

**ASSESSING THE RIGHTS OF THE INDIGENOUS CHILD TO EDUCATION- A CASE STUDY OF  
THE BATWA IN UGANDA**

**Submitted in partial fulfilment of the requirements of the LLM (Human Rights and  
Democratisation in Africa) of the University of Pretoria**

**By**

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## DECLARATION

I, **Onuora-Oguno Azubike Chinwuba** declare that the work presented in this dissertation is original. It has never been presented to any other University or Institution. Where other people's works have been used, references have been provided. It is in this regard that I declare this work as originally mine. It is hereby presented in partial fulfilment of the requirements for the award of the LL.M Degree in Human Rights and Democratisation in Africa.

Signed.....

Date.....

Supervisor: Dr Ben Twionomgusiha

Signature .....

Date.....

## DEDICATION

To the Almighty God for His mercies and favors' throughout the duration of the programme. To my wife and little angel: Blessing Ogehenbrume and Brume Ifunanya Grace (BIG) for their support and prayers.

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## LIST OF ABBREVIATIONS

ABEK	Alternative Basic Education for Karamoja
ACHPR	African Charter on Human and Peoples' Rights
ACHPR	African Commission on Human and Peoples' Rights
BEUPA	Basic Education for Urban Poverty Areas
CBME	Community Based Monitoring and Evaluation
CDRIN	Community Development Resource
CERD	Convention on the Elimination of All forms of Discrimination
COPE	Complimentary Opportunity for Primary Education
CRC	Convention on the Rights of the Child
DES	Directorate of Educational Standard
DRIP	United Nations Declaration on the Right of the Indigenous People
ESA	Educational service Agency
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPCR	International covenant on Civil and Political Rights
ILO	International Labour Organisation)
INGWIA	International Working Group for Indigenous Affairs
MBIFCT	Mgahinga and Bwindi Impenetrable Forest Conservation Trust
MDG	Millennium Development Goals
MRGI	Minority Rights Group International
MoES	Ministry of education and Sports
NCDC	National Curriculum Development
NCDC	National Curriculum Development Centre
NGO	Non Governmental Organisation
PIN	Pin Identification Number
PPA	Principal Policy Assistant
UBE	Universal Basic Education
UBE	Universal Basic Education
UDHR	Universal Declaration of Human Rights
UN	United Nations (UN)
UNICEF	United Nations Children's Fund
UOBDU	United Organisation for Batwa Development in Uganda
UPE	Universal Primary Education
VBTP	Village Based Trainers Programme

WGIP	Working Group on Indigenous populations
WHO	World Health Organisation
WIPCE	World Indigenous Peoples Conference on Education

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## CHAPTER ONE

### SCOPE, SETTING AND FRAME WORK OF STUDY

Literacy rates are poor for most indigenous peoples and often school attendance is less than 50% below the national level. Since most of them live at the periphery of their respective countries, it is often very difficult if not impossible for children to walk to school. Their nomadic life style is often blamed for this, rather than the inability of governments in Africa to adjust to the varying needs of different communities within their borders.<sup>1</sup>

#### 1.1 Background

Access to education, health facilities and child labour are major issues that affect the child in the world today.<sup>2</sup> Worst hit by these issues are indigenous people the world over in attaining equal level of education with majority groups.<sup>3</sup> In most circumstances the remoteness of their dwelling, social and economic positions ensures that indigenous people remain disadvantaged. They are mainly forest dwellers, hunters and farmers; highly attached to their environments and suffer some form of exclusion from the rest of the people.<sup>4</sup> Indigenous peoples suffer human rights violations to the extent that some groups are on the verge of extinction.<sup>5</sup>

In adopting the Declaration on the Right of the Indigenous People (DRIP), the United Nations (UN) affirmed the equality of all indigenous people with other groups.<sup>6</sup> Similarly, the African Commission on Human and Peoples' Rights (ACHPR) set up an International Working Group for Indigenous Affairs (INGWIA) that investigated the claims of various indigenous groups across Africa reaching a conclusion on the existence of marginalised indigenous groups.<sup>7</sup>

Some countries in Africa claim that all Africans are indigenous and prefer the use of the term 'indigenous minority'.<sup>8</sup> The Ugandan constitution for instance provides that every person, born in Uganda or residing therein as of February 1926 is indigenous.<sup>9</sup> According to Rosette Nyirinkindi<sup>10</sup> 'to set apart and focus on some of these communities to the exclusion of others is a flagrant breach of Uganda's constitutional commitment to equality and a short cut to ethnic strife'.<sup>11</sup>

The definition of indigenous people adopted for the purpose of this research is that of Martinez Cobo in his study of the problem of discrimination against indigenous populations:

<sup>1</sup> Report of the African Commission's Working Group of Experts on Indigenous Populations/Communities (IWGIA) adopted by the (ACHPR) at its 28 ordinary session 55.

<sup>2</sup> P Larsen 'Indigenous and Tribal Children: Assessing Child Labour and Education Challenges ILO Working Paper' 1.

<sup>3</sup> P Justino & J Litchfield 'Economic Exclusion and Discrimination: the Experience of Minorities and Indigenous peoples' (2003) 11.

<sup>4</sup> R Akankwasa 'Indigenous Peoples and their Cultural Survival in Uganda: the Legacy of Educational Dependence' East African Journal of Peace and Human Rights, (2001) 229.

<sup>5</sup> n 1 above 15.

<sup>6</sup> United Nations adopted the Declaration on the Rights of Indigenous Peoples' during the sixty-first session Agenda item 68, September 2007. The preamble affirms equality of indigenous people.

<sup>7</sup> n 1 above 8.

<sup>8</sup> F Viljoen 'International Human Rights in Africa' 279; See also third schedule of Uganda 1995 Constitution.

<sup>9</sup> Art 10(a).

<sup>10</sup> The head of the African Union division in Uganda's Ministry of Foreign Affairs.

<sup>11</sup> K Abraham 'the Rights of Indigenous Peoples in Africa in reflections on the 20th anniversary of the African Commission on Human and Peoples' Rights H ABBAS ed 2007.

Indigenous peoples form at present non-dominant sectors of their society, in addition, they are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as a basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system.<sup>12</sup>

The inclusion of education as one of the Millennium Development Goals (MDG) by the UN brings to the fore the crucial importance of education.<sup>13</sup> The assumed co-relation between education and empowerment is so completely interwoven into development and educational discourse today that it has become virtually unquestioned.<sup>14</sup> The United Nations Children's Fund (UNICEF) observes that over 40 million children do not attend school and that gaining access to education by many children in Africa remains a struggle.<sup>15</sup>

From the foregoing, an analysis of the definition of Martinez Cobo and the challenge faced by children in Africa, inferred is that access to education by indigenous people remains a challenge in Africa.<sup>16</sup> The Batwa people of Uganda identified as indigenous,<sup>17</sup> fall among the worst hit with inability to access education and high dropout rates.<sup>18</sup>

The Batwa pygmies of Uganda, mainly forest dwellers, live in Southwest Uganda in the districts of Bundibugyo, Kabala, Kisoro and Rukungiri.<sup>19</sup> According to the 2002 population census, the Batwa population in Uganda is about 6000.<sup>20</sup> Kabanankye and Kwagala estimate the Batwa population to constitute 0.3% of the total population of Uganda.<sup>21</sup> Lewis Jerome states that they are the original inhabitants of the equatorial forests of the Great Lakes Region of Central Africa.<sup>22</sup>

They have in recent decades dealt with the effects of conservation efforts in some areas and environmental degradation due to logging and disappearing forestland.<sup>23</sup> Some of their neighbours

<sup>12</sup> Special Rapporteur, Sub Commission on Prevention of Discrimination and Protection of Minorities, 1986, Study of discrimination against Indigenous Populations E/CN.4/Sub.2/1986/7/Add.3 Geneva, 1987.

<sup>13</sup> F Faller 'Universal Primary Education in sub-Saharan Africa Achievable or Impossible target' in F Nwaonu (ed) Millennium Development Goals achievement and prospects of meeting the targets in Africa in universal primary education 37.

<sup>14</sup> J Hays 'Indigenous Rights in Education: The SAN of Southern Africa in local and global context in R Hitchcock and D Vinding (eds) Indigenous Peoples' Rights in Southern Africa 228.

<sup>15</sup> F Jjuuko & C Kabonesa Universal Primary Education (UPE) in contemporary Uganda right or privilege? HURIPPEC working paper No 8, 5.

<sup>16</sup> This argument infer that Indigenous people suffer discrimination in all States where they reside, thus if access to education is problematic in Africa indigenous people are likely to be the most hit by the inability.

<sup>17</sup> Seminar on the rights of ethnic, linguistic and religious minorities in Africa 10-12 March 2008 p13 held at the centre for human rights university of Pretoria.

<sup>18</sup> Akankwasa (n 4 above) 230.

<sup>19</sup> W Baker, Uganda: The marginalization of minorities, an MRGI report 2001 17.

<sup>20</sup> Kabanankye, Kabann, et al 'Report on a study of the Abayanda (Batwa) Pygmies of South West Uganda for Mgahinga and Bwindi Impenetrable Forest Conservation Trust' IK Resource Centre.

<sup>21</sup> K Kabanankye & D Kwagala, Culture, minorities and linguistic rights in Uganda, HURIPPEC working paper No 11 2007 5.

<sup>22</sup> Lewis Jerome 'The Batwa Pygmies of the Great Lakes Region' an MRGI report 2000 10.

<sup>23</sup> S Balenger, E Coppenger, et al, 'Between Forest and Farm: Identifying Appropriate Development Options for the Batwa of Southwestern Uganda' [www.gwu.edu/~oid/Capstone/Capstone%20papers/forestandfarm.pdf](http://www.gwu.edu/~oid/Capstone/Capstone%20papers/forestandfarm.pdf) (accessed on August 28 2008).

do not even wish to socialize with them and consider it abominable, to eat or drink with them and marry their daughters.<sup>24</sup> This state of affairs has often led their children to abandon schools, sighting discrimination and bullying by pupils from other tribes as reasons for dropout.<sup>25</sup>

The general perception that the Batwa are barbaric, wild, uncivilized, untidy, ignorant, and above all sub-human seems to be at the foundation of their consistent exclusion from the mainstream of society and their marginalization.<sup>26</sup> They are practically voiceless on the local political arena suffering severe ethnic discrimination. Originally, the Batwa spoke the Rutwa language. However, Kabanankye and Kwagala state that Rutwa has been completely lost.<sup>27</sup> Their neighbours, the Bakiga and the Bafumbira, have no knowledge of Rutwa forcing the Batwa to speak the language of their neighbours, either Rukiga or Rufumbira, depending on their location in intra-group interactions. The consequences of this development are that the Batwa learn new languages both for educational and economical purposes.<sup>28</sup>

The Batwa creation myth affirms the centrality of the forests in their lives.<sup>29</sup> In the myth, the Creator gave out important places to all earth's inhabitants and when it was time to give the Batwa a home, the Creator only had the forest left. They consider themselves supreme, and worship the spirits in the forest to preserve their special status.<sup>30</sup> The Batwa played important roles in Ugandan society through the beginning of British colonial administration in the early twentieth century. They were tinkers, blacksmiths, potters, day labourers, bards, and performers.<sup>31</sup> Recognized as the denizens of the forests, their knowledge of medicinal plants and provision of meat to farmers enabled them to exist in a mutually beneficial relationship with the Bantu majority.<sup>32</sup> They traded game meat, medicinal herbs, timber and other non-wood forest products, to their Bantu neighbours in exchange for agricultural products. They retrieved certain forest products of which they had specialized knowledge, such as traditional medicines.<sup>33</sup> Like many hunter-gatherers, they were semi-nomadic and regularly move to new areas of the forest for such reasons as looking for better game or due to a death in the group.<sup>34</sup> Living in the forest, the Batwa had an egalitarian society that lacked formalized leadership.<sup>35</sup> The governance system was a direct result of their immediate-return

<sup>24</sup> L Freeman 'Promoting the Rights of the Batwa Pygmies: Recognition, Representation and Cooperation' (*March 2001 to February 2004*) an MRGI report 2007.

<sup>25</sup> Akankwasa (n 4 above) 237.

<sup>26</sup> n 24 above 9.

<sup>27</sup> n 24 above 7. The author confirmed this assertion during his visit to the Batwa community, as the only Mutwa that has knowledge of the original language is the very elderly ones.

<sup>28</sup> n 24 above 8.

<sup>29</sup> n 23 above.

<sup>30</sup> n 23 above.

<sup>31</sup> n 23 above.

<sup>32</sup> n 23 above.

<sup>33</sup> K Kabanankye unpublished, 'Ethnic- Racial Minorities: Movement towards political inclusion: the case of the Batwa in Uganda'.

<sup>34</sup> n 23 above.

<sup>35</sup> n 23 above.

livelihoods; they were dependent on each other for everyday survival and were only as strong as their weakest group member was.<sup>36</sup>

Against the above background, this study assesses the right to education of indigenous people with the Batwa as a case study. Uganda having ratified all major international law instruments guaranteeing the right to education still faces numerous challenges in the level of access to education of the Batwa. Thus, investigated are factors that affect the realisation of the right to education of the Batwa.

## 1.2 Statement of Problem

In Africa, the term indigenous peoples or communities is not aimed at protecting the rights of the first inhabitants that were invaded by foreigners,<sup>37</sup> but rather it aims to guarantee equal enjoyment of rights and freedoms to some communities that have been left behind in terms of development.<sup>38</sup> From the characteristics of indigenous people stated above, the Batwa qualify for identification as indigenous. Indigenous people all over the world experience marginalisation in several areas of their existence. Their dominant experiences have been that of violation of their fundamental rights as it relates to education, health and identity.

The lack of consensus on definition of indigenous people in Africa for a very long time contributes in widening the gap between indigenous people and the rest of the tribes. However, for the purpose of this research, a clear distinction is drawn between minority rights and indigenous rights as the latter claims are usually collective in nature, linked to spiritual ties, dependence on land and are rooted in extreme forms of marginalisation and subjugation that go beyond mere political and economic dominance while that of the former are not.<sup>39</sup>

Article 30 of Uganda 1995 Constitution provides for the right to education.<sup>40</sup> Also in place is the Ministry of Education and Sports with prime responsibilities of overseeing education in the country and the Universal Primary Education to ensure access to education at the Primary level.

<sup>36</sup> Akankwasa (n 4 above) 229.

<sup>37</sup> n 8 above 281.

<sup>38</sup> Response note to 'The draft aide memoire of the African group on the UN declaration on the rights of indigenous peoples' presented by an African group of experts, (2007) 4.

<sup>39</sup> n 8 above 278.

<sup>40</sup> Constitution of Uganda 1995 art 30 provides that 'all persons have the right to education'.

However, despite the laudable legal framework of education in Uganda, a *lacuna* is still very evident in the status of education of the Batwa child. The education status of the Batwa aged between 6 and 12 years inclusive show that 40.4% Batwa pupils in Uganda had never been to school.<sup>41</sup> Currently the illiterate population in Batwa is 2,270 out of a population of 5,575. A gender comparison shows that illiteracy is more in females than in males. This figure is 57.5% to 42.5% respectively.<sup>42</sup>

Poverty is a key factor that affects the access to education. The Batwa people are economically disadvantaged because of their lack of education. In most instances, they are unable to afford books, uniform and other accessories that children need to enjoy the benefits of education. In addition to poverty, discrimination is also a major characteristic of the Batwa in their quest for education. Batwa children suffer discrimination from classmates; neighbouring ethnic groups who ridicule them for being dirty, lazy and different. Akankwasa suggests that the consequence of discrimination explains the poor attendance to school and low completion rate of Batwa children in schools.<sup>43</sup>

Mindful of the fact that the right to education is a human right and the threat posed by the inability of the African child to access education, this study assesses the right of indigenous child to education, with the Batwa as a case study.

### 1.3 Research questions

Questions addressed by this study are:

- i. What is the Batwa perception of their right to education in Uganda?
- ii. Do cultural practices affect access to education of the Batwa child?
- iii. What impact does curriculum content have on the Batwa access to education?

### 1.4 Focus and objectives of the study

The study seeks to achieve the following:

- i. Highlight the perception of the Batwa on the right to education
- ii. Make a case for the importance of education in the interest of the Batwa
- iii. Make conclusions and recommendations that will enhance the right to education of the Batwa child.

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<sup>41</sup> n 33 above 20.

<sup>42</sup> n 33 above 25.

<sup>43</sup> Akankwasa (n 4 above) 240.

## 1.5 Significance of the study

The purpose of this study is borne against the backdrop of the evolving trend of the protection of indigenous people. This is because indigenous people suffer discrimination in various ways: economically and developmentally. In addition, it is important to extrapolate structures that will address the lot of the indigenous child's access to education. It is also important to ensure that the indigenous people are encouraged to revitalise their cultural pattern of life in line with human rights provisions that will improve their access to education.

Conclusions and recommendations reached would not only assist Uganda in fashioning out a model that will not seek to treat education as a means to economic end but as an end in itself. In addition, an all-encompassing model of education that will encourage quality education and training of the indigenous child to erase any form of disadvantage or inferiority already experienced by the indigenous child is proposed. Thus, the benefit of this research is not just to the Batwa but also other indigenous peoples' in the world generally and Africa in particular.

## 1.6 Literature review

Literature on the right to education and the indigenous child has witnessed a tremendous increase in recent years. Consulted for the purpose of this research are books, journals and internet resources.

Jennifer Hayes argues that the reliance on formal education and neglect of the cultural and traditional characteristics of indigenous peoples' contribute to the large dropout rate and non-success story of education of indigenous peoples'.<sup>44</sup> She further states that around the world, indigenous minorities are at the bottom of the socio-economic hierarchy and are most disadvantaged educationally.<sup>45</sup>

Francis Faller argues that education is a fundamental condition for an informed society; an essential means of enhancing the spread of knowledge and the foundation for the efficient application and distribution of natural resources.<sup>46</sup> He posits that basic education aims at delivering a foundational programme of learning that equips the pupil with the capacity to engage in some form of lifelong enterprise.<sup>47</sup> He describes western education as a narrow and exotic substance that left the newly independent states with educational legacy that was elitist and alienating.<sup>48</sup> However, several other factors affect the poor situation of the right to education among Africans.

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<sup>44</sup> n 14 above 229.

<sup>45</sup> n 14 above 238.

<sup>46</sup> F faller 'universal primary education in sub-Saharan Africa Achievable or Impossible target' in F Nwaonu (ed) Millennium Development Goals achievement and prospects of meeting the targets in Africa in universal primary education (2008) 37.

<sup>47</sup> n 46 above 38.

<sup>48</sup> n 46 above 39.

This includes but is not limited to corruption, HIV/AIDS and poverty. The World Health Organisation (WHO) estimates that Africa has more than 10million children living on their own, most of them increasingly vulnerable to HIV, which also decimates the teaching corps and reaping particular havoc among young female teachers.<sup>49</sup>

Jjuuko and Kabonesa highlight the structure of the right to education in Uganda to run on a four level single-track system.<sup>50</sup> It is noted, that education is important and so crucial to improving health and increasing incomes.<sup>51</sup> They identify the rights in education to involve all those rights whether civil, social, economic or cultural within the context of education.<sup>52</sup> They however, do not identify the challenges posed by cultural affinity especially as it concerns the various indigenous peoples in Uganda. Thus while the author shares some views enunciated in this work, this work further investigates whether there are challenges posed by the way of life of the indigenous people.

Tomaševski posits the 4-A scheme of making education available, accessible, acceptable and adaptable as major factors that affect the right to education as a legally enforceable right.<sup>53</sup> In arguing for the best interest of children in the education technique,<sup>54</sup> Tomasevski is of the view that education law has traditionally treated children as objects of education, specifying the rights of parents, teachers and the state. She contends that the affirmation of the rights of the child in most countries is not yet accomplished.<sup>55</sup> This view makes the form of education an important issue in dealing with the indigenous child. In identifying the challenges, facing the right to education of the indigenous people, the author makes a direct application of the acceptability of the various teaching models employed in the quest to educate the Batwa children.

Anya restates the fact that economically and socially indigenous peoples are crippled.<sup>56</sup> In both industrial and less developed countries in which indigenous people live, they are most invariably at the lowest rung of the socio-economic ladder.<sup>57</sup> He lays emphasis on the challenges of poverty, institutional and legal framework as factors affecting access to education. However, this work goes beyond the study of government institutions responsible for education and legal framework guiding education in states. It investigates the impact of culture as a specific issue that impede the realisation of the right to education among indigenous peoples.

<sup>49</sup> n 46 above 40.

<sup>50</sup> F jjuuko & C Kabonesa Universal Primary Education (UPE) in contemporary Uganda right or privilege? HURIPPEC working paper No 8, (2007) 5.

<sup>51</sup> n 50 above.

<sup>52</sup> n 50 above 45.

<sup>53</sup> K. Tomaševski 'Free and compulsory education for all children: The gap between promise and performance Right to Education' Primers No. 2 (2001) 8.

<sup>54</sup> The issue of what is in the best interest of the child still remain relatively unsettled eg the issue of corporal punishment and reservations entered by some states to the provisions of the CRC all attest to this debate.

<sup>55</sup> K. Tomaševski 'Removing obstacles in the way of the right to education' Primers No. 1 (2001) 44.

<sup>56</sup> SJ Anya 'The human rights of indigenous peoples' in F Gomez Isa and K de Feyter (eds) in international protection of human rights: achievements and challenges 594.

<sup>57</sup> Anya (n 56 above) 594.



Kabananukye and Kagwala acknowledge that culture is intrinsically valuable and an important dimension of identity and a form of capital with the potential to move people out of income poverty.<sup>58</sup> In contextualising culture, they opine that culture includes both tangible and intangible heritage, which is complex, and in constant evolution. The tangible heritage includes monuments or architecture, art and crafts, sites, manuscripts, books and other objects of artistic and historical interest while the intangible includes folklores and songs.<sup>59</sup> They restate the fact that Uganda has a complex pattern of uneven development, regional conflict, and minority rights concerns.<sup>60</sup> However, linguistic and cultural identities form the nucleus of their work. They identify the Batwa as a minority and not as indigenous people and consider their right to language as opposed to the author's bias to the right to education of the Batwa. Inspiration drawn from their rich cultural context as it relates to language, as a vehicle for education communication is invaluable.<sup>61</sup>

A common trend that runs through the above reviewed works shows the non-investigation of culture as a specific factor that may affect indigenous peoples' access to education. This *lacuna* forms a major focus of this research to highlight and contribute on ways to advance parity between indigenous and non-indigenous children access to education in Uganda

## 1.7 Methodology

The study comprises of library research, questionnaires, focus group discussion and interviews. The respondents are staff of NGO's that work in the field of indigenous issues, community leaders, some indigenous pupils and government officials. Prime among the NGO's are:

1. United Organisation for Batwa Development in Uganda (UOBDU)
2. CARE
3. Mgahinga and Bwindi Impenetrable Forest Conservation Trust (MBIFCT)

Key respondents interviewed include Neza Henry of UOBDU, Robert Tumwesigye Baganda of MBIFCT and Francis Nwonwu of the African Institute of South Africa. In addition, one key informant each from the Ugandan Ministry of Education and Sports (MoES), National Curriculum Development Centre (NCDC) and the Directorate of Educational Standard (DES) form part of the respondents. Other respondents were from among the Batwa; this is to have a proper evaluation of policy translation. Translation and back translation were by both Neza Henry and Besigye Samuel. Data presentations are by use of tables and charts.

<sup>58</sup> K Kabananukye & D Kagwala 'Culture, Minority and Linguistic Rights in Uganda the case of the Batwa and the IK' HURIPEC working paper No 11, (2007) IV.

<sup>59</sup> n 58 above 4.

<sup>60</sup> n 58 above 10.

<sup>61</sup> n 58 above 2.

## 1.8 Limitations of the study

The study is limited in the following ways:

- i. 'Limited volume of word count' restricts focus on the issues of indigenous child right to education.
- ii. The research focuses only on the effect of the Batwa as indigenous people and not on other factors that may affect the right to education.<sup>62</sup>
- iii. The author visited only the Kisoro settlement of the Batwa from September 21-23, 2008 and not the other small settlement like Kabala, Bundibugyo where the Batwa live.

## 1.9 Overview of chapters

Chapter 1 provides the context in which the study is set. It outlines the basis and structure of the study, lays the background to the research and the problem, enumerates the aims and objectives of the study and outlines the methodology.

Chapter 2 conceptualises indigenous people, the right to education and situation of culture in Uganda making an in-depth study into the legal regime that seeks to protect the rights of the indigenous child access to education. Also explored is the question whether the culture of the Batwa receives adequate protection in Uganda.

Chapter 3 presents the respondents' views on the impact of culture, form and content of education on the Batwa access to education in Uganda.

Chapter 4 makes a case for the need for the Batwa children access to education. Investigates whether the form and content of education affect access to education and answers the question, whether culture affect Batwa access to education.

Chapter 5 makes conclusions and recommendations.

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<sup>62</sup> Focus is on culture and the status of being indigenous and not on other factors like poverty, HIV/AIDS etc.

## CHAPTER 2

### CONCEPTUAL FRAME WORK OF INDIGENOUS PEOPLE, RIGHT TO EDUCATION, CULTURE AND PRESENT SITUATION OF EDUCATION IN UGANDA

#### 2.1 Indigenous peoples conceptualised

The word indigenous originated in mid 17th century from the Latin word '*indigena*' meaning 'born in' 'belonging to a place', 'originating in and naturally living or occurring in a region or country'.<sup>63</sup> It comprises of two words *indi* meaning 'within' and *gen or genere* meaning 'root'.<sup>64</sup> 'Nation, community, group of individuals' is referred to as people.<sup>65</sup> Indigenous peoples are original inhabitants of a region who occupy a region at the time of its contact with colonial powers or the outside world.<sup>66</sup> Lindley posits that the colonialists used the term indigenous to refer to people found in the regions they colonised.<sup>67</sup>

Considering the colonial experience of Africa, the issue of identifying a group as indigenous becomes problematic. There is no clear-cut definition, and no global consensus about a single definition of who are indigenous people. The Global human rights indigenous movement and the UN system oppose recurrent attempts to have a single strict definition. This is because a single definition is neither necessary nor desirable; it is much more relevant to outline the major characteristics, which can help identify who the indigenous communities in Africa are.<sup>68</sup>

Thus, based on characteristics and identity in the definition of indigenous people by Martinez Cobo and the work of INWGIA, this research infers that Indigenous peoples are people constituting the non-dominant sectors of their society and committed to their environment, knowledge and culture. These characteristics inform the distinction between minorities and indigenous people already posited in this work. Furthermore, whereas minorities suffer numerical disadvantage, their discrimination are linked to economic and political issues as opposed to Indigenous people whose discrimination are linked to cultural and environmental affiliations.<sup>69</sup>

The UN and the world community recognize that indigenous peoples live all over the world, including in Africa. Following the General Assembly declaration of 2005-2014 to be the second

<sup>63</sup> Microsoft Encarta Dictionary 2008, Electronic Version.

<sup>64</sup> Collins Schools Dictionary, 1993, Harper Collins Publishers, p 370 and Longman Dictionary of Contemporary English, 3rd Edition, 1995, Longman Dictionaries, p 724.

<sup>65</sup> n 64 above.

<sup>66</sup> n 64 above.

<sup>67</sup> MF Lindley, *The Acquisition of Governments of Backwards Territory in International Law: Being a Treatise on the Law and Practices Relating to Colonial Expansion* 32.

<sup>68</sup> n 1 above.

<sup>69</sup> F Capotorti Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, (1991) par 568. UN Doc E/CN.4/Sub.2/1985/31.

international decade of the world's indigenous people, the major goals concerning indigenous people were set.<sup>70</sup> These goals include but are not limited to the strengthening of international cooperation around resolving the problems faced by indigenous peoples in areas of health, education and culture. These initiatives include:

- i. Working Group on Indigenous populations (WGIP), established in 1982 by the UN Sub-Commissioner on Prevention of Discrimination and Protection of Minorities;
- ii. Permanent forum on Indigenous Issues established in 2000;
- iii. Appointment of a UN Special Rapporteur for Indigenous People in 2001; and
- iv. Creation of a UN voluntary fund to support indigenous peoples participation in international meetings.

The African Commission set up a working group on indigenous population/communities to investigate the numerous claims of existence of indigenous groups within the continent.<sup>71</sup> Other groups that have dealt with issues relating to indigenous peoples include the International Labour Organisation (ILO) and the World Bank. Thus, there exist protection of the rights of indigenous peoples in several international covenants and treaties.<sup>72</sup> Briefly discussed below is the UN Declaration on the Right of Indigenous People (DRIP), as it relates to education, culture, and the Convention on the Rights of the Child (CRC).

## **2.2 United Nations Declaration on the Rights of Indigenous Peoples<sup>73</sup>**

### **Provision relating to culture**

Article 5 provides that indigenous peoples have the right to maintain and strengthen their distinct political, social and cultural institutions, while retaining their right to participate fully, if they so choose in the political, economic, social and cultural life of the State. Furthermore, article 11 empowers indigenous peoples with the right to practise and revitalize their culture. In addition, article 13 enshrines the right to revitalize, use, develop and transmit to future generations the histories, languages, writing systems and literatures, and to designate and retain their own names for communities, places and persons. A combined reading of the provisions of the above articles shows in clear terms the right of indigenous people to maintain their cultural affinity. States are encouraged to protect and promote the cultural attributes of the Indigenous people. Where a cultural practice amount to a violation of basic human rights that culture would be invalid.<sup>74</sup>

<sup>70</sup> The first decade came into effect in 1993.

<sup>71</sup> Working group was established at the 29th ordinary session in May 2001.

<sup>72</sup> ILO convention on indigenous and tribal peoples, 1989 NO 169, ICCPR, ICESCR, ACHPR, CERD are some of the legal framework with provisions that protect the rights of indigenous peoples.

<sup>73</sup> Adopted in September 2007.

<sup>74</sup> Art 1 of DRIP subjects the provisions therein to the provisions of UDHR and any other international law. This suggests that despite the resolve to revitalise and uphold indigenous cultures, any culture contrary to the norms of international will be invalid. Cultural practices that, entrench discrimination against women, children or harmful fall into this category.

## Provisions relating to education

Article 14 guarantees Indigenous peoples the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. Particularly children have the right to all levels and forms of education without discrimination. In addition, States are encouraged to take effective measures, in order for indigenous people, particularly children, including those living outside their communities, to have access, when possible, to education in their own culture and provided in their own language. The right to education is not only enshrined but also the form and content must conform to the specific need of indigenous people. Article 14(3) particularly, provides that states must take effective measures on ensuring that the indigenous child has an unrestricted access to education.

### 2.3 The Convention on the Rights of the Child

The 1989 CRC is the first binding instrument in international law to deal comprehensively with the rights of children. The Committee on the Rights of the Child implements and assesses the progress made by States Parties in fulfilling their obligations. Article 30 provides for the protection of a child belonging to a minority or who is indigenous. Furthermore, it provides for the right to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language. This provision addresses the individual rights of the indigenous child; it further recognizes the collective dimension of culture, religion and language.

Article 2 asserts the general principle of non-discrimination “irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. Article 29 emphasizes the potential of education to provide a foundation for a harmonious and multicultural society that respects every child’s cultural identity. In addition, it targets the child’s education to ‘the development of respect for the child’s own cultural identity, language and values’ as well as to the development of respect for the natural environment.

Aside the provisions of the DRIP and CRC discussed above, discussed below are other international laws that protects the rights of children and a summary of the provisions relevant to the indigenous child.<sup>75</sup> The Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief<sup>76</sup> provides for the right to have access to education in the matter of religion or belief in accordance with the wishes of the child’s parents.

<sup>75</sup> UNICEF Innocenti Digest ‘Ensuring the Rights of Indigenous Children’.

<sup>76</sup> Proclaimed by General Assembly Resolution 36/55 of 25 November 1981.

The Vienna Declaration on Human Rights and Programme of Action, adopted at the World Conference on Human Rights provides that states should take positive steps to ensure respect for all human rights and fundamental freedoms of indigenous people, based on equality and non-discrimination, and recognizes the value and diversity of their distinct identities, cultures and social organization.<sup>77</sup> In addition, a World Fit for Children, outcome document from the UN General Assembly Special Session on Children asserts that appropriate measures be taken to end discrimination, provide special support and ensure equal access to services for indigenous children.<sup>78</sup> Furthermore, governments are to ensure that indigenous children have access to quality education on the same basis as other children and the provision of education in a manner that respects their heritage and enable indigenous children to develop understanding of and sustain their cultural identity including language and values.<sup>79</sup>

The Recommendations from the Second Session of the Permanent Forum on Indigenous Issues on Education recommended the creation of academic institutions to train indigenous leaders and urged universities to develop curriculum on indigenous peoples.<sup>80</sup> It also recommended that States reduce illiteracy rates, truancy and dropout rates, and promote primary education for indigenous people.<sup>81</sup> In addition, the history and culture of indigenous peoples should be encouraged in education systems to strengthen their identity.<sup>82</sup> Furthermore, the forum recommended that governments introduce indigenous languages in public administration in indigenous territories and that government and UN bodies support indigenous media and promote the engagement of indigenous youth in indigenous programmes.<sup>83</sup>

Conceptualised below is the right to education and the current situation of education in Uganda. In addition, the cultural situation in Uganda is analysed.

## 2.4 Right to Education Conceptualised

The right to education exists at the international, regional and national fronts. At the International level, the Universal Declaration of Human Rights (UDHR) provides for the right to education.<sup>84</sup> Education shall be free, at least in the elementary and fundamental stages. Education enhances the full development of the human personality. The International Covenant on Economic, Social and Cultural Rights (ICESCR) stresses the issue of availability and accessibility in the provision of

<sup>77</sup> Para 20.

<sup>78</sup> Para 20.

<sup>79</sup> Para 40(5).

<sup>80</sup> <http://www.un-ngls.org/pdf/RU104indig.pdf> (accessed September 15, 2008).

<sup>81</sup> <http://www.un.org/esa/socdev/unpfii/pfii/documents/other%20docs/Doc%20New%20Zealand.htm> (accessed September 15, 2008).

<sup>82</sup> n 81 above.

<sup>83</sup> n 81 above.

<sup>84</sup> UDHR art 26.

the right to education.<sup>85</sup> The CRC enjoins State parties to recognize the right of every child to education, including free primary education.<sup>86</sup>

Regionally, the African Charter on Human and Peoples' Rights (ACHPR) enshrines the right to education.<sup>87</sup> The African Charter on the Rights and Welfare of a Child makes access to education for a child a state obligation.<sup>88</sup> Within the African region, the Cultural Charter for Africa<sup>89</sup> goes further to provide for the adaptation of educational curriculum to development needs and ensure the introduction of African cultures into national education systems. From the foregoing, it is trite to state that on the international terrain, access to education is a fundamental right.

Nationally, article 30 of the Ugandan Constitution of 1995 enshrines the right to education to be available to everyone. Article 34(2) refers to the right of children to education, as the responsibility of government and the parents of the child. Furthermore, it is enshrined in the objective principles: 'States shall promote free and compulsory education, take appropriate measures to afford every citizens equal opportunity to attain the highest educational standard possible'. Article 167 of the Constitution creates the Educational Service Commission of Uganda. In article 168, the functions of the commission include among other functions advising the President on the obligations of article 172 of the Constitution.<sup>90</sup>

A perusal of the Education Act<sup>91</sup> provides for regulation of formal education, registration of schools and of teachers. It further provides the framework stipulating that all children have the right to education and that education should help children develop their full potential. Consequently, premised on the above legal frame work, every child has a right to get minimum primary education. While international law requires primary education to be free of charge, education cannot be free-of-cost in theory or in practice.<sup>92</sup> The requirement for governments to make primary education free implies that governments should eliminate financial obstacles in order to enable all children no matter how poor, to complete primary schooling.<sup>93</sup> The positive obligation required of the state to make education available, accessible, affordable and acceptable thus makes education a right.

<sup>85</sup> Art 13.

<sup>86</sup> Art 28.

<sup>87</sup> Art 17.

<sup>88</sup> Art 11.

<sup>89</sup> Adopted on July 5 1976, available at [www.africa-union.org/root/au/Documents/Treaties/Text/Cultural\\_Charter\\_for\\_Africa.pdf](http://www.africa-union.org/root/au/Documents/Treaties/Text/Cultural_Charter_for_Africa.pdf).

<sup>90</sup> The functions are as it relates to appointments, policymaking and implementation in Uganda. The constitution also guarantees equal opportunity to education for all, through the implementation of the education Strategic Investment Plan (ESIP), Universal Secondary Education (USE), Functional Adult Literacy (FAL).

<sup>91</sup> Cap 127.

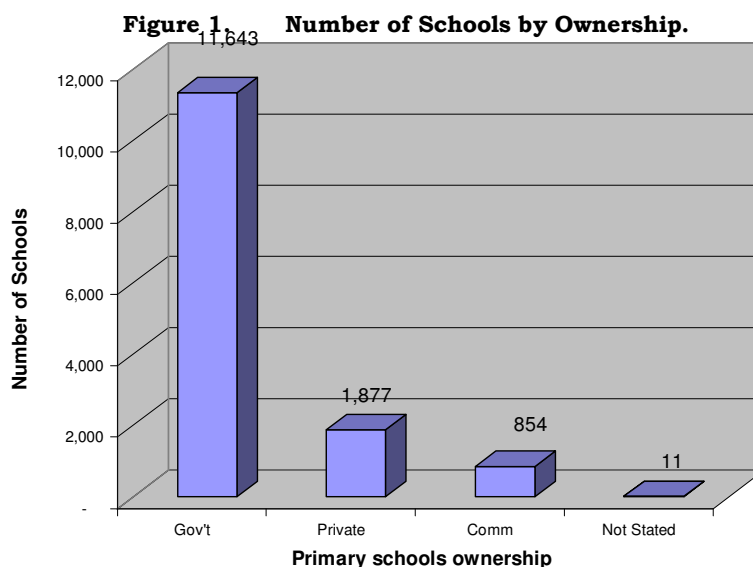
<sup>92</sup> n 55 above 9. In Uganda, a 2005 National Assessment of Progress in Education showed that of the pupils who joined P.1 at the start of Universal Primary Education in 1997, only 22% sat for Primary Leaving Examinations in 2003. Education officials blamed this partly on the lack of meals at schools, challenging head teachers to start charging fees for lunch. The government thus has an extra burden of providing food for pupils aside ensuring free education, [http://www.freshplaza.com/news\\_detail.asp?id=25719](http://www.freshplaza.com/news_detail.asp?id=25719) (accessed 1 September 2008).

<sup>93</sup> n 55 above 9.

## 2.5 Situation of education in Uganda

Access to education remains poor in Uganda and worst hit are the indigenous groups like the Batwa and Karamojong. Respondents at the ministry of education blame the poor access to education on the hard-to-reach and hard-to-stay nature of the regions occupied by the various groups. Discussed below, is the current situation of education premised on the 4A aspect of education.

### a. Availability



Source: UIS statistics.

Measuring availability of education depends largely on the availability of educational infrastructure. In Uganda, the state owns the largest number of schools in the country. The chart shows the availability of primary schools in Uganda and the level of ownership. It is arguable therefore to state that the government of Uganda is effectively making provisions as to ensuring that primary education is available in Uganda. However, the infrastructural deficiency, teacher-pupil ratio and reading materials remain a challenge.<sup>94</sup>

### b. Accessibility

Accessibility deals primarily with the ease that pupils have in getting to schools. Currently, considering distances between schools of similar levels, at national level, 86% of primary schools are within a radius of 5kms from their neighbouring primary schools. Most of the primary schools (89%) are day schools and rural based (79%) schools, which means that the majority of children do travel a total of utmost 5kms to and from school every day.<sup>95</sup>

<sup>94</sup> See UIS statics available online at [www.education.go.ug](http://www.education.go.ug) (accessed on 28 August 2008).

<sup>95</sup> Fact file on education statistics in Uganda 2008. Available at [www.education.go.ug](http://www.education.go.ug) (accessed on 28 August 2008).



**Percentage Distribution of Pupils, by Distance to School**

Residence	Less than 1 Km	1 - 3 Km	3 -5 km	Above 5 Km
Rural	47.9	38.4	9	4.7
Urban	32.8	44.3	17.5	5.4
Region				
Kampala	50.8	36.8	7.5	4.9
Central				
Central Excluding Kampala	36.5	38.8	18	6.7
Eastern	30.7	56.3	9.8	3.2
Northern	26	65.5	5.7	2.7
Western	29.3	51.3	13.8	5.6

Source: Uganda Bureau of statistics

**c. Affordability**

It was not until 1997 that the government of Uganda introduced the UPE. Before then the government's education policy was on a subsidy school fees basis. The subsidy was 50% for primary education, 65% for secondary. The introduction of UPE saw the advent of free education for four children per family.<sup>96</sup> The current high level of enrolment in schools suggests that education is currently more affordable in Uganda than it had ever been.<sup>97</sup>

**d. Acceptability**

Acceptability deals with willingness of people to embrace education. Various factors that affect the acceptability of education in Uganda include issues of cultural belief and compatibility. In the Karamoja region in the north of Uganda, the introduction of Alternative Basic Education for Karamoja (ABEK) remains one of Uganda's initiatives of making education acceptable to the people. In 2007, Uganda developed a new curriculum to provide education at the grassroots in a much easier manner. This entails the use and teaching of local languages at primary level and the use of traditional instruction method to facilitate assimilation by children.<sup>98</sup>

Furthermore, the responsibility on the government also transcends the provision of 4A model of education discussed above but also the protection of this right. In *Mpondi Emmanuel v Chairman*

<sup>96</sup> n 15 above 25.

<sup>97</sup> n 94 above.

<sup>98</sup> Education For All Issue 12 available at [http://efa.nairobi-unesco.org/efaXII/index.php?option=com\\_content&task=view&id=21&Itemid=35](http://efa.nairobi-unesco.org/efaXII/index.php?option=com_content&task=view&id=21&Itemid=35) (accessed 1 September 2008).

*Board of Governors & 2 Ors*<sup>99</sup> the tribunal of the Uganda Human Rights Commission found that an action of sending away of the complainant three days before the term officially closed for non-payment of school fees disrupted his education ordering his immediate reinstatement. On the vertical responsibility of parents to provide education for their children, the tribunal ordered a respondent to pay the school fees of his children while awarding exemplary damages to the applicant for the violation of article 34<sup>100</sup> of the Constitution.<sup>101</sup> In Uganda therefore, the right to education involves ‘the availability of functioning educational institutions in sufficient quality; schools should be accessible to all without discrimination; acceptable in form and substance to all, flexible or adaptable to the needs of society.’<sup>102</sup>

## 2.6 Culture in Uganda Conceptualised

Culture is the sum total of the ways in which a society preserves, identifies, organises, sustains and expresses itself. Uganda has a rich and diverse cultural heritage drawn from sixty-five unique indigenous communities.<sup>103</sup> Cultural beliefs are deeply rooted in cultural and religious values of the people of Uganda. Some of these beliefs, traditions and values sometimes conflict with modern laws.<sup>104</sup> Furthermore, every person in Uganda has a right to belong to, enjoy, maintain and promote any culture, cultural institutions, language, and tradition in community with others.<sup>105</sup> However, cultures are continuously adopting and adapting because of local and foreign influences.<sup>106</sup>

Uganda National Policy on Culture refers to indigenous groups, as indigenous minorities.<sup>107</sup> The Policy goes further to point out that the danger of loss of identity threatens their existence. Unfortunately, the policy does not make provisions to avert violation against indigenous groups. Article 246 of the 1995 Constitution of Uganda provides for the support of traditional and cultural bodies. Furthermore, Objective XXIV and XXV provides for the support of cultural and traditional practices that are consistent with the fundamental human rights, dignity and freedom of all peoples.

In addition, to the Constitutional provisions on culture, Uganda has other Statutes that seek to enshrine cultural rights.<sup>108</sup>

<sup>99</sup> Complaint No 210 of 1998, UHRC.

<sup>100</sup> Provides for the right of children to be cared for by their parents and that a child is entitled to basic education, which shall be the responsibility of both the State and parents.

<sup>101</sup> *Rebecca Tibetsigwa v George Lukoda complainant NO UHRC/LOG41/2003*.

<sup>102</sup> n 50 above 55.

<sup>103</sup> Uganda National Cultural Policy.

<sup>104</sup> eg widow inheritance, Female Genital Mutilation etc.

<sup>105</sup> Uganda 1995 Constitution, article 37.

<sup>106</sup> n 103 above 20.

<sup>107</sup> n 103 above 4.

<sup>108</sup> Historical Monuments Act (Cap 46), Uganda Culture Centre (Cap 50), Copyright and Neighbouring Rights Act 2006, Stage Plays and Public Entertainment Act (Cap 49) and Traditional Rulers Restitution of Assets and Properties Act (Cap 247).

## 2.7 Approach to Laws protecting Cultural Rights under International Law in Uganda

The UDHR Provides for the right to cultural participation by an individual.<sup>109</sup> State parties to ICESCR recognize the right of everyone to take part in their cultural life.<sup>110</sup> The ICPCR provides for the right to cultural development.<sup>111</sup> In the African Charter, cultural rights and protection thereof is by State parties.<sup>112</sup> Thus, Uganda is obliged to respect the cultural rights of all peoples having ratified the above instruments. Uganda's major interventions on cultural issues includes the following: to ensure that all languages have developed orthographies; that languages are taught and spoken in educational and other institutions at all levels; ensure the preservation and development of literature at all levels; ensure the development of dictionaries in local languages; and promote the learning and use of local languages.<sup>113</sup>

Development of culture and traditional institutions are a major concern of the government as shown by the above efforts. The ratification of all major instruments of international law with provisions that protect cultural rights is highly commended. However, like all other African nations, the question is not with the ratification of treaties but their implementation.

## 2.8 Does Uganda Adequately Protect the Cultural Rights of the Batwa?

Akankwasa restates that the dominant experience of indigenous peoples in the world history has been that of violation of their fundamental rights and erosion of their distinctive identities.<sup>114</sup> Many years after the independence of most African states, cultural subjugation remains alive in African States. He describes the Batwa culture as the culture of silence. Culture of silence is one penetrated, invaded and dominated by other dominant cultures.<sup>115</sup> Regrettably, Uganda has no systematic policy on the protection of cultural or linguistic rights. The Constitution recognises these rights; however, there is no effective policy framework for the promotion and protection of these rights.<sup>116</sup> In addition, the current forest conservation efforts by the government in turning the forest dwelling places of the Batwa into game reserves and tourist centre violates their rights as set out in article 29 DRIP.

Kabananukye captures the discrimination suffered by the Batwa thus:

Unlike the pastoral or nomadic communities and cultivators in the same geographical region, in the early 1990s, the Batwa lost their territorial rights and accessibility to ancestral forested lands and foods. The Batwa were formally evicted from their ancestral lands in 1991 with the creation of Mgahinga Gorilla National Park

<sup>109</sup> Art 27.

<sup>110</sup> Art 15.

<sup>111</sup> Art 1.

<sup>112</sup> Art 17(2) & (3).

<sup>113</sup> n 103 above 36.

<sup>114</sup> Akankwasa (n 4 above) 229.

<sup>115</sup> Akankwasa (n 4 above) 236.

<sup>116</sup> Akankwasa (n 4 above) 27.

(MGNP). Upon their formal eviction in 1991, the Batwa lost uncontrolled access to the forest resources inside MGNP for their economic, social and cultural sustenance.<sup>117</sup>

Thus, despite the laudable legal framework existent in Uganda today, most Batwa lead a shockingly impoverished life. A recent report predicts that the Batwa are in danger of extinction unless actions to reverse the decline come in place.<sup>118</sup> Also, the fact that Uganda has some of the most progressive policies related to poverty alleviation, ethnic minority groups have not been effectively consulted and their interests not taken into account.<sup>119</sup>

Conclusively, the current situation of the Batwa leaves much undone by the government of Uganda in respecting the cultural rights of the indigenous people of Batwa.

An inference from the conceptual framework enunciated above elucidates that:

1. The concept of indigenous people in Africa today is not as controversial as in the years past.
2. Premised on identity and cultural affinity employed as a benchmark for identification of indigenous people, the Batwa are well identified as indigenous.
3. The right to education is well entrenched both in International law and Uganda municipal laws.
4. The current situation of education in Uganda is commendable though requiring improvements in policy, infrastructure and structure aspects.
5. Uganda has a laudable framework that supports culture and respect thereto.
6. Despite the legal framework on Uganda National Cultural policy, indigenous minorities are at danger of having their cultural identity assimilated.

With the above conclusions reached, the questions investigated in the next chapter among others are whether the Batwa child is disadvantaged as against other children in Uganda. In addition, whether the Batwa suffer educational discrimination based on form and content of education in Uganda. Investigated also is the effect cultural practices of the Batwa people have on their access to education.

<sup>117</sup> n 33 above 42.

<sup>118</sup> K Abraham the Rights of Indigenous Peoples in Africa in reflections on the 20th anniversary of the African Commission on Human and Peoples' Rights H ABBAS ed (2007).

<sup>119</sup> [http://www.freshplaza.com/news\\_detail.asp?id=25719](http://www.freshplaza.com/news_detail.asp?id=25719) (accessed 1 September 2008).

## CHAPTER THREE

### THE BATWA EDUCATIONALLY MARGINALISED IN UGANDA? FACTORS RESPONSIBLE, EXPERT OPINIONS AND ANALYSIS

Even when we go to school they do not give us uniform, they cane us every time and abuse us. They brought us from the forest saying we will develop like others now our situation is worse.<sup>120</sup>

#### 3.1 Introduction

Education in Uganda faces several challenges like in most other African states. Thus, it is important to investigate the reasons responsible for the state of the Batwa access to education. This chapter deals with the issue of whether the Batwa suffer marginalisation in Uganda in their access to education. The chapter In addition, includes the presentations of opinions of various respondents' collected via interviews, questionnaire and field visit to the Batwa dwelling place. The opinions are mainly from key informants' in government institutions, NGO's and the Batwa themselves.

#### 3.2 The Batwa Educationally Marginalised in Uganda?

The Batwa access to education as compared to other tribes in Uganda, whether majority or minority is poor. According to Kabanankye, only 31.2% of Batwa children attend school. The completion rate is highly dismal as 27.3% of the 31.2% drop out of school before completing primary education.<sup>121</sup> The fact that the first Batwa to complete senior six only did so in 2007 attests to this.<sup>122</sup> According to Turikumkiza Fred,<sup>123</sup> Batwa children are intelligent but they never stay for long in school. He attributes this to several factors, prime among which is discrimination and feeling of inferiority, poverty and attachment to their forest way of life. He estimates the distribution of Batwa in Kavumaga primary school, kisoro, as presented in the table below.

GRADE	MALE	FEMALE
P1	09	10
P2	08	09
P3	5	3
P4	-	1
P5	-	1

Source: Turikumkiza Fred, head teacher of Kavumaga primary school, Kisoro.

<sup>120</sup> Excerpt from the participatory film by the Batwa people of Uganda. Available at <http://hub.witness.org/en/node/2317> (accessed 23 August 2008).

<sup>121</sup> n 33 above 15.

<sup>122</sup> Alice Nyamihanda - the most educated among the Batwa: In the year 2007, she completed Senior 6 (15 years of formal Education).

<sup>123</sup> Head teacher of Kavumaga Primary School, kisoro, interviewed on September 22, 2008.

The figures above represent a ratio of 1:10 of Batwa children in school compared to the majority tribes in Kisoro. The only Batwa boy that was to be in P7 dropped out of school this year<sup>124</sup> In investigating the factors responsible for the poor access to education, the author conducted several interviews. Below are excerpts of the views of the key informants interviewed.

### **3.3 Issues Influencing Education of the Batwa- perspectives of Key Informants in Government Institutions**

On the factors that affect access to education, Beekunda George Kacwa<sup>125</sup> points out poverty to be at the forefront. He is of the opinion that the Batwa ‘household income is low and the Batwa do not generate enough money to pay for schools fees and maintain their children’. In addition, he identifies the Batwa cultural behaviour as another factor that affects their access to education. ‘The Batwa love begging, they want to live as slaves, always staying in the backyard and wanting to find things already done for them’. They abandon government houses and return to their forest way of life preferring to make mats rather than going to school. On the content and language rights of the Batwa, he points out the fact that the Batwa remain marginalised and excluded, ‘they would not dare speak their language in the dominant communities’. On the factors responsible for the dropout rate, he attributes it to the fact that the Batwa do not have value for education and always prefer to return to the farming and hunting life style in the forest.

On whether the government has done enough for the Batwa to improve their access to education, Beekunda is of the view that ‘at the central level the government has done enough and its best to ensure access to education of all Ugandan children, the problem is however, at the local levels’. Among the efforts already in place by the government is the establishment of the Equal Opportunity Commission, Equal Opportunity Policy-affirmative action, Social Cash transfer scheme targeted at the poorest of the poor, UPE and plans to relocate them from the forest regions acquired by government for tourist purposes.<sup>126</sup>

The ministry of social development collaborates with civil society organisations like the Community Development Resource Network (CDRIN), in advocacy issues aimed at creating awareness among the various marginalised groups in Uganda on the opportunities open to them to access education.

At the ministry of education, the first respondent who pleaded anonymity stressed the current government policy on the Pin Identification Number (PIN) of primary schools in Uganda. The

<sup>124</sup> Emmanuel Sedega dropped out from P7 citing desire to work and support the family as his reasons. He currently is one of the VBT facilitators. With the encouragement of the author, he has accepted to go back to school.

<sup>125</sup> AG Director, Social Protection Ministry of Gender interviewed on 3 September 2008.

<sup>126</sup> n 125 above. See also art 32(4) and Objects XI and XII of the Ugandan Constitution 1995 provides basis for the implementation of equal opportunities, social security policies of the Ministry of Social development.

essence of the project is to enable the ministry control absence from school, dropout rates and migration from one school to another by pupils. Furthermore, the ministry is in the process of establishing the department of non-formal education that will oversee the form of education for minority groups in Uganda.

In an interview with the Principal Policy Assistant (PPA II),<sup>127</sup> Bakunzi reiterated the fact that the government policy on education is inclusive as evidenced in the government white paper on education. In her opinion, education is inclusive in Uganda. On the situation of the Batwa access to education, she informed the author that the Batwa areas are 'hard to reach', 'closed community', 'mountainous and distant areas' and thus affecting their access to education.

Bakunzi identifies implementation to be the bane of the laudable government policy on education. Capacity and willingness at the grass root to facilitate the already existent policy on education is lacking. She admits her lack of knowledge on the Batwa people; however, she states that 'the Batwa from the little I know of them contributes to their pitiable state by wanting to continue in the forest dwelling life style'.

Other factors identified are the unwillingness of teachers posted to the remote areas to report for duty and the fact that teachers posted to these areas know little of the indigenous languages and are not able to teach in the local languages. In addition, the MoES collaborates with NGOs like the Orphan and Vulnerable Children to ensure that access and completion rates are improved. Government has shown enough and sufficient policy commitment and political will to include all Uganda children and facilitate their access to education.

At the National Curriculum Development Centre (NCDC), Obbo-Katndi Gabriel<sup>128</sup> was of the view that the government policy on education is laudable, as it has made provision for various forms of specialised education.<sup>129</sup> On the impact of formal education on the rate of access to education, he is of the view that 'formal education system has its own pattern and is parallel to the life style of the various marginalised groups'.<sup>130</sup> In addition, it is important not to abruptly estrange the Batwa from their cultural way of life because they have existed for long with it.

On whether the curricula content of education in Uganda provide for the peculiar need of the Batwa people, Obbo-Katndi was of the opinion that the problem is not with the curriculum but rather with the curriculum implementers (teachers). Citing an example with the biodiversity chart, he explained

<sup>127</sup> Maureen Bakunzi in an Interview conducted on 15 September 2007.

<sup>128</sup> Senior curriculum officer with the NCDC, interviewed on 15 September 2008.

<sup>129</sup> Alternative Basic Education for Karamoja (ABEK), Basic Education for Urban Poverty Areas (BEUPA) and Complimentary Opportunity for Primary Education (COPE) are examples of the informal education initiative of the Education white paper released in 1992.

<sup>130</sup> Interview with n 128 above on 15 September 2008.

that 'a teacher teaching a pastoralist community should use the relevant images and not same chart for the hunting or fishing community'. Problems thus arise with implementation because the teacher-training sector does not recognise that the NCDC is in the best place to educate the teachers on the implementation of the curriculum.

Furthermore, the NCDC engages in extensive consultation before developing the curriculum, however, financial constraints limit the extent of consultations embarked on.<sup>131</sup> In addition, other challenges includes that non-dedicated officers do not access the hard to reach areas, consulting of the wrong persons and misinterpretation of information, which ultimately affects curriculum development.<sup>132</sup>

At the Education Standard Agency<sup>133</sup> (ESA), the respondent, Turyagyenda Kedrace,<sup>134</sup> was of the view that with the recent assent by the President of the 2008 Education Act, the ESA is now the Directorate of Education Standard (DES). On the role of the ESA in ensuring quality education to all children in Uganda, Turyagyenda stated that the impact of ESA is not fully realised. She attributed this to the fact that 'the UBE was free but not compulsory, but with the 2008 Education Act making UBE compulsory the ESA will offer improved services to all Ugandan's'.<sup>135</sup> Commenting on the state of the Batwa child in accessing and completing primary education, she was of the view that by virtue of their geographical location been 'hard-to-reach, hard-to-live and hard-to-stay' areas getting teachers willing to access the areas remains difficult.

Furthermore, another challenge identified, is the fact that teacher education in Uganda is generic and due to financial constraints the government is unable to put in place specialised teacher education for specific needs of indigenous groups.<sup>136</sup> In addition, cultural affinity and way of life of the Batwa influence their access to other government developmental issues and not just education. The respondent admits that the Batwa access to education is poor but the difficulties already stated above alongside the fact that the Batwa language is not ethnographically developed pose a big challenge to the alleviation of the marginalisation.

<sup>131</sup> n 130 above.

<sup>132</sup> The author witnessed a session of curriculum review during his visit to NCDC on 15 September 2008 with various officers presenting their findings.

<sup>133</sup> Established in July 2001 as semi-autonomous body to replace central inspectorate of the Ministry of Education with mandate as proposed in the Uganda White Paper on Education 1992.

<sup>134</sup> Deputy Director of ESA interviewed on 15 September 2008.

<sup>135</sup> n 134 above.

<sup>136</sup> The respondent is of the view that because the government cannot provide specialised education for teachers that teach indigenous people it becomes difficult to have proper orientation of teachers on how to relate with indigenous groups.



### 3.4 Issues Influencing Education of the Batwa from Key informants on Policy

Daniel Rubowa<sup>137</sup> is of the view that the traditional form of education does not accommodate the cultural belief of the Batwa people. For education to be an agent of change for indigenous people like the Batwa, it must be flexible; the form and content must transmit their traditional knowledge. Rubowa is of the view that beyond the content of education, which does not accommodate the Batwa in terms of their language and livelihood, emphasis on organisation of education is equally lacking. Rubowa is of the view that the Alternative Basic Education for the Karamoja (ABEK), accommodates the nomadic life style of the Karamoja in both form and content, and wonders why such specific form and organisation of education is not in place for the Batwa.<sup>138</sup>

Suggestions on how to improve access to education is twofold, because access has to be both formal and substantive. Thus, teachers going to indigenous areas need special training to understand and accommodate the peculiarities of the group that they are going to engage. Remuneration of teachers going to this area should also be a paramount issue to the ministry of education, as this will act as an incentive for teachers posted to the Batwa and other indigenous areas to execute their duties excellently. In addition, on how the Batwa will be part of a change in their educational plight, it is his view that the Batwa though not educated can still express their needs. They can contribute to the system that will improve their access to education. Conclusively, Rubowa is of the view that while the policy on education is commendable 'it has left out the indigenous people and embracing only the majority tribes'.<sup>139</sup>

Kabananukye attributes the poor access to education by the Batwa to several factors. Firstly, sparse distribution of the Batwa in virtually all districts of Uganda makes it difficult to discuss Batwa access to education. This explains the big challenge and inability of evolving a specific pattern of education for the Batwa. Secondly, the hierarchical relationship between the Batwa and other dominant neighbours contributes greatly to the increasing marginalised status. While the non-Batwa prefers to walk in front, the Batwa readily prefers to walk behind. Discrimination plays out in a number of ways, shown by the fact that those who perpetuate the stereotypes include public officials, educators, and many others whose individual beliefs directly affect the Batwa.

Thirdly, the stereotypes against the Batwa ensure that the level of access to education remains poor. The number of Batwa children attending school has increased; however, they remain harassed by classmates from neighbouring ethnic groups who ridicule them for being dirty, lazy and different. The thought that the Batwa do not appreciate the value of education is already a

<sup>137</sup> A policy consultant, interviewed at the seminar on Public Interest litigation of economic, social rights in Uganda, organised by the human right and peace centre, University of Makerere, 28-29 August 2008.

<sup>138</sup> Interview with n 137 above.

<sup>139</sup> Interview with n 137 above.

discredited fact. Many Batwa have demonstrated their appreciation for education, the perception that they do not attend school regularly or drop out of school or lack interest, find explanation in lack of school fees, harassment and abuse.

Furthermore, while it is important that a livelihood model of education like ABEK be in place, Kabanankye is of the view that given the Batwa changed livelihood from hunting and gathering, the ABEK like educational system may not apply. This is because the Batwa are landless and coupled with their sparse distribution across Uganda the system is impracticable. In addition, even in the districts where the Batwa reside, other ethnic groups dominate most schools, thus, rendering the ABEK like education system impracticable.

Robert Tumwesigye Baganda describes Uganda's education policy as lacking and not compatible with the needs of the people.<sup>140</sup> He however, is of the view that the Batwa rigid cultures affect their access to education. He berates the lack of proper system of ensuring that indigenous communities' access education stating that government should model education to match the communities' in their setting. NGOs are encouraged to continue carrying out sensitization and lobbying policy makers so that the situation of the Batwa improves.

### **3.5 Issues Influencing Education of the Batwa- Perspectives of Key informants from NGO's**

According to Besigye Samuel,<sup>141</sup> the education situation of the Batwa is pathetic and below a desirable level. He however, gives the government policy on education a pass mark but says it must go beyond policy making to implementation. In addition, the ministry of education must take cogent, positive and targeted effort to ensure that the Batwa situation improves. He however identifies the issue of social security as the greatest danger facing the Batwa and impeding their access to education. Culturally their attachment to the forest, attitude to medical treatment is a huge factor that affects access to education.

On how the situation of education would improve, Besigye is of the view that government should fashion out a peculiar education format like the ABEK for the Batwa. Furthermore, the government must prioritize social security and empowerment to enable the Batwa parents raise income to meet the need of the children while in school. Teachers posted to such hard-to-access communities should also receive special packages as a form of encouragement. On the role CARE is playing on seeing a gradual improvement of the Batwa access to education, he posits that the core work of CARE remains advocacy on policy issues and attitude of key figures at the Executive Committee to

<sup>140</sup> Email received on 24 September 2008.

<sup>141</sup> Interviewed on 22 September 2008 in Kisoro. Besigye is the field coordinator Rights, Equity and Protected Area of CARE.

collaborate in improving the lot of the Batwa. Other programs in place include the Community Based Monitoring and Evaluation (CBME) and the Village Based Trainers Programme (VBTP).<sup>142</sup>

Neza Henry<sup>143</sup> is of the view that neither the Batwa culture nor belief influences negatively on their access to education. He identifies food insecurity, landlessness, late start at school, leading to early marriages and sexual harassment, discrimination and marginalisation of the Batwa as factors affecting the education among the Batwa. He recalls a Mutwa coming to him crying and saying: 'uncle, they abuse me in school, saying we have never seen a Mutwa going to school, doing ABC, your work is to dance and beg, you are dirty and should not come near us.' Three Batwa girls have since dropped out of school because of harassment and excessive corporal punishment meted out on them by their teachers.<sup>144</sup>

The Batwa also contributes largely to their poor situation by not coming out and mixing with people. They keep on staying in the background showing that they have accepted the fate of playing second fiddle.<sup>145</sup> This however, is changing now with increased advocacy of NGO's around Kisoro. The main target is to help them regain their human dignity and face education positively.

Responses from questionnaire show a general acceptance that the Ugandan government policy on education is laudable. However, it does not include practical training and peculiarities of indigenous people. One respondent was of the opinion that the Batwa seem to resign to the fate of playing second fiddles and not helping the situation. A consensus by all respondent's is the fact that a major step must be targeted at socially transforming the Batwa to cope with the new way of life that they are confronted with after being chased out of their forest dwellings. In addition, there is a need to carry out massive social awareness to nip the dangers of racism and discrimination of the Batwa by the majority tribes in the bud.

### **3.6 Batwa Perception of Education and Issues Influencing Their Access**

In their combined views, three Batwa children<sup>146</sup> who have attained senior one (S1) at the Kisoro comprehensive College are of the view that their cultural belief does not stop them from going to school but that the level of discrimination they face demoralises them a lot from wanting to remain in school. In addition, in a focus group discussion with the Batwa representative in UBODU

<sup>142</sup> Both programmes are targeted at monitoring implementation of policies and training some community members who become trainers too at the grassroots. Service delivery has improved with the emergence of the programme and has empowered several Batwa.

<sup>143</sup> Interviewed on 21 September 2008 at Kisoro. Neza is the Coordinator of education and capacity building of UBODU.

<sup>144</sup> The three girls have however gone to a vocational training school where they are learning sewing, hair dressing and catering. The author had the opportunity of meeting the girls and encouraging them to pay attention to their newfound vocation and excel.

<sup>145</sup> During the author field visit, most Batwa accept the current position though hoping for a change in events. However, because of the low capacity and discrimination they suffer they seem not to have any coping mechanism.

<sup>146</sup> Kyarisima Lydia, Ahimbisibwe Alex and Robert are currently the only Batwa in secondary School in Uganda.

management committee,<sup>147</sup> they rejected the assumption and stereotype that their culture is one of begging, being lazy and even early marriages. They stressed the fact that their displacement from the forest without adequate provision by the government has put them in endless poverty.

The effect of this is that our children get involved with their parents in doing menial jobs. The boys want to take short cuts in making money and the girls most times end with unwanted pregnancy because they are enticed by men in local bars where they work as bar attendants. During a visit to the Batwa Mountain dwelling in Kisoro, scores of children lay around without going to school. The author inquired from their parents' reasons why the children were not in school, they said:

Their clothes are dirty, we do not have money to buy soap to wash them and we cannot send them to school this way. Their teachers will flog them; their schoolmates will laugh at them. In addition, there is no food for them to eat so they will get hungry and run home from school.<sup>148</sup>

They recounted several stories of discrimination against the children and expressed desire to see an end to their treatment as non-humans by people. They however, accept the fact that some Batwa parents still contribute to the poor access to education. 'Some of the parents still want their children to go and work, you know our ancestors did not appreciate education so some of us still do not but things are changing now'.

### 3.7 Conclusion

A summary of the views of the respondents' interviewed and responses from the questionnaires points to the marginalisation of the Batwa educationally. Respondents' laud the government's education policy but implementations of the policies are wanting. It is also clear that the Batwa appreciates the importance of education. However, the curriculum content of education in Uganda does not meet the specific needs of the Batwa. Issues of poverty and discrimination are highly identified as major factors that influence access to education of the Batwa. Aside socio-economic challenges, socio-cultural disruption and hidden identities are other major driving forces behind problems encountered by indigenous children. These include profound changes in terms of self-perception, well-being, cultural identity and social interaction.

From the above the next chapter makes a case for the need of the increased access to education of the Batwa and investigates whether the factors that affect access to education constitute a violation of human rights of the Batwa.

<sup>147</sup> Habyarimana Elias- Chairperson, Dusabe Yerima-vice chairperson, Nyirakaromba paskazia, Abel Ruguiza and Simako Amos- committee members.

<sup>148</sup> The author observed that in a bid to feed the children, they are given a locally brewed sorghum drink, which ferments and becomes alcoholic and intoxicates the children.

## CHAPTER FOUR

### MAKING A CASE FOR BATWA ACCESS TO EDUCATION

Integrating key human rights dimensions in education, especially the principle of non-discrimination, remains an unmet challenge. Education strategies and statistics are not based on international human rights law and there is no internationally collected data on access to education by race, ethnicity or religion. Consequently, it is impossible to monitor progress and retrogression in access to school using internationally prohibited grounds of discrimination as the yardstick.<sup>149</sup>

#### 4.1 Introduction

The above statement captures vividly the situation of data available on the Batwa access to education in Uganda. The ministry of education does not have data on the number of pupil accessing education based on race and tribal affiliations.<sup>150</sup> The commonly used statistics on enrolment reveal the number of children who are in school (or at least who registered at the beginning of the school year) but not how many should be in school. This is a consequence of large, but unknown, numbers of children precluded from schooling because they live in remote areas. Over, 800,000 children aged 6-12 years are out of school in Uganda, out of the 1.8 million enrolled in P1 in 2000, only 685,000 are estimated to be attending P7.<sup>151</sup>

This situation is a reflection of the general marginalization and exclusion from which indigenous peoples suffer. However, the situation is of particular concern in Africa. A great number of indigenous children do not go to school at all. Among those who do attend school, many drop out early because of the need for mobility during the dry season, the poor quality of schools and the very fact that poor families cannot afford the cost of education.

Premised on these grounds, this chapter explores the importance of education to the Batwa. In addition, the need to move from policymaking to policy translation and the effect of form and content of education in Uganda as it affects the Batwa access to education.

#### 4.2 Making a case for the Batwa access to education

The goal of having all indigenous children attend and complete primary school is far from universally been achieved and the educational services open to indigenous children are generally below recommended minimum standards.<sup>152</sup> Indigenous peoples face many barriers in attaining

<sup>149</sup> n 53 above.

<sup>150</sup> The author was informed by an email on 10 September 2008 from the statistics department of the Uganda ministry of education that they do not have data based on ethnic or tribal enrolment of pupils in schools.

<sup>151</sup> National Equal Opportunity Policy 21.

<sup>152</sup> n 75 above.

education and literacy compared to the mainstream society. Reasons for this include isolation, which has made it difficult for indigenous groups to access the same services as the rest of the society.<sup>153</sup> Poverty among indigenous peoples translates into a failure to meet their basic needs, insufficient access to public and social services, including access to quality education, inadequate infrastructure, and limited access to productive resources such as land, water, forests and other natural resources.<sup>154</sup>

Continuously, indigenous people the world over are most hit by deprivation from enjoying civil, political and socio economic rights.<sup>155</sup> In the case of the Batwa, after eviction from the forest, they have struggled to survive without access to the resources that had previously been an integral part of their livelihood.<sup>156</sup> Difficulties in providing schools for dispersed mountainous villages are easy to understand.<sup>157</sup> Consequently, educational levels among indigenous peoples around the world are generally low. This is the case for indigenous communities in poor continents such as Africa, where overall educational levels are low although worse for indigenous peoples. It may also be the case in wealthy nations such as Canada, where indigenous peoples exhibit educational levels far below the national average.<sup>158</sup>

Appropriate education for indigenous children is a key factor in the empowerment of indigenous communities. Indigenous people must receive the priority they deserve, in public programmes, at national and international levels.<sup>159</sup> Indigenous peoples have not remained passive observers of the shortcomings confronting them educationally. They have used their creativity, imaginations and potentials to combat these failings and promote the social and cultural development of their communities.<sup>160</sup>

<sup>153</sup> U Hanemann 'Literacy for Special Target Groups Indigenous Peoples' 7.

<sup>154</sup> n 75 above.

<sup>155</sup> Statement by the chairperson, global indigenous caucus: Les Malezer 13 September 2007 available at <http://www.treatycouncil.org/PDFs/STATEMENT%20BY%20THE%20IPS%20CAUCUS%20CHAIRMAN%2091307.pdf> (accessed 4 October 2008).

<sup>156</sup> n 23 above 5.

<sup>157</sup> The Batwa communities are classified as hard to access and hard to stay areas by most government officials interviewed by the author. The author shares this view as the terrain during his visit was a hectic one. However, this is not to form a basis for the denial and violation of a peoples' fundamental human rights.

<sup>158</sup> 'Goal 2: Achieve Universal Primary Education' available at <http://www.iwgia.org/sw15918.asp> (accessed on September 30, 2008), a study noted that material barriers for indigenous learners included financial restrictions, lack of childcare, transportation, housing, career skills, life-skills, knowledge of law, of health and of various opportunities for learning, and literacy in terms of self-growth see n 128 above 8.

<sup>159</sup> Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen available at <http://www.iwgia.org/graphics/Synkron-Library/Documents/IndigenousIssues/Thematic%20Focus/1-2006/IA1-2005/Article6.pdf>.

<sup>160</sup> S Appleton 'Education, incomes and poverty in Uganda in the 1990s' credit research paper no. 01/22. Nottingham, UK: Centre for Research in Economic Development and International Trade. Available at <http://www.nottingham.ac.uk/economics/credit/research/papers/CP.01.22.pdf> (accessed 3 October 2008)..

Educated households in Uganda achieve better growth in living standards.<sup>161</sup> The direct productivity effects of education on earnings from income sources have increased over time. Thus, the role of education in changing the economic and political fortune of a people is not contestable. Formal education has been, and in some cases continues to be, a double-edged sword for indigenous peoples.<sup>162</sup> On the one hand, it is a fundamental tool used to empower indigenous people and their communities and to raise awareness of their rights. Education is one of the major tools used to marginalize communities through policies designed to educate, proselytize and promulgate foreign values and “modern” knowledge.<sup>163</sup> Nwaonu is however, of the opinion that despite the negative attachments placed on formal education, it has great potential of turning development of indigenous people around from the current state.<sup>164</sup>

The Coolangatta statement on indigenous peoples’ rights in education, adopted as a core policy outcome of the World Indigenous Peoples Conference on Education (WIPCE)<sup>165</sup>, infers that dropout rates and failures in access to education of indigenous people amount to the extent of their marginalisation. Through a human rights approach, the statement emphasises the right to be indigenous as well as the right to self-determination in general and in the area of education in particular. Education policies internationally have recently adopted the Coolangatta Statement inviting affiliates to endorse it.<sup>166</sup> This is in addition to promoting the view that United Nations bodies, governments and trade unions must review, transform and improve policies and practices in order to implement Education for All objectives.<sup>167</sup>

Thus, education is an indispensable tool that can help humankind move towards the ideals of peace, freedom and social justice and can promote a more harmonious, more authentic human development aimed at eliminating poverty, exclusion, misunderstanding, oppression and war.<sup>168</sup> The right to education is critical for millions of indigenous people throughout the world, not only as a means of extricating themselves from the exclusion and discrimination that have historically been their fate, but also for the enjoyment, maintenance and respect of their cultures, languages, traditions and knowledge.<sup>169</sup> The Batwa, faced with all forms of hardship, which leads to their social, economic, political marginalisation and deprivation thus need education to change their current statutes.

<sup>161</sup> n 160 above.

<sup>162</sup> B Larsen, ‘Indigenous and tribal children: assessing child labour and education challenges ILO working paper 18.

<sup>163</sup> n 162 above.

<sup>164</sup> Interview conducted at African Institute of South Africa on July 30, 2008.

<sup>165</sup> Held in Hawaii in 1999 available at <http://www.ankn.uaf.edu/IKS/cool.html> (accessed 4 October, 2008).

<sup>166</sup> Education For All by 2015 - EI's response to the Global Monitoring Report 2008 available at <http://www.ei-ie.org/> (accessed on 1 October 1 2008).

<sup>167</sup> n 166 above.

<sup>168</sup> n 159 above.

<sup>169</sup> n 159 above.

During the author's field visit, he discovered that no single Mutwa works for any government institution, not even at the lowest messenger, cleaner levels. Alarming, the menace of child labour is increasing among the Batwa not because they are not interested in education but because that is the only way to satisfy family needs. If the Batwa must be empowered, treating education as an emergency issue is important. Their education must be formal, non-formal and vocational, as this will equip them with much needed skill to become economically empowered. Formal education should target the children, while non-formal or vocational targets the adults with a view of endowing them with vocational skills that will enable them make a living and support their families.

### **4.3 Metamorphosing from policy formulation to translation**

With a case made for the need for the Batwa to access education as a means of their overall development. As clearly stated in chapter two of this work, Uganda has a laudable framework on education. The UBE education policy, the ESA and the Uganda White Paper on education form the basis for education in Uganda. Coupled with the constitutional provisions already highlighted and the ratification of all major international law instruments that deals with the right to education of the indigenous child, Uganda is on the right footing based on the author's analysis. With the recent assent of the Education Act 2008, making UBE compulsory and free, and empowering the ESA as a full directorate. It is anticipated that paragraph 6 of the General Comment on primary education, which highlights the fact that neither the state nor parents and guardians are entitled to treat as optional the decision as to whether a child should have access to primary education or not.

In the case of the Batwa, locked close to the hills of Kisoro and Kabale, without electricity and pipe born water or access road, it is indeed in the authors view a hard to access area. This notwithstanding, the State owes the Batwa due obligation, to fulfil, protect and promote their fundamental human rights as conceptualised in the right to education. States must adopt detailed plans to ensure that education gets to all citizens; the plan must cover all the actions, which are necessary in order to secure each of the requisite component parts of the right to education, and detailed to ensure the comprehensive realisation of the right.<sup>170</sup>

In addition, states cannot escape the unequivocal obligation to adopt a plan of action on the grounds of lack of resources on the difficulty in reaching a group.<sup>171</sup> Policies must as a matter of urgency be monitored to ensure the final translation to the people it is meant for. It is not enough to have policies and strategy framework without ensuring that at the local level the capacity to interpret and implement abound, as most respondents pointed out, the problem is at the grassroots not lack of policies on the part of the government.

<sup>170</sup> General Comment No 11 plans of action for primary education para 8.

<sup>171</sup> n 170 above para 9.



The author suggests that officials responsible for ensuring policy translation be held responsible and accountable for failure to do so. It is not needful to pass blame from superior to junior officers as to where the missing link in policy translation should fall. The legislative committee on social development must as a matter of necessity put in place measures that will act as a monitoring framework to ensure that education gets to the grass roots.

#### **4.4 Form and content of education meeting the need of the Batwa**

The concept of education is by no means alien to indigenous people the world over. Long before the introduction of western education among indigenous peoples, there already existed viable indigenous learning systems.<sup>172</sup> Education was in the mainstream of indigenous peoples' day-to-day life. Education was relevant because it served the needs of indigenous communities to survive, to be safe from enemy attacks, and to be in harmony with each other and with nature. Most of all, education mirrored and affirmed the distinct cultural identity of indigenous Peoples.<sup>173</sup> Formal education not putting into consideration the specific need of Indigenous peoples ultimately assimilates indigenous peoples into non-indigenous cultures and societies.<sup>174</sup>

Based on the above, formal education serves dual purposes. Formal education system as it exists to some is a perpetual catalyst, weakening the Batwa traditional institutions of governance, social-cultural interactions, traditional livelihoods and indigenous traditional knowledge. It also serves as a process of opening up to the reality of modern development and enabling interaction. Formal education has enabled the Batwa to articulate their concerns at the local, national and international levels in conjunction with NGOs working on Batwa issues.<sup>175</sup> It is thus, the author's perspective that the form of formal education has helped the Batwa to advance. With Uganda's policy on using indigenous languages at the pre-primary level, it is also envisaged that a step in the right direction is been taken albeit the fact that the traditional Batwa language is on the verge of extinction.<sup>176</sup>

As elucidated by the curricula expert in the previous chapter, the curricula development of Uganda is in the right direction. However, the impasse between the teachers training college and the NCDC must be resolved in order to ensure that teachers get a full import of the content and nature of curricula. However, it is hoped that informal education will empower the Batwa economically and

<sup>172</sup> J Ole Kaunga, Indigenous peoples' experiences with the formal education system: the case of Kenya pastoralist available at <http://www.iwgia.org/sw207.asp> (accessed September 30, 2008).

<sup>173</sup> n 172 above.

<sup>174</sup> Coolangatta Statement 1999, sec 1.3.1.

<sup>175</sup> Some Batwa members have been part of the various international Indigenous forum held across the global, the Bonn conference and the New York conference on the adoption of the UN charter on Indigenous people. During the author's visit to the UBODU office at Kisoro, Peninna Zankkeh was preparing for a trip to Barcelona for the conference on land reform issues affecting indigenous peoples in Uganda.

<sup>176</sup> n 98 above. Some respondents are of the view that considering the minority nature of the Batwa that it is practically impossible to train teachers who will speak the Rukiga language specifically.

develop their cultural way of life. COPE education model not yet functioning in Batwa dwellings hold out very positive prospects of inculcating the informal content of education that will ultimately be beneficial to the Batwa.

Despite its various shortcomings, formal education has contributed to positive development of the Batwa. The current content of formal education has triggered interest in three Batwa children currently in Senior 1 level at the Kisoro comprehensive secondary school. Most Batwa interviewed in the field however, do not attribute the current form and content of education as inimical to them. This is largely because they are eager to embrace development and strive towards achieving an equal playing ground with other minority groups if not the majority in Uganda. In addition, the loss of land and means of livelihood leaves them less mobile and migrant as their previous nature was. It is thus hoped that a model of informal education be fashioned out for at least the elderly to empower them with the means of livelihood and ability to meet economic needs of their families.

The cumulative effect of the obstacles faced by indigenous children in their educational career in terms of form and content tends to become more evident higher up the education system. Where indigenous children have access to local primary schools, in order to benefit from secondary education they must leave their families and communities to stay in boarding houses.<sup>177</sup> In addition, lack of qualified indigenous teachers who can potentially bridge the gap between indigenous cultures and Uganda education structures contributes to the current state of access to education.<sup>178</sup>

From the foregoing, the importance of education to the development of the Batwa is crystallised. However, the form and content of education has both positive and negative effect and plays an important role on the achievement of the right to education of the Batwa serving as a development tool to them.

#### **4.5 Does culture affect access to education of the Batwa?**

The forest dwelling and hunter gathering life style of the Batwa remains their major cultural attachment. No traditional practice or belief excludes the importance of education among the Batwa. A number of respondents however, claim that the culture of begging, dancing, poverty and playing second fiddle contributes largely to the state of education among the Batwa. Playing second fiddle is a direct experience of poverty, inferiority and discrimination.

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<sup>177</sup> The author was informed by Juma the UBODU driver that most of the children that have gone to the boarding schools on return feel different from their families and long for school resumption. This is viewed as an erosion of the identity of the Batwa.

<sup>178</sup> n 98 above.

Culture is the sum total of the ways in which a society preserves, identifies, organises, sustains and expresses itself. Poverty as defined by Encarta encyclopaedia means the 'the state of lack', and thus, does not fall within the category of culture. Discrimination on its own follows the same argument, as it is another's attitude to another and treating people differently with prejudice.<sup>179</sup> Considering the experiences of indigenous people, it is only natural that a disadvantaged group both economically and political play second fiddle to the dominant groups.

In addition, the only attribute of the Batwa listed by the respondents that qualify as the Batwa culture is the culture of folk song. However, folk songs transmit the values of people, educate kids and teach them what they should do.<sup>180</sup> Through these systems, children learn livelihood and defence skills, the norms and morals of society, as well as their history and culture (e.g. myths, songs, dances, legends).<sup>181</sup> Dancing, in most instances act as a revenue earner for the Batwa and in some instances exposed them to greener pastures.<sup>182</sup> Therefore, it is true to state that the factors identified by the respondents while hindering access to education of the Batwa do not constitute cultural practices and thus, the Batwa culture does not contribute to their poor access to education. After their dislodgment from the forest areas by the government for tourist purposes the Batwa have remained landless and economically incapacitated. They are currently scattered in small settlements and have become more static and the original migration nature in search of game is no more tenable as a factor that contributes to the poor access of education among the Batwa.

The author notes that lack of access to educational materials and teachers contributes to challenges facing education in Uganda today. Increasingly, the qualities of education in government schools have decreased leading to most parents sending their children to privately owned schools. Many villages do not have schools, and where schools exist, teacher's absenteeism is high. Children belonging to indigenous groups face discrimination in school. Lack of adequate resources and logistics inefficiencies contributes its fair share to the level of education in Uganda. With the issues of poverty and other socio-economic obligation of the government, it becomes increasingly difficult to handle the financial issues relevant to education.<sup>183</sup>

<sup>179</sup> n 63 above.

<sup>180</sup> H Elias- Chairperson Management committee of UBODU interviewed on 21 September 2008.

<sup>181</sup> R Rovillos, Education in the International Decade of Indigenous Peoples: Bringing education back into the mainstream of Indigenous Peoples' lives available at <http://www.wcc-coe.org/wcc/what/jpc/echoes-16-02.html> (accessed 30 September 2008).

<sup>182</sup> The author was informed that a Mutwa boy in school in Kampala got his scholarship during a dancing festival.

<sup>183</sup> n 13 above 18.

#### 4.6 Do factors responsible for the poor access of education of the Batwa constitute a violation of their human rights?

The prime factors identified from the analysis of the respondents' view are poverty and discrimination. The general costs associated with education keep many children from indigenous groups out of school. Other factors leading to the exclusion of indigenous children from school, or hampering their scholastic progress, is that curricula and teaching methods are often culturally inappropriate, or the language of instruction is unknown to the indigenous child. Specific factors that impact upon Batwa children schooling includes:

- i. Lack of educational facilities in areas inhabited by the Batwa.
- ii. Lack of qualified teachers (often because indigenous education is assigned a low priority and teachers' salaries are inadequate).
- iii. The low relevance of the content of school lessons (particularly when teachers are not indigenous themselves and learning materials are not available in indigenous languages).
- iv. In rural areas where indigenous children participate in traditional agricultural activities, difficulties can also arise in accommodating both the school and agricultural calendars.
- v. Discrimination by teachers and children of majority groups in the same school and use of corporal punishments.

From the above list, it is clear that majority of the factors constitutes violation of the human rights of the Batwa. For instance, the Convention on the Elimination of All forms of Discrimination (CERD) abhors discrimination. CERD defines discrimination as:

any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.<sup>184</sup>

The CRC prohibits the subjection of a child to any form of discrimination.<sup>185</sup> The ACHPR<sup>186</sup> promotes equality of persons, stressing that everyone must enjoy same respect and same right. Municipally, equality is enshrined and protected to the effect that no forms of discriminations are permitted.<sup>187</sup> Furthermore, with respect to corporal punishment meted out on most Batwa children, the right to respect and of dignity inherent in a human being abhors cruel, inhuman or degrading

<sup>184</sup> Art 1.

<sup>185</sup> Art 30.

<sup>186</sup> ACHPR art 5, 19.

<sup>187</sup> Constitution of Uganda 1995 art 2,1 Uganda National Equal Opportunities Policy deals with issues and concerns of marginalisation, discrimination, injustice, exclusion, unfairness and inequality.

treatments in the Charter.<sup>188</sup> In addition, the deprivation of the Batwa people of their forest dwelling which in turn affects their means of livelihood amount to a violation of their rights.<sup>189</sup> Forcefully removing Indigenous people from their lands or territories amounts to violation of their right.<sup>190</sup> In the case of the Batwa, the government have failed to put in place an effective redress mechanism, which may include restitution and empowerment to enable the Batwa, continue with their economic life.<sup>191</sup>

Poverty, defined as a denial of rights, capabilities and access to resources consistent with measures based on the satisfaction of basic needs and with the internationally agreed targets like those on malnutrition, infant mortality, access to education and safe water.<sup>192</sup> The author is of the view that the economic incapacitation of Batwa is in violation of their right to adequate standard of living. This so because;

Poverty has become a globalized phenomenon; it features on the agendas for action of governments, multilateral bodies and civil society organizations all over the world. From the human rights perspective, poverty constitutes a multiple violation of human beings' fundamental rights and above all a violation of the right to lead a decent life as laid down in international human rights agreements. This right amounts to being able to live out one's life as a human being with dignity, and to be able to enjoy a decent life in which the individual is valued and is able to give the best to society.<sup>193</sup>

In Article 11(2)<sup>194</sup> the right "...to an adequate level of life for himself and for his family, including adequate food, clothing and housing, and a continuing improvement in the conditions of existence..." is fully enshrined. Thus, the current deprivation and alienation of the Batwa from the forest resources that serves as their sole source of income puts them in a precarious situation.

#### 4.7 Conclusion

From the above analysis, it is clear that the Batwa needs education to improve their lifestyle. In addition, the need to move from policy making to implementation becomes important to improve the level of access to education of the Batwa. The Ugandan government inability to improve the access to education of Batwa children purely on the excuses that the communities are categorised as hard-to-reach and live areas fall short of the General Comment on education. A cumulative perusal of the provisions of the General Comment crystallizes the fact that the factors that affect

<sup>188</sup> ACHPR art 5.

<sup>189</sup> ACHPR art 21(2).

<sup>190</sup> DRIP art 10.

<sup>191</sup> DRIP art 11(2).

<sup>192</sup> R Bissio 'The Right Not to be Poor <http://www.twinside.org.sg/title/bissio.htm> (accessed 28 July).

<sup>193</sup> The right to not be poor poverty as a violation of human rights [http://www.socialwatch.org/en/informeImpreso/images/otrasPublicaciones/ZOOM\\_05\\_eng.pdf](http://www.socialwatch.org/en/informeImpreso/images/otrasPublicaciones/ZOOM_05_eng.pdf) (accessed 28 July).

<sup>194</sup> International Covenant on Economic, Social and Cultural Right (ICESCR).

the Batwa access to education constitute violation of Human rights. Finally, the curriculum content of education does not meet the peculiar need of the Batwa.

With the above analysis and conclusions, the next chapter draws conclusions on factors that affect access to education among the Batwa. Ways of improving access to education among the Batwa forms part of the recommendations.

## Chapter Five

### CONCLUSION AND RECOMMENDATIONS

Education is an indispensable tool with which indigenous people can extricate themselves from the exclusion and discrimination that has historically been their fate.<sup>195</sup>

#### 5.1 Conclusions

The importance of education to the general development of a people remains an important factor that is not arguable. From the preceding chapters, conclusions are reached that indigenous people in Uganda, particularly the Batwa are victims of progress without development. For them development has meant the invasion of their habitat by government projects and other ethnic groups searching for land and other natural resources.<sup>196</sup> From statistics already put forward, it is evident that the Batwa child remains the worst hit by the inability to access education in Uganda. Thus, an issue stands out and remains unarguable, and that is the fact that the right to education of the Batwa is been violated.

The only available explanation to the violation of the right to education of the Batwa is that of trading blames. The non-availability of record on the number of students that access education at the primary level by tribe ensures that the government at the central level is completely unaware of the plight that the Batwa face in their quest to access education.

Uganda policy on culture is in line with the various international laws that protects both cultural and educational rights of the Batwa. However, the presence of several, often small, linguistic communities in the same area further complicates logistically, course development and programming of education for the Batwa. Cultural practices of the Batwa do not affect their access to education rather poverty and discrimination contributes largely to the poor access of education.

In addition, the education curriculum in Uganda does not meet the special needs of the Batwa. This is despite the fact that Uganda policy on education conforms to international standard of education. Contrary to some opinions of the respondents, the Batwa have positive perception of education and perceives education as a tool that will alleviate their current poor and non-developed status. Teachers are rarely sensitized or properly trained on the particular needs of indigenous

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<sup>195</sup> MW Jensen, 'Indigenous affairs editorial 1/05 available at <http://www.iwgia.org/sw15918.asp> (accessed on 30 September 2008).

<sup>196</sup> Akanwasa (n 4 above) 254.

children. Thus leading to high level of discrimination in schools, entrenched and encouraged by the teachers.<sup>197</sup>

The Batwa, as an indigenous people have unique needs that development actors must understand and respect in order to create culturally appropriate projects that contribute to their ability to facilitate their own future development path. A number of goals identified for their future development include access to land, adequate housing, improved educational attainment, more employment opportunities, and increased food security.

Finally, the introduction of and ultimate survival of indigenous cultures in the school setting will largely depend on the paradigmatic orientation of those who are in charge of education, namely, the teachers, school administrators and policy makers.<sup>198</sup>

## 5.2 Recommendations

Discrimination and poverty are identified as the greatest factors affecting the Batwa access to education and the large dropout rates. Thus, it is important that the government focus on these aspects in trying to promote, protect and fulfil the right to education of the Batwa. The following recommendations are made as means of achieving the realisation of the right to education of the batwa:

1. The education ministry should put measures in place to ensure non-violation of the Constitutional right of non-discrimination.
2. Teachers must understand the basis of human rights. This will in turn ensure that they act as agents of dissemination of the gospel for respect of human rights and not discriminate against Batwa children in their schools.
3. The Ministry of education and NGO's must collaborate and embark on massive awareness campaigns in the region where Batwa reside. The major aim of this collaboration will be to sensitise pupils of majority tribes that the Batwa are human beings and therefore they should learn to respect and live with them harmoniously.<sup>199</sup>
4. The planned social security scheme enunciated by the commissioner for social development is a welcomed development. However, monitoring the project to ensure non-diversion of funds or embezzlement of funds meant for the poorest of the poor is crucial to the success of the policy.

<sup>197</sup> n 13 above 63.

<sup>198</sup> Akanwasa (n 4 above) 255.

<sup>199</sup> ACHPR 25 is to the effect that States parties to the Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.



5. In addition, education to the Batwa must not only be compulsory and free but the government must ensure sufficient supply of educational materials to schools.
6. Governments must embark on skill acquisition workshops for the Batwa. Skills acquired will empower Batwa parents to be able to sustain their families without demanding much support from their children and thus encouraging them to remain in school.
7. A consistent supply of qualified teachers is essential for sound education and planning and is an important indicator to the relevance and quality of primary school curricula. Training of teachers must therefore assume an important place in the schedule of the ministry of education.

On the part of NGO's, sustaining the increased advocacy and lobbying is encouraged. As suggested by Besigye Samuel of CARE international, the fact 'that the Batwa are not educated does not mean they cannot take part in discussing policies meant to educate them'.<sup>200</sup> Hansugule shares this view stating that 'the problem with most policies are not in the making thereof but the fact that the people that the policies are made for are not aware and involved in the formulation'.<sup>201</sup> Penninah views the role of NGO's as very crucial, though tasking. 'We must sustain advocacy; we must keep encouraging the Batwa people and all indigenous people to stand up for their rights'.<sup>202</sup>

The author is of the view that restoring self-dignity and worth among the Batwa is germane if success must be achieved in improving their social status. As observed during the field visit of this research, most Batwa (young and old) feel that their case is hopeless. A parent stated 'what do you want us to do, when our kids come back crying that they have been abused by both teachers and students should we ignore them and force them to return to school?'.<sup>203</sup> The Batwa must stand up to the realities of their situation and reconstruct their self worth and esteem. While a few of the parents informed the author of their desire for education, it is important that they encourage other members of the community to accept the importance of education. Nwaonu is of the opinion that the indifferent attitudes by majority of indigenous groups in African with modern development is not to their favour. He buttresses the point that the Batwa in Uganda must adjust to the current situation and chart a way forward while seeking government and NGO support.<sup>204</sup>

At a micro level, research focussing on how the various subjects offered in schools incorporates cultures and knowledge of indigenous people would go a long way to contribute to understanding

<sup>200</sup> Interview held on 21 September 2008.

<sup>201</sup> Lecture on socio-economic rights held at the centre for human rights University of Pretoria, July 2008.

<sup>202</sup> Interview held on 21 September 2008.

<sup>203</sup> The author addressed a number of community leaders encouraging them on the value of self-esteem and self worth, during his visit to Kisoro Comprehensive School; he encouraged the three Batwa pupils there to ensure no one erodes their self-esteem and worth.

<sup>204</sup> Interview conducted at African Institute of South Africa on 30 July 2008.

of how classroom dynamics influences the attitudes, beliefs and practices of teachers and students in relation to indigenous peoples' way of life and their cultures.<sup>205</sup>

It is important to interrogate the unquestioned emphasis on formal education and the ways of defining education. The enormous value placed on formal education, devaluing other styles of learning resulting in labelling a group of people who despite their legitimate and valuable skills as ignorant and uneducated, must be discouraged.<sup>206</sup> The government must improve the skill base of the Batwa people while slowly integrating them into formal education system. Ugandan parliament must pay particular attention to the establishment of measures to protect and enhance the right to education of the Batwa having fulfilled the enactment of policies.<sup>207</sup> To achieve the realization of the right to education of the Batwa the Uganda government must:

- i. Promote access to education and retention of indigenous and vulnerable children in school at all levels of education;
- ii. Expand and increase outreach of functional adult literacy and ensure that formal and non-formal education facilities and services are accessible to indigenous groups;
- iii. Ensure that the education system respects the right and dignity of indigenous groups.<sup>208</sup>

Finally, the government must take cogent and targeted steps to ensure the movement from human wrongs to human rights in terms of realising the right to education among indigenous peoples in Uganda and the Batwa children specifically.

**Word Count:** 17, 295 (excluding table of contents, bibliography and annexure)

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<sup>205</sup> Akanwasa (n 4 above) 255.

<sup>206</sup> n 14 above 246.

<sup>207</sup> Uganda 1995 Constitution Object XI.

<sup>208</sup> n 185 above 49.

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Beekunda George Kacwa - AG Director Social Protection Ministry of Gender.

Besigye Samuel - field coordinator rights, equity and protected area of CARE.

Daniel Rubowa - Policy consultant

Francis Nwaonu -	Head Sustainable development and Governance Unit African Institute of Southern Africa
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### **Focus Group members (UBODU management committee members)**

Abel Ruguiza-	member
Dusabe Yeremia-	vice chairperson
Habyarimana Elias-	Chairperson
Nyirakaromba paskazia-	member
Simako Amos-	member

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Asaph-	Admin/financial officer of UBODU Kisoro
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Anna -	Receptionist Karibu Kweti guest house Kisoro
Tabitha-	Kisoro
Bryan-	Kisoro
Vivian kobusingye-	NEPAD Uganda
Baka Hilda-	LDC graduate, Kampala
Sylvia tayebwa-	Kampala



Annex ure 1



Author with a cross section of students



Author with one of the Batwa elders



Author and Neza Henry of UBODU trying to teach some kids a song





Author with a cross section of Batwa Community Author educates Batwa women on the need to send their children to school



Author with the Batwa Children and Proprietor of Kisoro Author and Neza with the Batwa Children Comprehensive secondary school a cross section of students



Author and Besigye Samuel of CARE international during a focus committee group discussion with members of UBODU management committee Author with a the only woman in the Management at the UBODU office in Kisoro

Annexure 2

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**FACULTY OF LAW**  
Office of the Dean

10 September 2008

**TO WHOM IT MAY CONCERN**

**RE: REQUEST FOR PERMISSION TO HAVE ACCESS TO  
INFORMATION/INTERVIEWS**

This is to introduce **MR. ONUORA-OGUNO AZUBIKE**, Registration Number 2008/HD09/14573X, and a Masters student in the Faculty of Law, Makerere University under Makerere University – University of Pretoria exchange programme. He would like to have access to information to be used in his research work for his Thesis: "*Indigenous Peoples Access to Education – A Case Study of the Batwa People in Uganda*", which is a pre-requisite for his LL.M. Degree.

He would be interested in getting Interviews from key informant especially in the areas of; statistics, curriculum and policy.

I would be grateful for any assistance rendered to him.

Dr. Sylvia Tamale  
DEAN OF LAW



**Annexure 3**

**CENTRE FOR HUMAN RIGHTS, FACULTY OF LAW  
UNIVERSITY OF PRETORIA, SOUTH AFRICA**

The following questions are designed to enable the collation of data for my LLM (Masters in Human Rights and Democratisation in Africa) research titled **ASSESSING THE RIGHTS OF THE INDIGENOUS CHILD TO EDUCATION:- A CASE STUDY OF THE BATWA IN UGANDA**. Please do give brief reasons for your answers where applicable.

1. How would you describe Uganda’s policy on education?

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2. Would you say that the education policy is inclusive of both the indigenous and non-indigenous peoples?

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3. What do you think is the ratio of pupil accessing education in Uganda vis a vis indigenous and non-indigenous people.

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4. Do you think that the cultural practice of the Batwa people contribute to the low success story of their access to education?

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5. Would you attribute the high dropout rate of the Batwa people to their ‘belief’ and way of life?

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6. Do you think that the form and method of education currently used informs lack of education among the Batwa?

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7. Do you think that the content of education suite the specific needs of Uganda indigenous peoples?

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8. What ways do you suggest will improve the right of education of the Batwa?

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9. Do you think that the government is doing enough in fulfilling its rights of provision of education to children in Uganda?

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10. Would you in your opinion think that the Batwa children are disadvantaged educational because of their origins?

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11. Do you think that the international law provision for the right for education is comprehensive enough?

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12. Is the Ugandan government fulfilling its obligations under international law?

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13. Is the Ugandan government fulfilling its municipal law obligation as enshrined in the Constitution in protecting the right of indigenous people?

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14. What model will you proffer and in what manner do you think provision of education to the Batwa people should take without violating their cultural rights?

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15. What in your opinion should be the role of NGO' to improve the Batwa peoples' access their right to education?

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16. What in your opinion should be the role of Batwa people in bettering their lot to access education?

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- Write N/A where answer is not within your knowledge or you wish to make no comments.

**Thanks**  
**Onuora-Oguno Azubike. C**

**Annexure 4**

*Mr Vincent Ssozi*  
*Please assist the bearer*  
*2 Byel Aclsmie*  
*15/09/08*

**LOOSE MINUTE**

Date: 11.09.08

To: (i) CEP (Attn: Mr. Albert Byamugisha, AC/SME & Ms. Maureen Bakunzi, PPA II)  
(ii) D/NCDC


From: PAS/FA

**Subj: REQUEST FOR INFORMATION ON EDUCATION STATISTICS, POLICY AND CURRICULUM**

This is to introduce to you Mr. Onuora-Oguno Azubike, from Faculty of Law Makerere University who has requested for permission to access information from you on the topic captioned above as partial fulfilment of the requirements of his LL.M. degree course.

Please accord him necessary assistance.

*NSF*  
*Home*  
*Plan 3*  
*Statistics*  
*Section*  
*Western*  
*Univ.*

  
A.D. Kibenge  
PAS/FA

Annexure 5 (sample of consent form)

**INFORMED CONSENT CLAUSE**

I hereby confirm that I have been informed by the researcher Onuora-Ogwu A-C (state particulars) about the nature, conduct, benefits and risks of the proposed research. I have also received, read and understood the above written information (informed consent) regarding the study.

I am aware that the results of the study, including personal details regarding sex, age, marital status etc (state) of myself will be anonymously processed into the research report. (See in particular the definition of "personal information" in the Promotion of Access to Information Act 2 of 2000.)

I may, at any stage, without prejudice, withdraw my consent and participation in the study. I have had sufficient opportunity to ask questions and (of my own free will) declare myself prepared to participate in the study.

Participant's name: GABRIEL DDBO-KATANDI

Participant's signature: 

I, Onuora-Ogwu A-C herewith confirm that the above participant has been informed fully about the nature and scope of the above study.

Investigator's name: Onuora-Ogwu A-C

Investigator's signature: 

Witness's name: BARBERTH NIMWIRI

Witness's signature: 

Date: 15/09-2008

Annexure 6

**LOOSE MINUTE**

Date: 11.09.08

To: (i) CEP (Attn: Mr. Albert Byamugisha, AC/SME & Ms. Maureen Bakunzi, PPA II)

(ii) D/NCDC (0772586770)

From: PAS/FA

**Subj: REQUEST FOR INFORMATION ON EDUCATION STATISTICS, POLICY AND CURRICULUM**

This is to introduce to you Mr. Onuora-Oguno Azubike, from Faculty of Law Makerere University who has requested for permission to access information from you on the topic captioned above as partial fulfilment of the requirements of his LL.M. degree course.

Please accord him necessary assistance.



A.D. Kibenge  
PAS/FA