

# Written Statement by Society for Threatened Peoples

a non-governmental organization in special consultative status

Human Rights Council  
16<sup>th</sup> Session

MAIN CONTACT PERSON:  
ULRICH DELIUS

P. O. Box 2024  
D-37010 Göttingen

Phone: +49 (0)551 49906-27  
Fax: +49 (0)551 58028  
E-Mail: info@gfbv.de

February 14th, 2011

## Item 3: Right to Adequate Housing. The Destruction of Batwa houses in Rwanda

The “Bye Bye Nyakatsi” (Bye Bye grass-roofed-houses) campaign started in November 2010. It dictates the rebuilding of all grass-roofed-houses throughout Rwanda. Many Batwa lost their houses and became homeless due to the campaign.

The estimated 20,000-27,000 Batwa people are the most marginalised community in the Great Lakes region of Africa.

### **The Rwandan policy of assimilation**

Since the 1994 genocide, when the ruling elite of the majority Hutu group stoked up murderous hatred against minority Tutsis, ethnicity has been a difficult and sensitive area in Rwanda. The Rwandan government has prohibited identification along ethnic lines. Since the end of the genocide the government has promoted a common national identity, encouraging people to identify as Rwandans rather than with their different ethnic groups. Officially, this policy is in place to promote a unified Rwanda and avoid a repeat of the sectarian violence that led to one of the worst genocides in history.

In reality it means the Batwa have no platform to reclaim the land taken away from them by commercial development of the forest and displacements.

In 2004 the Rwandan Justice Ministry refused to grant legal status to the Batwa-rights NGO ‘Communauté des Autochtones Rwandaises (CAURWA)’ unless it stopped identifying the Batwa as Rwanda’s first inhabitants, and stopped referring to Batwa people. In 2007, CAURWA was forced to change its name, as the government refused to budge on the issue of the renewing the charity licence, until the NGOs had dropped the word ‘indigenous’ from its title.

CAURWA is now called COPORWA ( Communauté des Potiers du Rwanda). Ethnic discourse essentially has been criminalised in Rwanda. Article 33 of the Constitution states that ‘Propagation of ethnic, regional, racial or discrimination or any other form of division is punishable by law.’ The text of the law on ‘divisionism’ is very broad, to the extent that it risks violating equal protection and freedom of expression guarantees under the Constitution. The ban on ethnic self-identification is also a violation of the right to freedom of expression guaranteed by Article 19 of the International Covenant on Civil and Political Rights.

For the marginalized Batwa community – historically discriminated against by both Hutu and Tutsi – recognition of its distinct identity has been extremely important. Without it, it will be extremely hard to tackle the multiple forms of discrimination against this small group, or to maintain what remains of their rich and distinctive cultural traditions.

## **Batwa – The forgotten indigenous people of Rwanda**

By the early 19<sup>th</sup> Century, the Batwa had seen their ancestral forests cleared. Some were able to survive but many had become landless beggars, whose traditional forests were taken over for agriculture, commercial forestry plantations and wildlife conservation areas. When it comes to education, health and other social services, Batwa fare worse than either Hutu or Tutsi. As the NGO 'Forest Peoples Programme' notes in a 2006 submission to the Human Rights Commission: the protection of many of the Batwa's human rights is recognized neither 'by law [or] in fact'.

Traditionally, the Batwa were forest-dwellers. Batwa were increasingly forced to abandon their traditional lifestyle and culture by Hutu and Tutsi that relied on farming and herding. On the margins of the new society, some Batwa survived by making and selling pottery. By 1970s, agriculture and conservation schemes created ever-greater pressures on the Batwa, rendering many landless, without consultation or compensation. In the late 1980s, all remaining forest-dwelling Batwa were evicted from Volcanoes National Park, the Nyungwe Forest Reserve, and the Gishwati Forest. As a result of this land confiscation, the Batwa have lost much of their traditional forest knowledge. Increasing poverty brought on by the loss of their livelihoods in turn increasingly led other Rwandans to stigmatize Batwa as social outcasts.

Many Batwa were killed in the 1994 war and genocide. The Unrepresented Nations and Peoples Organization (UNPO) estimates that about 10,000 people, more than a third of the Batwa population of Rwanda, were killed and that a similar number fled the country as refugees.

## **Constitutional and legislative framework in Rwanda**

The Batwa identified themselves as a minority, and were identified as 'Twa' on national identity documents until ethnic differentiation on these cards was abolished after the 1994 genocide. The Batwa meet all four of the recommended principles to be taken into account in any possible definition of indigenous peoples, as put forward by the UN Working Group on Indigenous Populations.

The Unrepresented Nations and Peoples Organisation (UNPO) expressed concern in a recently published Universal Periodic Review to the United Nations Human Rights Council, criticising that Rwanda has not ratified ILO Convention 169 in relation to indigenous and tribal communities.

Article 19 of the International Covenant on Civil and Political Rights submitted that the Genocide Ideology Law was contrary to international human rights law. According to Article 19, the law's central concept of "genocide ideology" violated the UN Convention on the Prevention and Punishment of the Crime of Genocide of 1948 and the International Covenant on Civil and Political Rights of 1966 in multiple ways. Furthermore, numerous provisions of the Genocide Ideology Law that related to penalties were also in violation of international human rights law, notably the Convention on the Rights of the Child.

UNPO stated that a recent survey among Batwa women in Rwanda revealed that they suffered more violence compared to women from other ethnic groups.

UNPO identified land ownership as the most pressing issue facing the Batwa, which was intrinsically linked to their right to movement, residence and protection of property. The semi-nomadic lifestyle of the Batwa with its forest-based existence was not conducive to the land

regime in Rwanda which did not recognise the Batwa right to the land on which they live. According to UNPO, the Batwa lost much of their land to the thousands of people who returned from exile and they have not received compensation for the loss of their land and land settlements that would allow them to rebuild their lives. The increased economic activity in Rwanda has had detrimental implications of the Batwa.

### **“Bye Bye Nyakatsi” – A ruthless governmental campaign**

According to several sources, Rwandan authorities have already destroyed, without any compensation, nearly three quarters of the 115,000 grass-roofed-houses, especially in the Eastern Province. These houses belong to poor peasants. A better part of Batwa lives in Nyakatsi-houses. The Rwandan government had set this campaign in place in June 2010 in order to end the existence of grass-roofed-houses throughout the Rwandan territory, but the deadline was postponed to the end of 2011.

As a result some 400,000 people were left homeless. A 2004 survey of Batwa land ownership found that 43% of households were landless, compared to a landlessness rate of 12% among the general population of Rwanda. Of those Batwa households with land, 46% own less than 0.15 hectares of land. According to recent data, about 40% of the Batwa community members now rely on begging as their primary source of livelihood.

The authorities are determined to complete this operation as expected before December 31 2011. Batwa have been forced to change their traditional ways of life.

### **Society for Threatened Peoples calls on the Human Rights Council to urge the government of Rwanda to:**

- put a moratorium on the destruction of Batwa houses and establish a commission consisting of government as well Batwa representatives that helps to increase the participation of Batwa people in housing and land issues,
- distribute land to the Batwa as a landless group under Article 87 of the Land law. The government, along with Batwa communities, should use participatory and transparent methods to comprehensively ‘map’ the historic dispossession of the Batwa from their lands and devise appropriate and equitable remedies,
- recognise the Batwa as an indigenous group. Rwanda should also ratify the ILO Convention 169 and take measures to promote its efficacy in supporting indigenous rights,
- carry out an independent review of the implementation of all the genocide-related laws, and ensure their implementation in a way that is consistent with the rights recognised by the 1981 United Nations Declaration on Human Rights Defenders and with Rwanda’s international obligations.