probably served to protect the forests from complete destruction by the incoming cultivators and pastoralists who were eager to utilise the fertile lands. Nonetheless, despite this infringement upon their land rights, 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 chief objective of the conservation measures was the protection and preservation of the Mountain Gorilla and it seems that the initial colonial measures were contradicted by the conservation measures which would follow. In 1930 one administrator's wife wrote that,

The danger to gorilla to be apprehended from local Africans is very little ... a Swedish expedition offered the Kigezi mountain pygmies what to them was wealth to enlist their services as hunters for a museum specimen. They met with a blank refusal. The flesh, moreover, is considered by them as 'an abomination.' To suggest eating it is an insult. As regards the pelt, even the professional tanners will not touch it. They 'would as soon consent to flay a brother's skin'<sup>5</sup>.

As such, the Batwa were not seen as a threat and their way of life went largely unhindered. Indeed, early colonial administrators even championed the Batwa's rights to live amongst these forests and demanded legal protection to secure the Batwa's continued wellbeing,

The killing of animals is necessary for [the Batwa's] existence ... The Batwa cannot be restricted in their habituation of the area nor can their hunting habits be interfered with. Fortunately they do not hunt the gorilla nor molest it in any way nor eat its flesh. Under such circumstances it will be necessary to modify the park regulations. Though maintaining the usual restrictions on visitors from outside, suitable modifications will be necessary in order to permit the Batwa to continue hunting<sup>6</sup>.

In 1961 Bwindi followed Mgahinga<sup>7</sup> in becoming gazetted as a gorilla sanctuary. At the time the threats to the gorilla came from the great numbers of Batutsi and Bahutu who had entered the area from northern Rwanda and habitat destruction became the greatest danger to the gorillas<sup>8</sup>. It is unclear how these earlier changes in protection affected the Batwa but in 1964 Forest and Game Acts were introduced in Uganda which had serious effects on their access to their forest resources. Residing, hunting and farming were made illegal inside the park as was the use of hunting dogs or the possession of hunting weapons. Around this time between 50 and 100 Batwa families were evicted<sup>9</sup>. However, the enforcement of these Acts suffered during the post-colonial troubles which blighted Uganda, as government legislation was ignored. When the National Resistance Movement came into power in 1986 the stability they brought to Uganda opened the door to various conservation interests who took over the work which had stalled during the civil war period. As early as 1988 the Uganda National Parks department (UNP) presented a report to the Ugandan Cabinet proposing Bwindi as a National Park and in 1989 the process began that led to the creation of Bwindi Impenetrable National Park (Bwindi) and Mgahinga Gorilla National Park (Mgahinga)<sup>10</sup>. The establishment in 1991 of Bwindi and Mgahinga forests as national parks resulted in the definitive eviction and exclusion of the Batwa from their homeland. At this point in time the previous infringement of their land rights was reinforced and reiterated and their marginalisation completed by the removal of their use and access rights to the forests.

This trajectory towards increasing levels of protection for these forests and the corresponding restrictions on access which such protection entailed did not go unnoticed by the communities surrounding these forests. In June 1990, a team comprising members of the UNP, Game Department and World Wildlife Fund for Nature carried out a public enquiry to provide recommendations for the creation of a management plan for the proposed national park. The communities felt it vital that nobody should lose any land as a result of Bwindi becoming a national park; financial benefits, particularly from employment, should accrue to communities; access should be given for communities to collect forest resources, and local communities should be involved throughout the process<sup>11</sup>. The injustice felt by the people entailed in the proposed restrictions led one community to ask, 'Does the government care more about the gorillas than people?' and further, 'Tourists come from countries where they have killed their own animals. Why shouldn't they go to see animals in zoos instead of coming to Bwindi?'<sup>12</sup> The Batwa's views are neither sampled nor represented anywhere within the public enquiry.

The creation of these two new national parks in 1991 went ahead with the insistence of government officials and global conservation groups, and with the stroke of a pen the Batwa became squatters on their own land. Initially these groups' conservation method was firmly based on the 'Fortress Conservation' model. Communities were seen as being the cause of forest degradation and the best way to conserve the forest was to exclude them from any contact with it. The Batwa and other local people were no longer allowed to enter Mgahinga and attempts to collect water and firewood were repelled by heavily armed guards.

Despite this initial policy, the early 90s also saw Bwindi and Mgahinga pilot a new form of conservation that positioned communities as an important component of conservation management. Despite the success these new forms of conservation brought to some local communities around Bwindi and Mgahinga the Batwa were systematically excluded. Seventeen years since the creation of these national parks the Batwa remain marginalised from the management of Bwindi and Mgahinga, from any forms of benefit deriving from the national park, and from rights to access and use the resources located inside the forests.

## IV Implementation of WPC actions and CBD activities relevant to the Batwa

During the WPC in Durban, the congress participants developed an Action Plan whose aim was to translate the aspirations of the Durban Accord into practical actions directed at four different levels. The first level directs activities towards 'International Action', the second to 'National and Local Action', the third to 'Protected Area Authority Action', and the fourth level to 'IUCN-led Action'. It is intended that the successful completion of these actions will help to guarantee the fulfilment of each of the outcomes and related targets. The Durban Action Plan is additionally organised around 10 desired outcomes. One or more related targets are set out under each outcome, broadly reflecting the main themes of the Congress. Importantly, Outcome 5 of the Durban Action Plan attaches specific focus to the situation of indigenous peoples and has three attached targets:

Outcome 5: The rights of indigenous peoples, including mobile indigenous peoples, and local communities are secured in relation to natural resources and biodiversity conservation

Main Target 8 – All existing and future protected areas are established and managed in full compliance with the rights of indigenous peoples, including mobile indigenous peoples, and local communities by the time of the next IUCN World Parks Congress.

Main Target 9 – The management of all relevant protected areas involves representatives chosen by indigenous peoples, including mobile indigenous peoples, and local communities proportionate to their rights and interests, by the time of the next IUCN World Parks Congress.

Main Target 10 – Participatory mechanisms for the restitution of indigenous peoples' traditional lands and territories that were incorporated in protected areas without their free and informed consent are established and implemented by the time of the next IUCN World Parks Congress.

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 also analyses the extent to which the CBD Programme of Work on Protected Areas (PoW-PA), adopted by COP7 of the CBD in 2004, has been implemented by Uganda. Uganda's implementation of the PoW-PA is additionally important to the WCC in Barcelona because at the previous WCC in Bangkok in 2004, WCC Recommendation 3.055 stated that the congress:

1. CALLS UPON the IUCN Director General, Secretariat, World Commission on Protected Areas and members to:

(b) Promote and support the full implementation of Programme Element 2 (*Governance, Participation, Equity and Benefit sharing*) of the *Programme of Work on Protected Areas* established at CBD COP7.

One of the most important decisions of COP7 is Decision VII.28 (on Protected Areas) which:

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;

The Programme of Work that is attached to Decision VII.28 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.

Whilst Outcome 5 of the Action Plan and Goal 2.2 of the PoW-PA contain the most influential and critical components of these agreements for indigenous peoples there are also a number of other actions and activities that need to be reviewed. The following section has been organised so that different activities and actions are found together under common themes.

## **Social Losses**

### ***WPC Action Plan Outcome 5: National and Local Action***

Recognise and guarantee the rights of mobile indigenous peoples to the restitution of their lands, territories and resources, conserved and traditionally occupied and used sustainably by them, that have been incorporated within protected areas without their free, prior and informed consent.

### ***WPC Action Plan Outcome 5: National and Local Action***

Promote cross-cultural dialogue and conflict-resolution within and between mobile and sedentary people around and in protected areas.

### ***CBD PoW-PA Element 2: Activity 2.1.1***

Assess the economic and socio-cultural costs, benefits and impacts arising from the establishment and maintenance of protected areas, particularly for indigenous and local communities, and adjust policies to avoid and mitigate negative impacts, and where appropriate compensate costs and equitably share benefits in accordance with the national legislation.

There has been no recent assessment by the Government of Uganda on 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 recognised 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 '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 labourers on their neighbours' farms. However, they still had access to many forest resources and the forests continued to be economically and culturally important to them. The gazettement 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<sup>13</sup>.

At the time the 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<sup>14</sup>. 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 recognising Batwa use rights to certain resources in the parks, rights to access sacred sites, the allocation of forest and farmland to evicted communities, capacity building, and educational, health and economic assistance. However, these recommendations were not fully implemented and it required the support of the Dutch Government to provide funds to the Trust to acquire small parcels of land for a small minority of Batwa. Whilst this was a helpful initiative the amount of land bought for each family was far below the recommended two acres per family and the land acquisition programme closed down before it had bought land for all affected communities. Even with the support of additional charity and church groups, the percentage of landless Batwa is still around half of all Batwa. This positions a large number of Batwa in the hands of their ethnic neighbours who continue to discriminate against the Batwa and force them into bonded labour agreements.

To date the Government of Uganda, the Ugandan Wildlife Authority, and the National Forest Authority continue to deny the Batwa their full rights to their ancestral home and no compensation or restitution of their lands has occurred in Bwindi, Mgahinga, or Echuya by these agencies despite the creation of these protected areas without the free, prior and informed consent of the Batwa People.

## **Social Benefits**

### ***CBD PoW-PA Element 2: Activity 2.1.4***

Use social and economic benefits generated by protected areas for poverty reduction, consistent with protected-area management objectives.

Under the Wildlife Act, the UWA is obliged to allocate 20% of park entry fees paid by tourists to local community initiatives through Community Protected Area Institutes (CPAIs). However, virtually all projects funded by this revenue-sharing scheme are social infrastructure projects such as roads, schools and health facilities. These 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 2004, a \$5 levy has been collected on gorilla tracking permits in favour of community development. Additionally, a \$4 community levy is being 'set aside' for additional community developments. However, the mechanisms for sharing these funds have not yet been negotiated amongst the different partners and the money

collected is still with UWA. It appears that the most likely mechanism that will be agreed upon will be through the CPAIs. Given this scenario, and due to the lack of representation on these institutions by the Batwa, it is extremely unlikely that funds will target or reach the Batwa communities. The United Organisation for Batwa Development in Uganda is currently working with District Government and conservation partners to secure benefits for the Batwa.

Social and economic benefits generated by protected areas have only marginally been used to reduce the poverty of the Batwa communities. The Trust's annual funds are to be utilised at 20% for park management, 20% for research, and 60% 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, three of whom are supposed to be Batwa selected from a Batwa Representation Committee – an initiative that was agreed with the Trust's donors. Between 2002 and 2006 there were three Batwa on the LCSC, however, the budget reduction which has incapacitated the Trust has also been felt on the LCSC. Today the size of the board has been reduced and there is now only one Mutwa on the committee. This reduction in numbers further reduces the effectiveness of the Batwa's participation as their voice is often ignored in decision-making processes and they often lack the confidence and space 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% of Trust funding allocated to local community projects. Moreover, according to information received from the Trust, and despite a firm policy commitment to the needs of the Batwa, their expenditure on Batwa-specific initiatives has diminished extensively over the last few years. Total Batwa expenditure in 2003 was 324,163,724 Uganda shillings (approximately US \$190,000 at current exchange rates), including 277,231,524 shillings (US \$160,000) on land purchases. In 2004 the total figure dropped to 141,597,300 shillings (US \$82,000) after the Dutch Government removed its funding of the specific Batwa component, and in 2005, 2006 and 2007 expenditure ranged between 20,588,072 (US \$12,000) and 22,734,600 (US \$13,000). Despite the ongoing extreme landlessness among the Batwa, no Trust money has been put towards land purchases since 2003. Some funds have been used, however, for things such as agricultural inputs, education, water provision and training and workshops providing some poverty-reduction benefits to Batwa communities.

## **Customary Use**

### ***CBD PoW-PA Element 1: Activity 1.5.6***

Develop policies, improve governance, and ensure enforcement of urgent measures that can halt the illegal exploitation of resources from protected areas, and strengthen international and regional cooperation to eliminate illegal trade in such resources taking into account sustainable customary resource use of indigenous and local communities in accordance with article 10(c) of the Convention.

In terms of national legislation, the National Forestry and Tree Planting Act (2003) and the Wildlife Statute (1996) allow local communities to access forests for traditional uses provided such uses are compatible with sustainable development. The Acts also recognise historical rights of persons who resided inside conservation areas. These provisions, however, have yet to be implemented to a degree that benefits the Batwa.

Since 1993, the government of Uganda has authorised a Multiple Use Programme (MUP) in Bwindi, through which neighbouring communities are permitted (under Memoranda of

Understanding) to access medicinal plants, basketry materials and certain other non-timber forest products. This MUP is now operating in 12 of the 24 parishes bordering Bwindi and the Multiple Use Zones (MUZs) now cover approximately 20% of the forest area of Bwindi.

In practice there is no sustainable extraction of Batwa culturally specific resources within Bwindi or Mgahinga. While MUPs 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 powers 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<sup>15</sup>.

Another author regards the MUP as,

... another form of state control over resources ... with the protected area management authority unwilling to trust resource users and subsequently to relinquish some of its responsibilities and authority<sup>16</sup>.

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. 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 honey, wild yams, mushrooms and fruit, and worshipping 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 experts<sup>17</sup> 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. Additional studies have reported that the extraction of wild yams and wild honey could be sustainably managed. However, this advice has yet to be accepted.

Thirdly, the Multiple Use Memorandums of Understanding (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 study of the MOUs was done in 2004 to consider the needs and demands of Batwa. However, although these needs and demands have been acknowledged by UWA, to date they have not been accommodated in the MOUs. Additionally, the current 2001–11 management plan for Bwindi and Mgahinga Conservation Area (BMCA) does contain activities to support the Batwa to access resources like wild yams and wild honey; however, there seems to be no initiative on the part of the protected area authorities to fully implement these activities without external pressure from NGOs or donor-funded projects.

The first comprehensive review of the MOUs since 1994 is being carried out in 2008 and the new MOUs should be signed by November. Whilst the authors have been informed that wild yams will be included in the new MOUs it has been suggested that they will not include wild honey despite this resource's extraction being supported by research from the scientific community. Despite the Batwa being consulted in 2004, today, as the new MOUs are in the process of being finalised there is no involvement of the Batwa and it seems that they will again lose out and continue to be prevented from accessing wild honey, wild fish and sacred sites. It may be another 14 years before the MOUs are reviewed again.

## **Participation in Management**

### ***WPC Action Plan Outcome 5: Protected Area Authority Action***

Adopt measures, policies and practices that provide for full recognition of, and respect for the rights of indigenous peoples, including mobile indigenous peoples, and local communities in respect of protected areas; ensure that their voices are heard and respected in decision-making; incorporate traditional knowledge, innovations and practices; ensure an equitable distribution of benefits, authority and responsibilities; and encourage mutually acceptable incentive mechanisms.

### ***WPC Action Plan Outcome 5: Protected Area Authority Action***

Develop and adopt mechanisms to guarantee the meaningful participation of indigenous peoples and local communities in the designation and management of protected areas.

### ***CBD PoW-PA Element 2: Activities 2.2.1***

Engage indigenous and local communities and relevant stakeholders in participatory planning and governance, recalling the principles of the ecosystem approach.

### ***CBD PoW-PA Element 2: Activity 2.1.5***

Carry out participatory national reviews of the status, needs and context-specific mechanisms for involving stakeholders, ensuring gender and social equity, in protected areas policy and management, at the level of national policy, protected area systems and individual sites.

### ***CBD PoW-PA Element 1: Activity 1.1.4***

By 2006, conduct, with the full and effective participation of indigenous and local communities and relevant stakeholders, national-level reviews of existing and potential forms of conservation, and their suitability for achieving biodiversity conservation goals, including innovative types of governance for protected areas that need to be recognized and promoted through legal, policy, financial institutional and community mechanisms, such as protected areas run by Government agencies at various levels, co-managed protected areas, private protected areas, indigenous and local community conserved areas.

To our knowledge there has not been any national-level review of existing and potential forms of PA management 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 continue to be managed and administered with a top-down approach by the Uganda Wildlife Authority (UWA) without any meaningful participation by the Batwa.

The UWA has developed a Strategic Partnership Policy (2002–2007) to coordinate the efforts of different actors towards conservation. 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.

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 Committees (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. The establishment of CPAIs has similarly failed 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 is based on Local Government structures and requires prior participation in leadership structures where the Batwa are not represented.

In Echuya there has been participation of local communities in the management of selected sections of the forest under Collaborative Forest Management (CFM) agreements. In October 2007, CFM agreements were signed between the NFA and four local communities in the districts of Kisoro and Kabale that included some Batwa. The NFA, with support from Nature Uganda, have been vital in ensuring the participation of the Batwa in this process. In total, 21 agreements have been signed by NFA and local communities in Mabira, Budongo, Sango Bay, Rwoho, Bugoma, Kasyoha-Kitomi and Echuya Central Forest Reserves (CFRs).

Overall, the voice of the Batwa is yet to be meaningfully heard even in Echuya and their active participation has yet to be achieved or their rights recognised in protected area governance.

### **Removal of Barriers to Participation**

#### ***WPC Action Plan Outcome 3: National and Local Action:***

In partnership with stakeholders (particularly indigenous and local communities affected by, or interested in conservation initiatives) examine how innovative, traditional/customary and other types of governance can be recognised, harmonised and connected within an overall protected area system.

#### ***WPC Action Plan Outcome 5: International Action***

Recognise collective and customary rights of mobile communities and respect the integrity of the mobile indigenous peoples' resource-management systems.

#### ***CBD PoW-PA Element 2: Activity 2.2.4***

Promote an enabling environment (legislation, policies, capacities, and resources) for the involvement of indigenous and local communities and relevant stakeholders in decision making, and the development of their capacities and opportunities to establish and manage protected areas, including community-conserved and private protected areas.

#### ***CBD PoW-PA Element 2: Activity 2.2.2***

Implement specific plans and initiatives to effectively involve indigenous and local communities, with respect for their rights consistent with national legislation and applicable international obligations, and stakeholders at all levels of protected areas planning, establishment, governance and management, with particular emphasis on identifying and removing barriers preventing adequate participation.

To date the authors are not aware of any initiative that has tried to recognise, harmonise or connect customary forms of Batwa governance with the protected areas in south-west Uganda. In the early 1990s when PA managers and partners were creating the MUZs in Bwindi they consulted and replicated traditional stretcher-bearer societies that exist throughout local communities. These societies help to transport patients to health care facilities by working in relay teams to carry both stretchers and patients. In the MUP, these customary structures were duplicated to create committees to regulate the provision of permits for local people to enter the forests and collect valuable resources.

Unfortunately the Batwa are marginalised from these societies which are dominated by their ethnic neighbours and therefore at the start of the MUP, the Batwa had no voice on the committees that ultimately distributed the rights to collect the forest resources. Although the level of Batwa participation has improved in the MUP, they have been forced to assimilate towards either western forms of governance or those of their more dominant neighbours.

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, despite no targeted government programmes to address these barriers. It is also the case that literacy levels have never formed a significant barrier in the past to Batwa coexistence with their ancestral forests. Additionally it appears that instead of protected area managers adapting their policies to accommodate the practices of indigenous communities, they are instead still citing the Batwa's mobility as a reason not to facilitate their participation in conservation. As one conservationist commented when interviewed,

When you look at UWA policy and guidelines there is sufficient policy and recognition [of indigenous people]. In practice ... you would find efforts to accommodate [indigenous people], the problem is their migratory nature ... the fact that they are not able to be traced creates a challenge that leads the [PA managers] to be disgusted. One day you are trying to work with [the Batwa] and the next they are on the move.

One positive example of partners attempting to accommodate the specific circumstances of the Batwa comes from the Global Environment Facility – Small Grants Programme (GEF-SGP), which acknowledged that the Batwa find it difficult to solicit funds from donors via typical structures. Importantly they realised that it would be unfair and discriminatory towards the Batwa if they demanded only formal written proposals for funding. As a result the GEF-SGP supported the Batwa in participatory video making and allowed the Batwa to communicate their wishes and needs in a video format. This has allowed the Batwa to directly solicit and receive funds from the GEF and circumvent issues of literacy levels.

## Capacity Building

### ***WPC Action Plan Outcome 4: Protected Area Authority Action***

Promote the conditions, and ensure the means for the effective engagement in conservation of indigenous peoples, including mobile indigenous peoples, local communities and other local stakeholders. The focus of attention should be on building the capacity of communities to engage effectively.

### ***WPC Action Plan Outcome 5: IUCN-led Action***

Action: produce and disseminate guidance and best practice to all parties on the engagement of indigenous peoples and local communities in protected areas, including their roles in the identification, establishment and management of areas and use of traditional knowledge.

**WPC Action Plan Outcome 5: IUCN-led Action**

Action: establish support mechanisms for building the capacity of local communities to engage more effectively with protected area authorities.

**CBD PoW-PA Element 3: Activity 3.2.1**

By 2006 complete national protected-area capacity needs assessments, and establish capacity building programmes on the basis of these assessments including the creation of curricula, resources and programs for the sustained delivery of protected areas management training.

Unfortunately the Uganda Wildlife Authority (UWA) has done little to help support the capacity of the Batwa to effectively engage with them and any work on this area has been left to other civil society partners. In the 2001–2011 management plan of the Bwindi Mgahinga Conservation Area (BMCA) there are special provisions for the Batwa that include the creation of a special employment category and access to culturally specific resources. Although the management plan intends for these activities to be completed in years 5–6 of the plan, to date neither of these measures has been completed. Nonetheless, these specific activities do not in themselves help the Batwa to access more equitable forms of management and are instead minor benefits that circumvent the real issue of meaningful participation in management structures.

Civil society groups like CARE and the International Gorilla Conservation Programme (IGCP) have helped to raise the institutional capacity of the Batwa and their representative organisation the United Organisation for Batwa Development in Uganda (UOBDU). This, however, has been directed towards general capacity and no external organisation has yet supported the Batwa to specifically access participation in PA management. UOBDU, however, continues to fight for the Batwa's right to be included in the management of their former forests and discussions with the UWA are ongoing.

The IUCN Uganda country office informed the review that they have not directly supported the capacity building of indigenous peoples to access management structures or disseminate guidelines for PA managers since the WPC in 2003. There is currently a gap between the policy and the practice of the IUCN since the Durban Action Plan calls for the IUCN to help disseminate guidance and best practice but the IUCN country office does not have a specific budget to do this. The Uganda representative did, however, point out that the IUCN in Uganda has a long history of supporting collaborative management agreements and has helped to include such arrangements in UWA policy since 1994.

## **Community Conserved Areas**

**WPC Action Plan Outcome 5: International Action**

Recognise mobile indigenous peoples' Community Conserved Areas as a protected area governance type where this meets the IUCN and CBD definitions of a protected area, and build upon their traditional and evolving institutions and customary norms.

**WPC Action Plan Outcome 5: National and Local Action**

Recognise the contribution and status of Community Conserved Areas and related types of natural resource protection and management, as well as indigenous-owned, designated and managed protected areas, within national systems of protected areas, wherever these areas meet the IUCN and CBD definitions of a protected area.

**WPC Action Plan Outcome 5: Protected Area Authority Action**

Adapt protected area and Community Conserved Area management to the special needs of mobile communities, including their use rights, resource-management practices,

seasonal and temporal rights and corridors for movement; support mobile use to achieve conservation objectives.

***WPC Action Plan Outcome 5: Protected Area Authority Action***

Working with the free, prior and informed consent of indigenous peoples and in consultation with stakeholders, recognise the contribution that Community Conserved Areas, formal co-managed protected areas and indigenous-owned and managed protected areas can make to the development of protected area systems.

***CBD PoW-PA Element 2: Activity 2.1.2***

Recognize and promote a broad set of protected area governance types related to their potential for achieving biodiversity conservation goals in accordance with the Convention, which may include areas conserved by indigenous and local communities and private nature reserves. The promotion of these areas should be by legal and/or policy, financial and community mechanisms.

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. 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 for private forest owners. Given that Echuya has different levels of protection than Bwindi and Mgahinga, the National Forestry Authority (NFA) has entered into Collaborative Forest Management agreements (CFMs) with neighbouring communities. In Echuya, with the support of Nature Uganda, over 600 Batwa are now reported to have access to forest resources, such as bamboo, under CFM agreements. These CFMs have been operational for two years in Echuya and whilst they are designed to provide access to resources they only acknowledge forest adjacent communities as managers of the forests and do not acknowledge the ancestral rights of the Batwa to Echuya forest.

The Wildlife Act empowers the responsible Minister to create community wildlife areas, which allow communities certain property rights and to 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. The Government of Uganda (GOU) has created five community wildlife areas<sup>18</sup> in other regions of Uganda and whilst they exist on paper, as yet they have no direct involvement of the community and discussions on their actualisation have stalled.

Whilst the policies of community conservation areas exist on paper, in the context of the Batwa there are no remaining forests which could be designated as community wildlife areas, as all existing forests in south-west Uganda are already gazetted. The presence of Mountain Gorillas in Bwindi and Mgahinga makes it unlikely that these two national parks will be reclassified as community conservation areas.

## **Resettlement of Indigenous Peoples**

***WPC Action Plan Outcome 2: National and Local Action***

Eliminate resettlement of indigenous peoples and local communities, and the enforced settlement of mobile indigenous peoples, without prior informed consent.

***CBD PoW-PA Element 2: Activity 2.2.5***

Ensure that any resettlement of indigenous communities as a consequence of the establishment or management of protected areas will only take place with their prior informed consent that may be given according to national legislation and applicable international obligations.

When the authors interviewed the UWA, the UWA suggested that they do not evict local communities without providing resettlement and cited the cases of both the Benet in Mt. Elgon and the Batwa in Semliki. They did, however, acknowledge that resettlement was not carried out in 1991 by the UWA in the case of the Batwa in Bwindi and Mgahinga and that the right support was not given. It seems, however, that these admissions of guilt on the part of the UWA are not coupled with a sense of responsibility as no steps have been taken by the UWA to correct the mistakes of the past.

In the case of the Batwa it seems that their livelihoods were not acknowledged as bestowing them rights to their lands. As one interviewee suggested,

Indigenous people [like the Batwa] suffer because they have not been cultivating their land so it has been easy for the government to gazette [Bwindi and Mgahinga] because they didn't recognise it as developed [worthy of compensation].

Interestingly, the official government response to this issue offered the following statement,

All the Batwa that were formerly living in Bwindi Impenetrable National Park were resettled, and Government is working with Kisoro District Local Government and UOBDU to have the Mgahinga Batwa resettled too.

What this response excludes is that 45% of all Batwa surrounding Bwindi and Mgahinga are in fact still landless and that those 55% who have received land have only done so through the efforts of NGOs and religious groups. The provision of land had to wait almost 10 years after the creation of the parks before the Bwindi Mgahinga 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 to Batwa households. 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 45% of Batwa still landless today.

## Traditional Knowledge

### ***WPC Action Plan Outcome 5: National and Local Action***

Respect, promote and integrate the use of traditional knowledge, institutions, customary laws and resource management practices of mobile indigenous peoples, working alongside mainstream science on a complementary basis; develop common conservation objectives; and ensure that development of protected areas and related interventions are evaluated on the basis of local knowledge and are implemented through mobile indigenous peoples' institutions.

### ***CBD PoW-PA Element 3: Activity 3.2.2***

Establish effective mechanisms to document existing knowledge and experiences on protected area management, including traditional knowledge in accordance with Article 8 (j) and Related Provisions, and identify knowledge and skills gaps.

### ***CBD PoW-PA Element 3: Activity 3.5.2***

Identify core themes for education, awareness and communication programmes relevant to protected areas, including inter alia their contribution to economy and culture to achieve specific end results such as compliance by resource users and other stakeholders or an increased understanding of science-based knowledge by indigenous and local communities and policy makers and an increased understanding of the needs, priorities and value of indigenous and local communities' knowledge, innovations and

practices by Governments, non-Governmental organizations and other relevant stakeholders.

***CBD PoW-PA Element 4: Activity 4.4.4***

Encourage collaborative research between scientists and indigenous and local communities in accordance with Article 8(j) in connection with the establishment and the effective management of protected areas.

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. 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.

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. Currently there is only one field assistant working with the Institute of Tropical Forest Management (ITFC) which coordinates all research undertaken inside Bwindi and Mgahinga. This is despite the fact that ITFC regard the Batwa as the most knowledgeable members of the local community. There is no policy in place to hire Batwa assistants and researchers are not made aware of the wealth of experience and knowledge that the Batwa possess. Most research done with the Batwa has been at best extractive and not beneficial to Batwa.

## **Legal Recognition**

***WPC Action Plan Outcome 5: International Action***

Approve the UN Draft Declaration on the Rights of Indigenous Peoples as adopted in 1994 by the UN Sub-Commission on the Promotion and Protection of Human Rights, and ratify and effectively implement ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries, where the relevant people so wish.

***WPC Action Plan Outcome 5: National and Local Action***

Review all existing conservation laws and policies that impact on indigenous peoples and local participation in this review.

***WPC Action Plan Outcome 5: National and Local Action***

Adopt and implement laws and policies concerning indigenous peoples' and local communities' control over their sacred places, with their full and effective participation.

The Government of Uganda supported the adoption of the final draft of the UN Declaration on the Rights of Indigenous Peoples. It has also ratified the Convention on Biological Diversity (CBD) although to date it has not ratified ILO Convention 169.

Whilst Uganda must be commended for supporting the adoption of the UN Declaration on the Rights of Indigenous Peoples it should also be noted that Uganda has no domestic legal provisions to support the UN Declaration. Currently, the only reference to indigenous people in Ugandan law comes in the constitution which suggests that any group existing and residing within the borders of Uganda before 1926 is indigenous. As a result all Ugandans can be described as indigenous in the Uganda context and this effectively removes the impetus of the UN Declaration to specifically address the plight of marginalised indigenous peoples and accord them the particular status that their situations entail.

## Transboundary Protected Areas

### ***WPC Action Plan Outcome 3: International Action***

Create new – and promote existing – transboundary protected areas for communities separated by national borders, including corridors of connectivity for mobile indigenous peoples who have traditionally migrated across borders.

### ***WPC Action Plan Outcome 5: International Action***

Promote policies to facilitate cross-border mobility and trade in transboundary protected areas by mobile indigenous peoples who have traditionally lived in, and used those areas.

In 2008, at the 3<sup>rd</sup> World Congress of Biosphere Reserves, the Minister of State for Environment of Uganda, the Minister of State for Lands, Environment, Forests, Water and Mining of Rwanda, and the Minister for Environment, Natural Conservation and Tourism of the Democratic Republic of Congo (DRC), signed a tripartite ministerial declaration on the Central Albertine Rift Transboundary Biosphere Initiative. This initiative, if completed, will create a single biosphere reserve out of eight existing national parks in the three countries, including both Bwindi and Mgahinga in Uganda.

Whilst the declaration recognises the sovereign territorial rights of the three State parties there is no mention of the rights of the indigenous peoples connected with the biosphere in the declaration. In Uganda there was no free, prior and informed consent by the Batwa towards the creation of the park and no Batwa were involved in the planning or decision-making processes that led up to the signing of the declaration.

The creation of this tri-national biosphere will continue the trend of subsequent levels of protection for the ancestral forests of the Batwa in Uganda, Rwanda, and the DRC being enforced without the consent of the Batwa. The biosphere will also continue the trend of protection that fails to acknowledge the injustices of the previous regime's activities. As a result the biosphere will form a new level of protection and park management that disowns the mistakes of the past and yet tacitly repeats and confirms the injustices targeted against the Batwa by not acknowledging their unfair treatment and deprivation at the hand of conservation management policies. Until the rights of the Batwa are fully acknowledged by protected area managers the past will continue to be repeated. Although the present protected area managers did not make the decisions that evicted the Batwa from Bwindi and Mgahinga their policies continue to deny the rights the Batwa have to their ancestral homelands.

In response to the signing of the declaration, the Batwa from Rwanda, Uganda, and the DRC are preparing to send a formal letter to the three Ministers who signed the declaration demanding to know why they have not been asked for their free, prior and informed consent with regard to the biosphere initiative. Whilst the biosphere initiative may turn out to be just another stage in a much longer process of discrimination and marginalisation, it also offers a new dawn in the relationship between protected area managers and the Batwa. It offers a chance to acknowledge and correct the mistakes of the past and to look forward to a new paradigm where both conservationists and the Batwa acknowledge and value each other's role in the guardianship of the forests of south-west Uganda.

## V Key findings and recommendations

After 15 years of combined experience working alongside PA managers, and from the recent interviews carried out with over a dozen agencies, it is the opinion of the authors that there continues to be a failure in translation between the policies of the Government of Uganda, and the international agreements they sign up to, and the practice of PA managers on the ground. As one interviewee suggested,

The fact that the government has signed up to these agreements does not mean that people agree with them on the ground. We need to understand and redefine these agreements in local contexts without losing the importance of the original definitions.

Importantly, the authors believe that the four issues of the concept of 'indigenous', management, participation, and rights are proving difficult to translate and define in south-west Uganda and it is this mistranslation that causes the continued gulf between policy and practice.

### The definition of 'indigenous'

One of the crucial obstacles preventing the actualisation of the activities and actions of the PoW-PA and Action Plan is the definition of 'indigenous' as understood by the Government of Uganda and PA managers in Uganda. As suggested previously in this report, in Ugandan law the definition of an indigenous person is outlined in the constitution of Uganda as anyone existing and residing within the borders of Uganda before 1926. As a result, indigenous people in Uganda are both everyone – there are 56 different ethnic groups listed in the constitution as indigenous in 1926 – and no one in particular at the same time.

In the case of the Batwa this failure to acknowledge their internationally recognised indigenous status has dramatic effects. On the one hand when challenged to justify their support to indigenous peoples in Uganda, the government and other agencies are able to highlight their support for local communities surrounding Bwindi and Mgahinga despite the fact that the internationally recognised indigenous Batwa are not specifically targeted in any of the measures and are typically excluded. From the government's perspective, as all Ugandans are indigenous, the government's work with any Ugandan local communities constitutes work with indigenous communities. A prime example is the case of the CPAIs which currently have no Batwa participating in their structures. Because of the constitutionally understood definition of indigenous, most respondents were able to quote the CPAIs as one way in which indigenous people were being involved in park management despite the fact that technically no Batwa were involved in the process.

In the Government's official response to the authors' questions on whether IP's land rights are respected the following answer was provided,

The rights to land are guaranteed in the Constitution of Uganda and respective law on land and Protected Areas. This is in respect to all Ugandans; Ugandan Constitution has specific provision for the rights of the indigenous people.

Unfortunately, whilst this rhetoric is guided by the Constitution's provisions to protect all human being's rights to own land it does not refer to any specific provisions for IP and instead refers to any citizen of Uganda.



On the other hand, the Government is able to refuse to specifically focus or target the Batwa because by law the Batwa are not the only indigenous people in Uganda and do not deserve the particular attention they should otherwise receive as internationally recognised indigenous people.

## Management

The next issue that prevents the effective participation of indigenous people in the management of protected areas is the way in which the term 'management' is understood by the government, PA managers, and civil society groups. What is meant by management can vary in the degree of participation being offered to communities. At one extreme is a community-centred approach that 'transfers all management responsibilities and full property rights over natural resources to communities at the local level'<sup>19</sup>. At the other end lies an approach that sees communities 'not as proprietors of the nation's conservation estate but merely as its neighbours'<sup>20</sup>.

During the interview process, Nature Uganda, Bwindi Mgahinga Conservation Trust, CARE, and the United Organisation of Batwa Development in Uganda were the only groups that envisaged management as being anything more than just benefit sharing. They instead envisaged management as a process that should involve the meaningful participation of Batwa in decision-making processes regarding the management of protected areas.

For the other groups and agencies interviewed, management was rarely understood in terms other than benefit sharing or consultation. When asked what measures were being used to involve indigenous peoples in the management of protected areas, most interviewees mentioned the MUZs, the distribution of gate receipts and gorilla levy, and the fact that local communities are required by law to be consulted before the creation of each new management plan for each protected area<sup>21</sup>.

As one interviewee responded,

When the [PA managers] have meetings the Batwa are invited and their voices are noted. If they want wild yams they are now included on the resource lists. I call this management.

The Batwa on the other hand had a different opinion when they responded to claims that they were involved in the management of Bwindi:

We want to participate in meetings so we can contribute and provide ideas on how the forest can be managed. When they have their meetings the Batwa are not involved so their voices are not heard ... Some people are involved in the Garama Cave Tourism Trail but that involves just taking people and giving them the information on the caves ... that is just tourism. Is that really managing?

James Baranga, one of the participants at the WPC in Durban in 2003 added that despite an improvement in the participation of the Batwa in the MUP in 2008 the Batwa still have no role in the management of the forests and they are subordinate to the PA management in every case. One task for the immediate future is for PA managers and conservationists to accept that indigenous peoples can contribute to management so that their participation is then seen as a positive step towards a common goal instead of their participation being seen as a concession necessary to allow the continuation of the 'real' work of conservation.



James Baranga, a participant in Durban in 2003, on his land (Bwindi is in the background)

## Participation

This next issue follows on from the discussion above. Importantly the question asked here is what does effective and meaningful participation actually mean? Once again, most interviewees mentioned the consultations of local communities before the creation of the management plans as an example of participation. Additionally, most interviewees mentioned the various benefit mechanisms as examples of participation. The UWA, for example, suggested the MUP where local communities identify the resources to be harvested, agree the offtake amount, and then manage the sustainable extraction of the resource. In practice, however, the communities may identify the desired resources but the UWA has the ultimate decision as to which resources are harvested. Despite the UWA claiming that the local communities agree on the offtake quotas, the actual amounts of harvestable resources are decided by scientific research into sustainable extraction amounts. The UWA interviewee further suggested that it is the community that draws up the proposals for how the benefit-sharing money should be spent and then the CPAIs agree on which proposals to fund. Once again, in practice, the format of benefit sharing is one that does not include Batwa participation in the decision-making process.

It is the authors' firm opinion that none of the examples cited in this report or suggested by interviewees during the review process constitute effective and meaningful participation and instead the examples given constitute minor handouts that do not go far enough to actively engage the Batwa in meaningful participation. As other authors note of conservation policy more generally,

While the labels of community conservation and community-based conservation have become widely used this is, to a significant degree, because of the positive image generated by the idea of 'community' rather than because of their accuracy<sup>22</sup>.

Management can only be achieved when indigenous communities are allowed access to decision-making processes and not simply relegated to the role of information providers.

### **Rights vs. Privileges**

Worryingly, it appears that the participation of indigenous people and local communities is now being called into question. One interviewee highlighted recent research in Uganda that suggested that benefit sharing and collaborative management had failed to decrease the illegal resource use of local communities around Bwindi. Whether this research is accurate or not, the questioning of the effectiveness of participation of local communities is worrying as it suggests that some conservationists see local communities as deserving of participation only as long as it furthers the goals of biodiversity conservation and not because indigenous communities like the Batwa have a right to participate in the management of their ancestral homes.

Many interviewees only acknowledged the need to specifically target the Batwa because they saw the Batwa as the biggest threat to biodiversity and not because of any inherent right the Batwa may have,

We realised that the Batwa were unique ... when you analyse who are setting the snares, it is 70% Batwa, so we realised we needed to work with the Batwa.

Additionally another respondent commented that,

I think there are limits to how indigenous people can participate in PA management ... to think they can scrutinize park plans is unreasonable ... [indigenous people] should be involved not at all stages but only at appropriate stages.

Another interviewee talked of 'management in context'.

These kinds of statements beg the question of what is 'appropriate' or 'in context' and who gets to decide? These comments suggest that what constitutes effective and meaningful participation of indigenous peoples in PA management is a subjective decision that is best made by the current PA managers and conservationists. This sentiment, however, harks back to previous conservation paradigms that have widely been disregarded. Further, these responses highlight that the involvement of IP is seen by most PA managers as a privilege that is facilitated by the PA managers rather than a right which the indigenous Batwa have and which does not require the privilege of others.

## Recommendations

Obstacle	Potential Measures
<p>Government views indigenous and local communities as part of the problem, not part of the solution, in promoting conservation.</p>	<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>
<p>Government is taking a 'privilege' instead of a rights-based approach.</p>	<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 recognised 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>
<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.</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"> <li>• Their unique historical land and resource rights in respect of their ancestral lands, with reference to international human rights law;</li> <li>• Their particular cultural and socioeconomic needs in respect of forest resource use and access;</li> </ul>
<p>Government do not acknowledge the indigenous status of the Batwa and approaches assume a homogeneous local community.</p>	<p>The Government should amend national policy to acknowledge the internationally recognised definition of indigenous people. This must then lead on to the Batwa being specifically acknowledged as the indigenous people of the south-west of Uganda.</p>
<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"> <li>• Culturally appropriate initiatives to improve Batwa access to education;</li> <li>• Adult literacy programmes;</li> <li>• Batwa community sensitisation and consultations on collaborative park management;</li> <li>• Improved access to information for Batwa on protected area management in appropriate languages and formats;</li> <li>• Training and support for Batwa communities to strongly and independently represent themselves;</li> <li>• Prompt establishment of the Batwa Representation Committee that was meant to be created with funding and assistance from the Conservation Trust.</li> </ul>

Obstacle	Potential Measures
	<p>The government should, in tandem with the above measures, adopt or adapt PA management structures that are more inclusive and sensitive to the capacity of the Batwa.</p>
<p>There is disagreement amongst conservationists and protected area managers as to the correct definition of much of the content of the Durban Action Plan and PoW-PA</p>	<p>All members of the IUCN and CBD should make a concerted effort to sensitise members of as to the content of the agreements so that the agreements cannot be individually translated as appropriate.</p> <p>The IUCN secretariat should launch a specific programme of work to sensitise its members and their staff as to the background and context of the Durban Action Plan. Such work should be clear on what kind of participation and management the Action Plan intended to suggest. It should not be left to individual organisations to interpret the agreements as they wish.</p>

## VI Summary

In summary, while certain frameworks exist and there is growing recognition of community rights in relation to protected areas, genuine participation of the Batwa, 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 Batwa 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. From this review it is clear that despite the call for a new conservation paradigm, and a new set of standards that reflect such a call, in practice, protected area managers still perceive indigenous peoples as external to conservation and, as a result, the translation of the Action Plan and PoW-PA into effective action on the ground is far from satisfactory.

Immediate and concerted efforts are required on the part of the Government of Uganda, Uganda Wildlife Authority, and civil society to address these injustices and to put into effect the WPC Durban Action Plan and the CBD Programme of Work on Protected Areas.

As one respondent commented,

Why can't you have a Mutwa on a [management] board? After Apartheid they made sure a black was on boards so it gave confidence. It was an indication to show that you are serious. But if you keep [the Batwa] behind then you are not being serious in trying to help them. [Protected Area Managers] can keep talking but [they] need to take action.

## Notes

- <sup>1</sup> The Durban Action Plan, p 225
- <sup>2</sup> See for example Colchester, M (2003) *Salvaging Nature: Indigenous People, Protected Areas and Biodiversity Conservation*, Montevideo and Moreton-in-Marsh, World Rainforest Movement, Forest Peoples Programme
- <sup>3</sup> Taylor, D, Robertshaw, P & Marchant, R A (2000) Environmental change and political economic upheaval in pre-colonial western Uganda, *The Holocene*, vol 10, no 4, pp 527–536
- <sup>4</sup> Uganda National Census 2002
- <sup>5</sup> Phillipps, T (1930) 'Gorillas at home', *The Times*, February 8, 1930, p 13
- <sup>6</sup> Hingston, R W G (1931) Proposed British National Parks for Africa, *The Geographical Journal*, vol 77, no 5, p 417
- <sup>7</sup> Mgahinga was originally gazetted as a Gorilla Sanctuary in 1930
- <sup>8</sup> Dart, R. A. (1960) Can the Mountain Gorillas be Saved?, *Current Anthropology*, vol. 1, no 4, pp 330–331
- <sup>9</sup> IUCN (1994) *World Heritage Nomination – Bwindi Impenetrable National Park*, International Union for the Conservation of Nature and Natural Resources
- <sup>10</sup> Hamilton, A, Baranga, J & Tindigarukayo, J (1990) Proposed Bwindi (Impenetrable) Forest National Park: Results of Public Enquiry and Recommendations for Establishment (Draft Report), Uganda National Parks, Kampala, p 16
- <sup>11</sup> Ibid, p 32–41
- <sup>12</sup> Ibid, p 39–40
- <sup>13</sup> 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
- <sup>14</sup> World Bank Operational Directive 4.20
- <sup>15</sup> Mutebi, J, Co-managed Protected Areas: from conflict to collaboration. Experience in Bwindi Impenetrable National Park, Uganda, CARE Uganda (September 2003), p 7
- <sup>16</sup> Namara, A (2006) From paternalism to real partnership with local communities? Experiences from Bwindi Impenetrable National Park (Uganda), *Africa Development*, vol.XXXI, no 2, p 58
- <sup>17</sup> See for instance Kabanukye, 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
- <sup>18</sup> Three in Karamoja, one near Lake Albert, and one near Hoima
- <sup>19</sup> Hulme, D & Murphee, M (1999) Communities, Wildlife and the 'New Conservation' in Africa, *Journal of International Development*, vol 11, no 2, pp 278
- <sup>20</sup> Ibid
- <sup>21</sup> See Sections 13 and 17 of the Uganda Wildlife Act Cap 200
- <sup>22</sup> Op cit, p 283



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