

# report

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## Twa Women, Twa Rights in the Great Lakes Region of Africa

By Dorothy Jackson



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The author thanks all those, especially the Twa women and men, who contributed to this report. The report is dedicated to the memory of Clotilde Muzabeyazu.

### **Minority Rights Group International**

Minority Rights Group International (MRG) is a non-governmental organization (NGO) working to secure the rights of ethnic, religious and linguistic minorities and indigenous peoples worldwide, and to promote cooperation and understanding between communities. Our activities are focused on international advocacy, training, publishing and outreach. We are guided by the needs expressed by our worldwide partner network of organizations which represent minority and indigenous peoples.

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**Cover Photo** Twa women with children near Kitshanga village, North Kivu, Democratic Republic of Congo. Chris Keulen/Panos Pictures. **Twa Women, Twa Rights in the Great Lakes Region of Africa** is published by MRG as a contribution to public understanding of the issue which forms its subject. The text and views of the author do not necessarily represent in every detail and in all its aspects, the collective view of MRG.

# Twa Women, Twa Rights in the Great Lakes Region of Africa

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# Preface

Twa 'Pygmies' are one of the poorest and most marginalized communities in the Great Lakes region of Africa. However, Twa women suffer from double discrimination, because of their ethnicity and their gender. These forms of discrimination can intersect to devastating effect, as in the sexual violence experienced by Twa women in the context of armed conflicts in the region.

Minority Rights Group International (MRG) is publishing *Twa Women, Twa Rights in the Great Lakes Region of Africa* as part of its ongoing programme on the Twa. This programme aims to increase recognition and respect for the rights of Twa communities, enhance their participation and representation in decision-making processes, and promote appropriate social development through inter-community cooperation.

This new publication follows an earlier report, *Batwa Pygmies of the Great Lakes Region*, which examined the situation of Twa communities as a whole in Burundi, the Democratic Republic of Congo (DRC), Rwanda and Uganda. That report, which was first published in English in 2000, has been translated into French, Kinyarwanda, Kirundi and Swahili for a wider circulation in the region.

The Twa were the first inhabitants of the equatorial forests of the Great Lakes region. However, over decades, they have suffered from the loss of their traditional forest habitat and its natural resources through war as well as through tourism and commercial exploitation. The pattern of Twa settlement, employment and development differs considerably across the countries in the region, but their continued social and political exclusion is universal.

*Twa Women, Twa Rights in the Great Lakes Region of Africa* examines the situation and marginalization of Twa women in Burundi, the eastern DRC, Rwanda and Uganda in relation to their access to socio-economic resources including land, education, health and housing, and family rights. On a political level the report objectively examines the issues of representation and participation within the context of existing national, regional and international human rights standards. Also examined are issues of identity, the impact of armed conflict, the Twa's relations with other communities and the situation of Twa organizations.

Despite the level of disadvantage they experience, Twa women are active in the region in promoting the rights of their communities and working for their development. Recognizing the key role of these activists and supporting their efforts are essential in tackling the problems encountered by Twa women.

*Twa Women, Twa Rights in the Great Lakes Region of Africa* is written by Dorothy Jackson, who works with the Forest Peoples Programme. She has an extensive knowledge of Twa communities, accumulated through long periods of fieldwork and travel among the communities in the region. The draft text of this report has been read and commented on by a number of expert readers from the region and internationally.

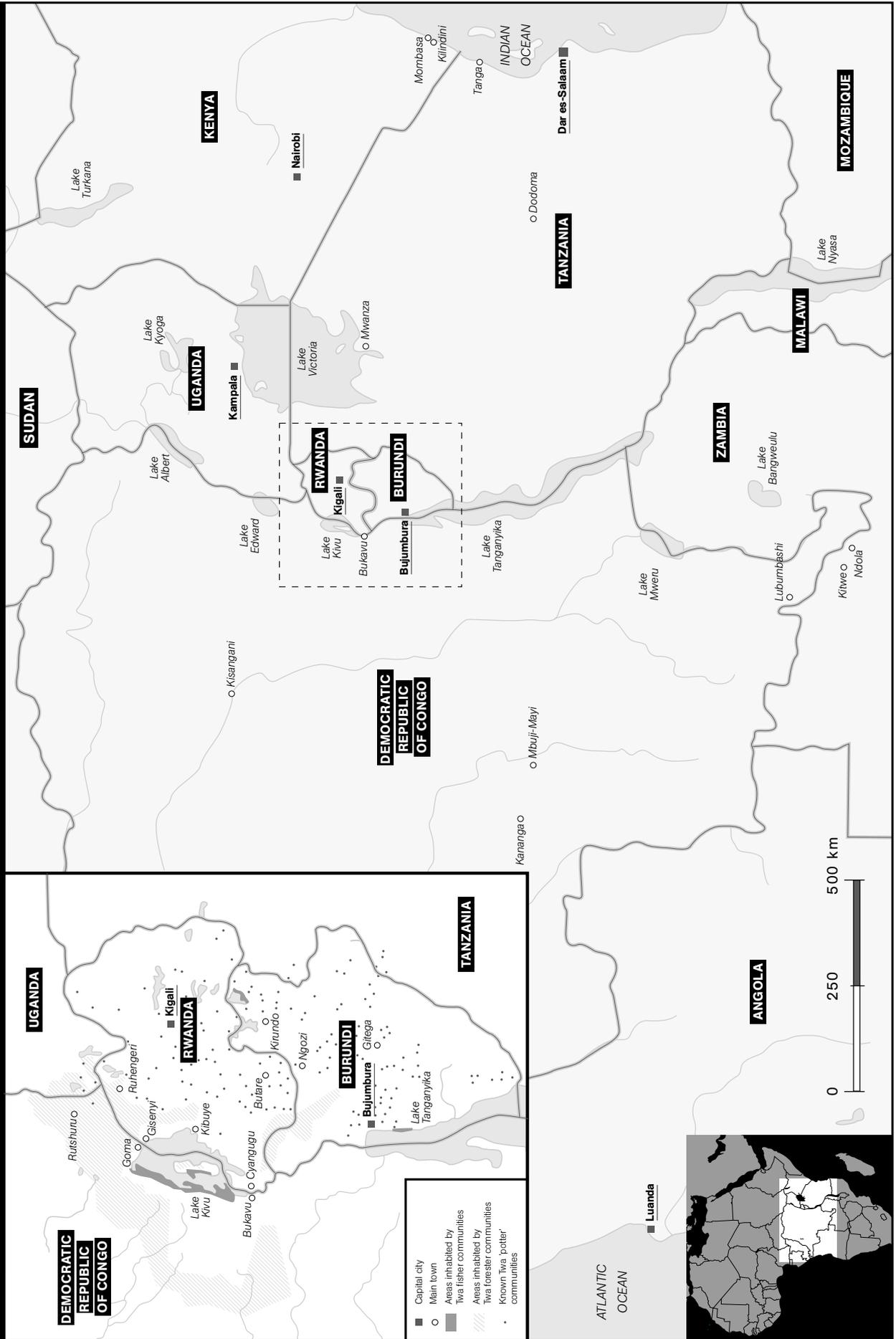
The report concludes with a set of policy recommendations, which MRG believes will contribute towards improving the situation of Twa women and addressing the double discrimination they face.

**Mark Lattimer**

Director

November 2003

# The Great Lakes region showing distribution of Twa Communities



# Introduction

The Twa were originally a high-altitude forest people, inhabiting the mountains of the Albertine Rift Area in Central Africa, who specialized in hunting and gathering.<sup>1</sup> Historical accounts and stories regarding the origin of the Twa indicate that the Twa were the first inhabitants of these forests.<sup>2</sup> They identify themselves as indigenous and share many of the characteristics of indigenous peoples.<sup>3</sup> For example, the Working Group on the Rights of Indigenous People/Communities in Africa, set up by the African Commission on Human and Peoples' Rights, describes indigenous peoples as having cultures and ways of life that differ considerably from the dominant society and are under threat; are dependent on their traditional lands; are discriminated against; are often geographically isolated; and are politically and socially marginalized.<sup>4</sup>

The Twa of the Great Lakes region of Central Africa live in Burundi, eastern Democratic Republic of Congo (DRC), Rwanda and Uganda (predominantly in the south-west). The total Twa population is estimated at 69,500–87,000, based on an estimated 30,000–40,000 in Burundi; 16,000 in DRC; 20,000–27,000 in Rwanda and 3,500–4,000 in Uganda.<sup>5</sup> The highest population densities tend to be in the mountainous areas around Lake Edward, Lake Kivu and Lake Tanganyika.

In most of their traditional territory, the Twa have been forced to forsake their forest-based hunter-gatherer culture and economy. The demographic and political processes that have caused this include: deforestation by incoming farming and herding peoples, which started centuries ago in Burundi and Rwanda; and forest clearance for agri-development, infrastructure, logging, military zones and mining during the last century. In the last 50 years, Twa communities have been forcibly expelled from forest areas designated for 'development' projects, and from conservation areas including the Parc des Volcans and Nyungwe forests in Rwanda, the Mgahinga and Bwindi Impenetrable Forest mountain gorilla parks in south-western Uganda and the Kahuzi-Biega National Park and Virunga National Park in DRC.<sup>6</sup>

Due to the alienation of the Twa from their forests, they have developed alternative strategies for survival. This process has taken place in different ways and at different speeds in different parts of their territory. Therefore, the 'Twa community' is diverse, ranging from groups retaining strong links to the forest, to communities that have been settled farmers for several generations. In some areas, Twa were drawn into clientelist relation-

ships with the Tutsi kings (*mwamis*), and some Twa (mainly men) found roles as court jesters, dancers, messengers, musicians and warriors. Some Twa men gained rank at court and were awarded favours, including land and cattle, and a few became well-known, such as Bashyeta who was ennobled by the Rwandan King Cyirima II.<sup>7</sup> As their forest lands shrank, some Twa communities developed pottery skills. This craft is now practised by a large proportion of the Twa communities that have access to clay deposits in parts of Burundi, Rwanda and low-lying areas of Kivu in DRC. On the Burundi side of Lake Tanganyika and on Idjwi Island in Lake Kivu there are Twa fisher communities.

A central element of recent Twa history is the deeply entrenched discrimination and marginalization they experience from neighbouring ethnic groups. This has increased as the Twa have become alienated from their forests and have been forced to live on the margins of the dominant society.<sup>8</sup> This discrimination is typically manifested as:

- negative stereotyping – Twa are seen as backward, beggars and thieves, childish, dirty, ignorant, immoral and stupid;
- the denial of their rights – for example, their rights to land, and the right to represent and speak for themselves; and
- segregation – Twa people are often not permitted to eat or drink with other people, sit on the same bench or draw water from wells at the same time. Inter-marriage is frowned on.

These attitudes are beginning to change but are widespread in rural areas.

The Great Lakes region has witnessed civil conflicts and wars, famines and population movements over several centuries. These have contributed to the fragmentation of Twa populations and their social systems. The intense political conflicts between the dominant Hutu and Tutsi groups in Rwanda over the last 50 years, culminating in the killing of 800,000 Tutsis, moderate Hutus and Twa during the Rwandan genocide in 1994,<sup>9</sup> and the ongoing violence in Burundi and DRC between many armed factions, have deepened the vulnerability of the Twa and other so-called 'Pygmy' groups. Box 1 gives an overview of the armed conflict and recent political processes in the region.

## Box 1: Armed conflict in the Great Lakes region

Much of the current conflict in the area stems from the violence and mass displacements unleashed by the 1994 Rwandan genocide, when over 2 million people, including many of the extremist Hutu *Interahamwe* responsible for the genocide, spilled into Tanzania and DRC.<sup>10</sup> From refugee camps in DRC they continued to launch attacks on Rwanda. Rwanda and Uganda backed two rebel uprisings in eastern DRC in order to regain security of their borders with DRC.

The first, led by Laurent Kabila in 1996, broke up the camps, but forced *Interahamwe* leaders deeper into the forests. Kabila overthrew President Mobutu, but once in power he reneged on his promise to help Rwanda combat anti-Rwandan elements within DRC.

By early 1999 there were eight armies and at least 12 other armed groups active in DRC, mostly in the east, and the conflict became a battle for control of DRC's mineral wealth. A report by the United Nations (UN) on the exploitation of DRC's natural resources by foreign forces estimated that by September 2002 the war had caused c. 3–3.5 million deaths.<sup>11</sup> Child malnutrition and mortality rates rocketed, and civilians were subjected to horrific human rights violations, including systematic sexual violence against women.<sup>12</sup>

A peace accord was signed in Lusaka in August 1999 between all the factions in the DRC war but prospects for peace seemed remote. Following the assassination of the President Laurent Kabila in 2001 and his replacement by his son Joseph Kabila, efforts to reach a political settlement increased. By December 2002, all foreign troops had withdrawn from DRC, and a comprehensive peace agreement was signed. This paved the way for a new Constitution, signed in April 2003, and a transitional government was inaugurated in August 2003, composed of representatives of the outgoing government, the pro-government *Mayi-Mayi* militia, armed rebel movements, the unarmed political opposition and civil society.

However, violence intensified in DRC's Ituri region, where conflicts over land between local Lendu and Hema ethnic groups were aggravated by rebel groups (some backed by Uganda and Rwanda) battling for control of mineral resources including gold and diamonds. Since 1999 over 50,000 people have died in Ituri, and over 500,000 people have been displaced.<sup>13</sup> During late 2002 and 2003 the situation deteriorated so much that many humanitarian agencies issued warnings of genocide. Reports of abduction, cannibalism, rape (including child rape), summary executions and torture were investigated and confirmed by the UN mission in DRC. The Mbuti 'Pygmies' were one of the main groups subjected to summary executions, and provided testimonies of acts of cannibalism being committed against members of their families.<sup>14</sup>

Burundi's most recent period of violence began in October 1993, following the assassination by the Tutsi-dominated military of the democratically elected Hutu President Melchior Ndadaye. Since then, the country has been ravaged by violent conflict between different Hutu and Tutsi factions, several of whom had bases in DRC. The fighting has killed thousands of civilians and displaced hundreds of thousands from their homes; gross human rights violations including abductions, pillage and rape have been perpetrated; and much of Burundi's infrastructure has been destroyed. Negotiations between 19 parties (the Twa were not represented) resulted in the Arusha Peace Accord and a power-sharing transitional government in November 2001. However, fighting has continued between government forces and two rebel factions.

Apart from sporadic incursions by *Interahamwe* and soldiers of the former regime, Rwanda and Uganda have remained relatively stable since 1994. However, their actions outside their borders have continued to fuel the wider conflict in the Great Lakes region.

This report looks at the situation of Twa women, within the wider international human rights and national policy contexts of Burundi, DRC, Rwanda and Uganda. As indigenous people, Twa women suffer from social, eco-

nomic and political marginalization, and as women they suffer unequal opportunities with respect to access to land, social services and representation. Twa women also face discrimination from within their own Twa society.

# Land and livelihoods

## Access to and control over land

### Losing ground

To understand the land situation of Twa women, it is necessary to examine the factors that have contributed to the chronic landlessness of the Twa as a whole.

The Twa's landlessness results from their historical occupation of forests where, like hunter-gatherer or 'Pygmy' peoples throughout Central Africa, their land rights were not recognized in customary or statute law. Hunter-gatherer societies are regarded as being under the jurisdiction of dominant groups claiming land rights over the same areas. Hunter-gathering is not seen as conferring use and ownership rights in the same way as farming or herding.<sup>15</sup>

The invisibility of Twa land rights under statutory or customary law means that the Twa have received no compensation or replacement lands following the expropriation of their lands for farming, wildlife conservation, agri-business projects or pasture. After the eviction of resident communities from the Kahuzi-Biega National Park in DRC during the 1970s and 1980s, compensation was paid to the groups who owned the forest lands under Bantu customary law, but not to the Twa who were the most dependent on forest resources.<sup>16</sup> The forest-dwelling Twa evicted from Gishwati Forest, the Parc des Volcans and Nyungwe Forest conservation areas in Rwanda, have not been compensated for the expropriation of their land and the destruction of their culture and livelihoods; only a few families have been allocated plots of land by the local authorities but these are inadequate.<sup>17</sup>

Currently, the Twa are one of the most disadvantaged ethnic groups in the Great Lakes region in terms of land ownership. Surveys of Rwandan Twa in 1995 and 1997 showed that only 1.6 per cent had enough land to feed their families, 13 per cent were entirely landless and the rest had insufficient land, usually just the plots on which their houses stood. In 2002, only 22 per cent of Twa households in Cyangugu province, Rwanda, had agricultural land. A 1991 survey of Twa evicted from the Gishwati Forest reported an average of 0.3 ha per household, but some households had as little as 0.005 ha, or 50 sq. m.<sup>18</sup> For comparison, a recent national survey of the Rwandan population as a whole found that 80 per cent of Rwandan households owned some farmland, with an average area of 0.71 ha per household.<sup>19</sup>

Salvator Nkurunziza's detailed study of Twa exclusion in Burundi showed that 53 per cent of Twa households were landless, compared with 15 per cent of non-Twa households. Very small plots were predominantly owned by Twa, whereas larger plots were owned by non-Twa.<sup>20</sup> In 1995, 82 per cent of Ugandan Twa were entirely landless. The total area owned by the remaining 18 per cent amounted to 4.5 ha, an average of 0.04 ha per household.<sup>21</sup>

### Twa land acquisition

Where Twa have been able to obtain land, this was often through their patron-client relationships with the traditional rulers the *mwamis*, or as tenants (*abagererwa*) under the traditional feudal *ubukonde* tenure system. It is notable that in 1995, 84 per cent of the Rwandan Twa who had land, had received it from the *mwamis* prior to 1959, and only 3 per cent had received land from the government between 1961 and 1993. In Burundi too, land gifted by the *mwamis* was the main means of land ownership for the Twa.<sup>22</sup> Since colonial times, virtually no land has been distributed to the Twa. To this day, there are high concentrations of Twa around the former royal courts; for example, at Muramvya in Burundi, close to the traditional lands of the Twa in the Kibira Forest, and at Nyanza in Rwanda.

*'We are originally from Kibira Forest, then we went to Ruhororo in Muramvya. Ganwa [Prince] Bisumbagotira, son of Moya gave land to the Twa when they came from the forest. Mboneko, another prince, took the Twa from the forest, and told them to go and hunt everywhere in the bush. Later, the customary chief Mateka gave them the hill here. Our ancestors were Kanyogombe, Bigoma, Muyuga, Bagere, Budodi, Muriho. They were heroes in hunting, and were given land as a reward.'*

(Older Twa woman, Giheta/Gitega, Burundi, April 2003)

In the last decade, church groups, aid agencies and Twa organizations have bought land for a few Twa communities and families. In Rwanda some Twa communities have obtained use rights to marsh land, by forming community associations registered with the local authorities. A land purchase scheme belatedly established by the Mgahinga and Bwindi Impenetrable Forest Conservation Trust (MBIFCT) for Twa expelled from the national parks in

south-western Uganda, provided an average of only 0.5 ha per household for less than half of the approximately 403 landless Twa households, before running out of funds.<sup>23</sup>

Many Twa communities are transient squatters, constantly looking for land where they can lodge until they are moved on.

*'These people who let us stay on their land, they call on us to cultivate [it]. If we refuse they say "Move away, we no longer want you." We are not settled here, because other local people are pressing the landowners saying "What do you need Twa for?" and at any time we may have to shift and settle elsewhere. [...] The landlords don't let us put up toilets because they don't want anything permanent on their land, or holes which could be a problem for cultivation later. But if they catch us defecating in the fields, they are angry. My daughter was caught and was forced to remove the faeces with her hands.'*

(Middle-aged Twa woman, Nyakabande/Kisoro, Uganda, May 2003)

These Twa are unable to invest in permanent housing, due to the risk of being moved on. Twa's low social status and weak political power make their lands vulnerable to expropriation via eviction, encroachment and intimidation by neighbouring communities or by local government authorities. Some of Rwanda's *imidugudu* (planned villages, intended to accommodate returning refugees and to support the government's policy to promote 'rational' land allocation)<sup>24</sup> have been built on Twa land. In times of hunger, Twa may also sell or rent their lands to neighbours for a pittance. Sometimes other local communities complain to the authorities that the Twa, being potters, do not need land, and that the land should be given to non-Twa.<sup>25</sup>

## Twa women and land

Relatively little is known about the traditional, forest-based social systems and customary rights of Twa, but they are likely to be similar to those of other Central African forest hunter-gatherers. These peoples are generally mobile and flexible, they seek a direct and immediate return for their labour, they do not accumulate property or store surpluses, and are strongly oriented towards the present rather than the future. Economic inequality within the group is levelled by obligatory sharing. Social inequalities are resolved by avoidance, jokes and teasing. Individuals with recognized skills or experience may be accepted as leaders in relevant situations, but they have no overall leader. Decisions are taken collectively and the society is inclusive. Problems and conflicts are often dealt

with by avoidance and by moving away from the source of difficulty.<sup>26</sup>

Forest-based hunter-gatherers consider themselves to be in an intimate, nurturing relationship with the forest. The abundance of the forest is maintained by sharing between people, and between people and forest spirits, also by singing and dancing rituals, which ensure the support of spirits to help them satisfy all their needs.<sup>27</sup> These peoples do not conceive of individual 'ownership' of land and resources. People are free to use the natural resources they need and in whatever quantity. Clan membership, friendship and marriage give individuals access to a wide range of different areas in which they can hunt and gather food and other forest products. Women access resources in their own right and not as a consequence of their relationships with men. Thus, in these traditional forest-based societies women's autonomy is assured by the collective nature of rights over resources, and their ability to access these resources freely and independently. This contrasts with European-based property regimes in which autonomy and freedom is associated with individual property rights.<sup>28</sup>

Twa dispossessed of their forest lands have been drawn into the land tenure systems of neighbouring farming and herding groups. Among the Fumbira, Havu, Hutu, Kiga, Shi, Tembo and Tutsi, land is also held by clans, but through the male line only. Women do not own land and can only obtain use rights via their husbands. Under customary law, women rarely inherit land and a widow is only allowed use rights to the property of her deceased husband providing she remains in the matrimonial home; otherwise her in-laws can forcibly remove her and her children from the land, and take it for themselves.<sup>29</sup> The Twa who have managed to obtain lands outside the forest have adopted similar attitudes towards male ownership of land, but in Twa communities women's rights seem to be slightly stronger and rules interpreted more flexibly in favour of women than in neighbouring communities.

Twa women interviewed for this report had many different perceptions on their rights to land, and how 'rules' of ownership and access were applied. However, some general themes emerged at least for Twa communities that no longer have customary use of forest lands.<sup>30</sup>

Twa communal land is generally divided into family plots that are considered to belong to the husband. Wives are regarded as having use rights to the land, but not as formally co-owning it. Land inheritance in Twa families is usually from father to son. Daughters may be reserved a portion of the family land for their use until they marry and move to their husband's communities. However, some Twa say that land should be passed on to both sons and daughters, and if there are only female children the presumption is that they will inherit, rather

than the land passing to more distant, male members of the father's family. Although a Twa woman typically moves to the husband's community when she marries, because of the extreme lack of land, if a woman does inherit land her husband will usually come to live on it.

A Twa woman will generally lose access to her family land if she leaves her husband. However, a woman whose husband has left her, or a woman who separates from her husband because of his abusive behaviour, can often retain the family house and continue to use the land, particularly if she has children to support. The same is true for widows. A woman's ability to retain family property depends on many factors, including the wife's bargaining power, whether bride price was paid, her standing in the community, decisions taken by community leaders about the rights of each party, whether there is other land available to either party and the degree to which the patriarchal customs of neighbouring communities have been absorbed by the Twa community. Twa women in polygamous relationships usually have to share their land with the other wives, or may be evicted to make room for a new wife, thus exacerbating the problems of supporting their children.

Overall, Twa women have lost opportunities for access to land, not only through the loss of traditional land rights of the Twa as a whole, but also due to the adoption of new attitudes to land ownership within Twa communities. Women's land rights in the few Twa communities that have secured some form of land ownership or use rights outside the forest, are weaker than those under previous forest-based communal land tenure systems.

## Livelihoods and economic security

### From forest to farm – changes in Twa livelihood strategies

*'The ancestors told us we were the first. The people who know how to write have invaded our lands [the Kahuzi-Biega National Park]. According to our ancestors, all those lands belonged to us, but we do not have any rights there now. The park was our area since the time of our ancestors. When a man left with his spear from his home to go into the forest, the family knew they would eat. If the man did not get out his spear, the woman knew she had to get her basket and axe to collect wood. She took the wood to non-Pygmies, and bartered it for bananas, so the family had food. Now, we, the women of the forest, don't have access to the forest. [...] We cry because we*

*have a miserable life. Then, we could live, we had enough to eat, all our needs were satisfied. Now there is nothing.'*

(Middle-aged Twa woman from Buyungula/Kabare, DRC at Women's Rights Conference organized by the Congolese Twa organization PIDP in 2000)

In parts of eastern DRC, Twa still derive a large part of their subsistence from the forests. They consider the collection of forest products for their own consumption and for trade as their true profession in which they take pride, but this is frustrated by conservation agencies. If there are opportunities to obtain these products clandestinely, they will do so, especially if they are landless and lack alternative ways of supporting their families.

*'We go to look for yams and milunda bitter leaves in the marshes on the edge of the lake and in the eucalyptus plantations of the Zairois [DRC Twa term for non-Twa people], as that's where the yams like to grow. We can't go to the park since they closed it off, and even if we bend the rules a bit, if we are caught we are threatened with death. Yet, it's in the forest that there's a large amount of food, but how to get access to it? Now we don't even know if we can go to the eucalyptus plantations, as the Zairois have started to threaten us and drive us away, saying that we are damaging their trees by cutting their roots when we dig up the yams.'*

(Middle-aged Twa woman, Chombo/Kabare, DRC, April 2003)

In the few areas where the natural resources have not been captured by conservation interests, dominant ethnic groups or entrepreneurs, such as on Idjwi Island and the forested areas of eastern DRC outside national parks, the Twa have more livelihood choices based on the use of diverse natural resources, and are not as destitute. But in the remaining areas, Twa traditional livelihood systems, based on flexibility and mobility, and immediate returns from the exploitation of renewable natural resources are almost impossible to maintain.<sup>31</sup> In today's market economy, the Twa's alternative strategies, based on the selling of labour or craft products, are scarcely able to meet the most basic daily needs of Twa households. Without reserves of natural resources, money or other assets, the Twa are among the poorest of the poor.<sup>32</sup>

An increasing number of Twa communities are turning to agriculture as their best hope of supplying at least some of their food needs and providing a buffer against extreme poverty. But for this to happen, the chronic landlessness of the Twa must be addressed.

*'What we lack is land. If we had it, we would be cultivating our own land. Even if it's a small area it's better than working on someone else's land.'*

(Middle-aged Twa woman, Busanza/Kisoro, Uganda, May 2003)

## Twa women's livelihoods

The division of labour between Twa men and women is fairly complementary. Twa women's main activities are: making and firing traditional clay pots; portering of building materials and harvested crops; agricultural wage labour; gathering wild food; tilling, planting, weeding and harvesting; gleaning from harvested fields; looking after livestock; petty trade; making mats, baskets and other crafts; and making charcoal. A few Twa women are engaged as community representatives by Twa organizations. Women have the additional domestic tasks of childcare, collecting firewood and water, cooking and housework, and some may have older relatives and orphans to care for.

The main activities of Twa men are: portering; agricultural wage labour; house construction; digging and transporting clay for pot making; collecting grass and wood for firing pots; clearing land for agriculture; felling and chopping up trees for charcoal and firewood; and fishing, hunting and trapping. A very small number are employed as community representatives by Twa organizations or as guards and trackers by conservation agencies. Men will occasionally cook and look after the children, make baskets, mats and pots, and take care of livestock.

Both men and women collect grass for mattresses; collect bamboo, forest products and vines; cut bean poles; dance and sing at weddings and local festivities; host tourist visits; make clay tiles; sell charcoal; transport pots to market and supply traditional medicine. If they cannot find work, many Twa men and women visit neighbouring non-Twa communities to beg for food.

Most Twa men acknowledge that the women work the hardest and are the mainstay of the household, contributing most to the family's food resources and raising the children. Twa men and women regard the husband as responsible for solving the family's problems, but he is not necessarily seen as the main provider.

Despite the variety of activities which Twa women undertake, they have been drawn into the market economy on very disadvantageous terms and their incomes are extremely low, usually less than 50 US cents per day, as shown below.<sup>33</sup>

### Wage labour

A Twa woman will typically be paid 15–50 US cents for a day's agricultural labour, or the equivalent in food, i.e. 1–2 kilos of beans, cassava flour or maize flour. Portering pays between 10 and 25 cents per 50 kg load. If a

woman can manage three or four trips per day, she can earn up to US \$1.

Throughout the region, employers routinely pay Twa labourers less than workers of other ethnic groups for the same work, usually half the normal rate, according to Twa women interviewed for this report.<sup>34</sup> However, there is no discrimination between Twa men and women in the wage rate.

### Extraction of natural resources

In eastern DRC, Twa women can make six to eight sacks of charcoal per month at about US \$2 per sack (c. 50 US cents per day), but half of this has to be paid to the person providing the tree. Collecting bamboo under licence from the Echuya Forest, Uganda, is relatively lucrative. The permit costs 25 cents and a bundle of bamboo sells for US \$1–1.25, generating a profit of up to \$1 per harvesting trip. Several trips can be made in a day.

### Livestock

A farmer may give a Twa woman a goat or sheep to look after, and permit her to keep one of the offspring produced. When adult, a goat is worth US \$12–20, and the female can give birth up to twice a year. This is one of the few means by which landless Twa can acquire capital, providing that they have access to grazing land.

### Sex workers

Some landless Twa women and girls living in or near major towns in the area are sex workers. This is usually part-time work, particularly on market days when men have money to spend. Often the women are 'paid' in beer, or at most get a few cents for their services. The contacts are casual and because the Twa women are of low status, there is little chance that their clients will offer them long-term support.

### Craft products

Sleeping mats take one or two weeks to make and are sold for between 50 US cents and \$1. A batch of 10 traditional clay pots can take a week to make and fire, but will sell for as little as 10 cents each. The prices that Twa women get for pots fail to cover the costs of the raw materials or the opportunity cost of their labour. The true cost of production of a traditional Twa pot is between US \$2–4, depending on the size. The market for traditional craft products is generally weak and if a Twa woman is desperate for cash she will accept any payment offered.

### Entertainment and tourism

Despite being renowned for their dancing, drumming and singing, few Twa communities have the opportunity to earn money from entertainment. Those who do are often

exploited. Twa communities called on to dance at local weddings and festivities will receive only local beer or a token sum of money. At the Bwindi Impenetrable Forest National Park in Uganda, tourists pay US \$5 each to visit local communities and see a Twa dance and drumming performance. Fifteen per cent of this money is supposed to be allocated to the Twa community. After sharing the monthly earnings between 20 Twa adults and children, each adult may receive less than US \$1. The Twa have no way of assessing whether they receive the correct proportion of the tourist fees. Twa women earn more money by selling baskets direct to tourists, earning US \$2.5 per basket.

### **Twa women's access and control over financial resources**

A Twa woman can decide reasonably freely how to spend the money she earns. She is responsible for feeding the family and her earnings are generally only sufficient to buy food. For example, a Twa agricultural worker in DRC earns a daily wage equivalent to US 30 cents. With this she can buy enough food for only one meal.<sup>35</sup>

If a woman does manage to earn extra money and wishes to spend it on non-food items, in theory, she needs to negotiate this with her husband. However, many Twa men recognize that women are better managers of money and do not insist on controlling household expenditure.

*'The woman knows most about the home. Even if I have money myself, my wife knows what is lacking in the home. She contributes more to the home. I may go out to earn money, but my wife knows much better than me how many domestic animals we have, how they are being looked after and what needs to be done. I may be drunk for days and not know what's happening.'*

(Older Twa man, Kalengyere/Kabale, Uganda, May 2003)

Despite pottery being a loss-making activity in many households, Twa in Burundi, parts of DRC and Rwanda cling to pottery because of its cultural significance. Twa potting communities regard pottery as a profession inherited from their ancestors, the mainstay of Twa family life and as an essential component of present-day Twa identity.

*'In our culture even if we had supplementary activities, we would not want to give up pottery. We can't*

*abandon the craft that has been passed on to us by our ancestors.'*

(Middle-aged Twa woman, Gitega, Burundi, April 2003)

Pottery affirms the partnership between husband and wife, as both have to contribute their skills to produce the end product. A Twa woman's skill in pottery is a matter of pride for her and her husband. Pottery also gives Twa women some financial independence, as they control the spending of the small sums of money earned. Women who work in agriculture will continue to make pots alongside their daily farm work, seeing farming as a means of producing food, while pottery generates cash.

Particularly in communities associated with the forest, Twa men feel redundant as their traditional role as hunters and primary providers is no longer possible, and few have developed other professions. This may contribute to their high levels of alcohol consumption. Although Twa men say they consult their wives about spending the money they earn, men spend most of it in local bars, causing anger and resentment among their wives.

When Twa have their own family land, the women rely on their men to clear their farms and do any heavy work. After that, women do the bulk of the work required to produce the crop. In such situations, the men feel that their initial high investment of labour entitles them to control the spending of any money earned from crop sales. Thus increased land ownership by the Twa and an increased reliance on farming as the main economic activity, may reduce the economic independence of Twa women, even though the family's overall food levels and income increase.

Twa women's lack of financial assets makes them vulnerable to events that reduce their ability to earn a living, such as illness, old age and widowhood. They have great difficulty meeting unexpected costs such as medical care and funerals. A few women belong to community saving schemes, but most cannot rely on other community members to help them out, as they are equally poor. In extreme cases, Twa may sell or rent their land for derisory sums. Twa women don't have access to commercial credit and are mostly unaware of the credit schemes run by credit unions, and government and non-governmental organizations (NGOs).

# Women in Twa society

## Marriage

Twa women have considerable freedom in marriage. Usually they choose their own partners, except in rare cases of abduction. Twa parents say that they have no control over who their daughters decide to marry.

Once a Twa girl has reached puberty she is considered ready for marriage. Twa girls are under considerable pressure to start relationships during puberty.<sup>36</sup>

*'You ask if it is better to remain single and not get married? Even though marriage brings many problems, you cannot stay single – it is out of your control. Once you have breasts the boys are there waiting for you. It is inconceivable that you can remain at your father's home and stay single.'*

(Young Twa woman, Nteko/Kisoro, Uganda, May 2003)

## Customary marriage

The two most common types of marriage among the Twa are the 'public' marriage and the 'elopement' marriage. In the typical public marriage, the boy informs his parents that he has met a girl and they plan to get married. He, or his parents, then visit the girl's parents and they agree a bride price to be paid to the bride's family. This can be a hoe, livestock or money. The whole community is informed about the marriage, and if the family has enough money, the marriage will be celebrated with drinking and dancing.

In the 'elopement' marriage (also called 'getting married at night' or 'secret marriage'), the girl goes to the boy's hut at night. After a few days, the boy sends a message to the girl's parents, telling them that he has married her. If the boy has the means, he will offer the parents a gift of money and beer, but if the parents are upset about the elopement they may fine the boy, or refuse to accept the bride payment.

In rare cases a Twa girl may be abducted and 'carried on the man's back' to his house. If she objects she is beaten. Men justify this on the grounds that they are too poor to pay a bride price and so have no other option.

*'I had no choice about marrying my husband who already had two wives. I was coming from buying food for my mother at the market and he abducted*

*me on the way back home, and decided to take me home to be his wife. It wasn't my choice, but he beat me, so I had to accept.'*

(Young Twa woman, Nyarusiza/Kisoro, Uganda, May 2003)

Having a bride price makes a Twa woman feel respected and valued by her husband. However, the fact that many Twa are too poor to pay a bride price does not prevent couples marrying.

*'Before, when we had access to the forest, the boy had to present his future mother-in-law with a bride price of 5 fuko [small rodents] caught in the forest. In our grandparents' time, we gave an antelope and buffalo as bride price. Now we are all in the same situation, without means to pay a bride price, so we just live together without ceremony.'*

(Middle-aged Twa woman, Chombo/Kabare, DRC, April 2003)

Payment of a bride price increases the husband's 'stake' in the marriage, and in some Twa communities men claim that payment of bride price entitles them to keep the children if the marriage breaks up. However, there is considerable variation within communities as to how women and children are treated when marriages break up, and while bride price may play a role, it does not appear to be the determining factor.

## Legal marriage

Few Twa women are legally married, either in civil or religious ceremonies. Legally married women feel more secure; they and their children cannot be evicted from the matrimonial home after the husband's death, and if the marriage breaks down, the wife has rights to the family property and better protected rights to the children. Most Twa women, however, do not see the need for legal marriage. Even if the registration is free, the costs of a party and of suitable clothes may be an impossible burden.

## Polygamy

Polygamy is quite widespread among other ethnic groups in the region, and is regarded as a sign of male wealth and power. In Uganda polygamy is legal, and in the other three countries it is common for men to have long-term

‘unofficial’ wives. Polygamy does occur in Twa communities, but is limited by most Twa men’s inability to provide for more than one family. On the other hand, many Twa communities do not insist on a bride price, making it easier for men to acquire additional wives. Most Twa women dislike polygamy intensely.

*‘A man can have as many as 10 wives, because wives don’t cost anything! Many women here are in polygamous marriages. Some wives collect yams but won’t share them with their co-spouses. Sometimes the husband puts two or three wives in one house – that is death! We can’t accept polygamy. The second wife disturbs the household and the first wife loses her power, because everything that the man brings back to the family, he gives to the second wife. The first wife then has to go and ask the second wife for every little thing, it is humiliating. We can’t accept it. There is nothing good in this system of polygamy.’*

(Middle-aged Twa woman, Chombo/Kabare, DRC, April 2003)

In some cases, however, even if the wives do not get along, the children have access to both households and are fed and looked after by both wives. This can improve the children’s survival chances.

### Intermarriage

Marriage between Twa and other ethnic groups is uncommon. In rural communities, it is hard for Twa men to find the large bride prices demanded by other ethnic groups.<sup>37</sup> Mixed marriages are more common for rural Twa women, because men from other ethnic groups benefit from their low, or non-existent, bride price. Twa parents do not mind their daughters marrying non-Twa provided that they are treated well. However, non-Twa communities may scorn Twa wives due to their low ‘value’. The husband may treat the relationship as one of sexual convenience, and not assume his proper responsibilities for the children; in due course the wife usually moves back to her community.

Twa parents are concerned about the risk of their daughters becoming infected with HIV if they marry outside the Twa community, but if the girl is in love, they feel they cannot oppose the relationship. The children of mixed marriages sometimes take the identity of their father, and are sometimes regarded as Twa, depending on whether the Twa wife is integrated into her husband’s community or shunned.

### Marriage problems

Many Twa couples have a series of marriage partners.<sup>38</sup> Twa women joke about the spontaneity of their relation-

ships: ‘We meet, marry and if the relationship doesn’t work out, we separate, that’s all.’

The ease with which Twa women can break away from unsatisfactory relationships is a sign of relatively egalitarian gender relationships. Both men and women are free to choose other partners after separation. However, many Twa women have marital problems due to their husbands’ drunkenness, their lack of financial and material support to the family, and their philandering. In private, Twa women complain at length about the emotional distress and physical violence inflicted on them by their men. Many Twa women bear scars as a result of beatings and other violence from their husbands.

Women in an abusive relationship will initially try to deal with it themselves, rather than seeking support from their female neighbours who are also suffering the same problems.

*‘Women are beaten often by their husbands, but it stays in the family. Their husbands beat them when they are drunk, but some men beat their wives even if they haven’t been drinking. What can a woman do? If you aren’t strong you must run away. If you are strong, you stay and fight back. You could ask for support from the other women in the community, but we are all in the same boat. What happened to you last night is what happened to me the same night!’*

(Middle-aged Twa woman Kanazi/Kigali Ngali, Rwanda, March 2003)

Only if the situation becomes intolerable will a Twa woman bring her marital problems to elders, the village council or church representatives. The village council may require payment to consider the case. The advisers can tell the husband to mend his ways, and fine him. The husband’s behaviour may improve for a while, but if the abuses resume, the wife often has no option but to leave him. In Burundi and Rwanda, the wife usually takes the children with her, in DRC and Uganda the husband may keep the children, particularly if he paid a bride price.

### Widowhood

The civil conflicts that have ravaged the Great Lakes region for many years have resulted in many widows in the Twa communities. Older widows are extremely vulnerable. If they are too weak to cultivate, make pots or sell their labour, they are reduced to begging or hoping for food handouts from the community, but in most cases the community is too poor to help. Even family members often do not have any spare resources to support their widowed mothers and aunts.

*I used to feed myself when I was still strong. Now I can't do anything to earn a living. So what do I do? I sit outside my house all day, and if I don't get given anything, I go back to my bed and sleep.'*

(Twa widow, Kashaasha/Kabale, Uganda, May 2003)

Many younger widows or separated women do not consider remarrying – they may think it will be impossible to find a man willing to take on children that are not his own, but often they are simply tired of the problems of living with irresponsible men. They also do not want to risk infection with HIV by marrying again.

## Health

### Access to health care

Twa women are more prone to ill health than men due to their childbearing role, and are also mainly responsible for the children's wellbeing. Virtually no statistical information is available on Twa women's health. The most common illness suffered by Twa women, men and children is malaria, followed by intestinal worms, diarrhoea and respiratory illnesses. Children also suffer from *kwashiorkor* (severe protein deficiency), particularly in DRC.

Even if they live close to health services, few Twa women can afford to use them. The situation is a little better in some parts of Rwanda where local health insurance schemes are affordable for Twa families. In Uganda, a number of Twa obtain cheap or free services through government health centres (although sometimes they, like other groups, have to pay bribes to the health staff to get treated)<sup>39</sup> and at least one church group gives free health care specifically to Twa patients. In Burundi and DRC, the limited health services that have survived the civil conflicts are too expensive for the Twa. Twa women interviewed for this report stated that occasionally, health centre staff treated Twa patients badly on the grounds that 'they smell' or are 'dirty', but for the most part, providing the Twa patient has the money to pay, there is no discrimination.

Almost all Twa communities use herbal medicine if they are ill, mainly because they cannot afford 'Western' medicine, but in a few cases because they prefer it. There are herbal treatments for all the main fevers, infections and illnesses. While many Twa doubt the efficacy of herbal medicine, they have no other option.

### Pregnancy, childbirth and childcare

If Twa women know that free or subsidized antenatal services are available locally, they will generally use them.

Most Twa women give birth at home. If there are complications, the community will make great efforts to get the woman to the nearest health centre.

Twa men and women insist that they have no preference for either boys or girls; their ideal is to have as many children as possible (so that at least a few survive). A minority of women say that they would prefer to have fewer children. If there is only one child, they would like it to be a boy, because he will continue to live near them and help them. Twa women have little access to control over their own reproduction. Some practise birth spacing using herbal remedies, but most have no knowledge of modern contraceptives.

Vaccination of Twa children has increased over the last decade. Nevertheless, child mortality is very high. It is common to meet a Twa woman who has given birth more than 10 times, but who only has two or three children still alive. In 1991 Twa evicted from the Gishwati Forest, Rwanda, had 15 per cent fewer children aged 10–25 compared with the population of nearby Gisenyi Province in Rwanda. This was attributed to high mortality, rather than out-migration. The same study reported an average Twa household size of 3.5 people, compared with 5 people for the national population.<sup>40</sup> A study of Ugandan Twa also concluded that Twa childhood mortality was higher than that of the general population.<sup>41</sup> Rwandan census data shows that between 1978 and 1991 the Twa population decreased by 40 per cent, while the total population rose by 50 per cent.<sup>42</sup> Many Twa are deeply concerned about the high death rates in their communities, and fear that the Twa are heading for extinction.

## HIV/AIDS

Many Twa communities know about HIV/AIDS through national campaigns and via NGOs, and a few have already lost members to this disease. No statistics exist for the levels of infection in Twa communities. Twa communities know that HIV is transmitted sexually and that it is deadly, but in some cases Twa see HIV/AIDS as a disease 'for others', i.e. promiscuous non-Twa, and therefore, not relevant to them.<sup>43</sup> Some women have heard of condoms, but very few have seen them; they are regarded as the trappings of sex workers. Many communities rely on prayer to protect them.

Perpetrators of the armed conflict in the region have inflicted appalling sexual violence on women of all backgrounds, contributing to an increase in HIV infection.<sup>44</sup> As well as this threat to Twa women in conflict zones, Twa women are at added risk from the cultural practices of the dominant society. In all four countries Twa women told the author of the belief that if a non-Twa man has a backache he can cure it by sleeping with a Twa woman.

A variation on this theme is that sex with a Twa woman protects against HIV/AIDS. These may be genuine beliefs, or simply excuses by other ethnic groups to have casual sex on 'medical grounds' and thus avoid societal disapproval. Either way, the practice puts Twa women at increased risk of HIV infection.

## Education

### Literacy

Among the groups of Twa women interviewed for this report, only 9 per cent could read or write. Similar figures are reported from Burundi, where 28 per cent of Twa (men and women) were literate compared with 73 per cent of non-Twa.<sup>45</sup> Twa women are illiterate because they lack basic education (few women older than 20 years have completed more than two or three years in primary school), and teachers in the few literacy classes usually leave due to lack of pay. Literacy classes run by church groups are usually ethnically mixed to encourage social integration, but as Twa women feel embarrassed by their poor literacy skills many would prefer to study in a predominantly Twa group.

### Education of children

Twa greatly appreciate Uganda's universal primary education – recently extended from four children to all children in a family. This has enabled many more Twa children to enrol in primary school. In Rwanda, primary school fees in rural areas are about 60–80 US cents per term, so it is feasible for some Twa communities to enrol their children, but they still have to find money for materials and, in most schools, school uniforms. In Burundi and Rwanda, poor families are eligible for a *carte d'indigence* entitling them to free health care and education, but money is needed to obtain the card, and they are very hard to obtain from the local authorities. In DRC school fees are US \$2 per month – a significant burden for a Twa family.

Twa children have a high drop-out rate from school. They are often hungry, ill or required to help their parents at home (particularly girls), and their parents may not give them much encouragement. Where Twa chil-

dren do manage to attend school regularly, teachers note that they usually perform very well.

Discrimination against Twa pupils may be decreasing,<sup>46</sup> due to increased awareness by teachers that this is unacceptable, but it still happens.

*I am the only Twa person in my school. There are eight in my class. I am proud that the teachers chose me to be the student representative for the others, even though I am Twa. When we hold meetings, the other students keep themselves apart and start talking about ethnic origins. I tell them "Why do you talk like this? We are all the same." So there is discrimination between the students, but not by the teachers against Twa. The other students don't behave like this when the teachers are around. The teachers don't know that the students shun me. But I don't worry, as it's not me that has problems with my fellow students or my teachers.'*

(18-year-old Twa woman, secondary school student, Gitega, Burundi, April 2003)

### Girls' education

Twa parents say that they want both girls and boys to be educated, and primary school enrolment appears to be roughly equal for girls and boys. However, in secondary school, the proportion of Twa girls drops dramatically; families spend their limited resources on boys' education, presuming that girls will marry and be supported by their husbands. Girls of all ethnic backgrounds face particular difficulties at secondary school, due to their gender. For example, having to share toilets and washing facilities with boys can be humiliating. Girls may not feel safe if their dormitories are not on the main school campus. Thus, even if some Twa girls are able to obtain sponsorship to secondary school, they face more gender-related difficulties than Twa boys. Twa girls start school late and may retake several classes, so by the time they reach the last year of primary school, they can be 16. At this age they are under societal pressure to get married. If they get pregnant they will probably leave school and find it very difficult to take up their education later. To the author's knowledge there are no Twa women in tertiary education.

# Twa women's experience of dominant society

## Armed conflict

The region in which the Twa live has seen violent conflict over many decades (see Box 1). The Twa have no political role in these battles for resources and political power, yet have suffered, and continue to suffer, immensely. The Twa are vulnerable because they are targeted by all factions, as the belligerents believe that if you are not with them then you must belong to 'the enemy'. Up to 30 per cent of the Rwandan Twa population is estimated to have been lost as a result of the 1994 genocide,<sup>47</sup> yet these losses have never been officially acknowledged, which is viewed as a great injustice by the Twa. The horrifying sexual violence inflicted by belligerents on women and girls of all ethnic groups in the region has traumatized the female population. Due to the loss of men, there is a high proportion of widows, single women or girls who are managing households and are more vulnerable to poverty.<sup>48</sup>

The conflict in eastern DRC is played out in the forests between the different armed factions. Many Twa live in these remote areas, and have suffered death, injuries, trauma and further impoverishment. Many have been subjected to arbitrary arrest, displacement, extortion, forced labour, pillage and rape.<sup>49</sup> They live in a constant climate of fear.

*'The conflict is like a fire that burns us. We are always frightened, we don't dare to sleep in our houses at night – we find somewhere to sleep in the forest. All the villages suffer insecurity almost every day. The armed bands steal everything, clothes, chickens, goats, even cooking pots. We know they are coming when we hear their gun shots, then we flee into the forest.'* (Middle-aged Twa woman, Iusi/Kalehe, DRC, April 2003)

Twa women who have been raped by belligerents are usually afraid to take legal action and are often ostracized by their communities who fear they have become infected with HIV.

*'One day when I went to harvest my beans, I was taken by RCD [Rwandan-backed group that has taken control over much of Kivu] soldiers who beat me, and when we got to their place, they wanted to kill me. For a whole day they sexually abused*

*me. When they beat me, they hit me very hard on my gums, so now many of my teeth have fallen out. Now they have left me with sickness, with malaria, with headaches, with stomach aches. Since that time, I have never recovered my good health. Look how plump I was before, but now I have become very thin. Since then I can't bring myself to go to those fields. All the men know about me now. They say nobody will marry me now, as the soldier infected me with AIDS. I had to go back to my parents, that's where I live now. Truly I am in great suffering and misery.'*

(Middle-aged Twa woman, Chombo/Kabare, DRC, April 2003)

Twa women are also suffering during the continuing conflict in Burundi. During the most violent fighting of the 'crisis' of 1993 many women lost their families, and witnessed acts of brutality.

*'The crisis affected us enormously, because it stripped us of everything, and some of us, as you see, are now alone, whereas before there were many people in our families. In 1993 we lost 16 people in our family. Our village was surrounded [by belligerents] at dawn. A child woke me up and told me to come outside. When I looked around, I saw that the neighbouring houses were burning. I ran to wake some people, but as I was on my own, I could not wake everyone, and some died in the flames. Since then, I am on my own.'*

(Middle-aged Twa woman, Giheta/Gitega, Burundi, April 2003)

Some Twa communities, on threat of being killed, were forced to fight on the side of either Hutu or Tutsi. One Twa community in Gitega Province provided refuge first for the Hutu and then for the Tutsi. They helped bury the dead and took care of the Hutu and Tutsi livestock, returning the animals when the fighting subsided. Since then, the Twa of this community have had good relations with their Hutu and Tutsi neighbours.

*'Before the war, we talked to each other, but there was some distance. Before, Hutu would not eat in Twa houses. When we sold them pots, we had to put*

*the pots down some distance away, the Hutu took them and left the food they were giving in exchange on the ground for us to collect. There was no love between us. Now they come into our homes, they attend our funerals. They come to our marriages and bring food, and share with us. Now we are only waiting for peace to come to Burundi as a whole, our communities already get on together.'*  
(Middle-aged Twa woman, Mungwa/Gitega, Burundi, April 2003)

## Participation of Twa women in civil society

### Access to information

Twa women feel that they are less well informed than men about national and local events. Twa men have more time to listen to the radio (and usually own the radio) and get information by visiting neighbouring communities and talking in bars. Men are also more likely to attend public meetings and seminars, Twa women are usually too busy with the daily struggle to find food for the family. Twa women are generally unaware of their rights in national or international law.

### Participation

Within their communities, and in meetings with outsiders visiting Twa communities, Twa women are outspoken. However, in meetings with other ethnic groups and local authorities, Twa women are often too shy to speak up, feeling that they will be mocked.

The author's research with Twa communities showed that Twa women have little information about national women's NGOs or local women's support schemes. Twa women in Uganda do not know about the micro credit schemes run by the Women's Councils. In Rwanda, Twa women were not included in programmes for women widowed as a result of the genocide and are largely unaware of the legal support services offered by women's rights organizations. Women's NGOs and government agencies do not have specific mechanisms to reach the Twa population and do not monitor ethnic minorities' uptake of their services.

Twa also have difficulty accessing the services of many of the large international development agencies, whose programmes are generally designed with the local majority culture in mind. The agencies justify this on the grounds that the numbers of Twa are too small to warrant specific interventions, but this reinforces the attitude of the majority communities and local officials that the Twa are not worth considering.

## Representation

Twa women and men now have opportunities for representation in the Burundi and Rwandan Senates, which is an achievement. Uniquely, in Burundi a Twa woman, Libérata Nicayenzi, was nominated to represent a multi-ethnic constituency in the National Assembly. However, in local government structures, Twa representation is limited. Twa men (exceptionally women) may be chosen as *nyumbakumi* (head of 10 households) in Burundi and Rwanda, or chair of the Village Council in Uganda, but only in areas where the population is mainly Twa.<sup>50</sup> In higher administrative positions, Twa would represent mixed ethnic constituencies, and this is generally unacceptable to the other ethnic groups. Twa feel that they are rejected as leaders because of their ethnic origin, their illiteracy and poverty, and that their views are not listened to in public meetings;<sup>51</sup> consequently, Twa do not tend to stand for election. The Twa are also widely regarded as too frank and unable to keep secrets, leading others to stereotype them as unsuitable representatives.

*'Even if we have to elect our leaders, we deliberately vote for Barundi [non-Twa] because a Twa is not listened to and even if he [sic] calls a meeting they [non-Twa] don't come. You know, even the few Bashingantabe [traditional authority] who are designated to deal with Twa cases have to be Twa because they [non-Twa] say that we are thieves and wizards and that is why they nominate a Twa to manage other Twa.'*

(Twa man, Muramvya, Burundi)<sup>52</sup>

Twa women also have problems in getting elected to higher levels in the national structures to promote women, such as the Women's Councils in Rwanda and Uganda. For example, in Uganda all women belong to the Village Women's Council, but unless a Twa woman gets elected to the executive of the Village Council (which is unlikely due to the Twa's numerical minority and their low status) she cannot be a representative at parish level. Twa women in Rwanda face similar problems, but a handful of Twa women have succeeded in becoming representatives on Women's Councils and Community Development Councils at the cell level (roughly 100 households).

### Relations with other communities

Twa women and men encounter discrimination and prejudice from other sectors of society in every aspect of their daily lives. Further, there can be problems if Twa start to gain independence and emerge from their poverty. It is important to understand the exclusion of the Twa

as a whole to fully understand the multiple discrimination against Twa women.

*'When we set up our own association and started development activities, the Hutu and Tutsi wanted to join our association, but we refused. They got angry as for a whole month they didn't see Twa carrying pots on their heads, they didn't see us coming to ask them for food, and when they saw that we had fields they asked "What's happening, the Twa won't come to ask us for food any more, we won't be able to call them to work in our fields", that's a problem for them. The grudges and jealousy, the conflict – that's what causes our poor relations with them.'*

(Middle-aged Twa woman, Giheta/Gitega, Burundi, April 2003)

The Twa have an acute sense of exclusion, feeling that their participation in social, political and economic activities is not welcomed, and that other communities wish to harm them.

*'The coco yam tubers we planted, they have been all uprooted and stolen by our neighbours, and other people roaming around, not even by the rebels. We don't benefit from our fields. Now we Twa are in great difficulties. People want us to remain backward, they don't want us to exist, they want to crush us [...]. Despite this, we persevere and we will continue working up to the end.'*

(Middle-aged Twa woman, Giheta/Gitega, Burundi, April 2003)

Nkurunziza's study of Twa's exclusion in Burundi found non-Twa's strongest objections to Twa concerned having a Twa as a close friend or spouse, a form of rejection that strikes at the heart of social relations.<sup>53</sup> Nkurunziza suggests this is to do with Twa men's inability to pay bride price. However, there may be deeper prejudices; when non-Twa men marry Twa women, often without having to pay a bride price, the Twa wife is either expected to give up her ethnic identity and sever links with her parental family or, if she retains her identity, the non-Twa husband will not regard the marriage as a serious relationship.

Poverty is also a key factor in the marginalization of Twa people. However, the few Twa women who have emerged from grinding poverty, who are able to send their children to school and feed them properly, and who are adequately clothed and housed, are more able to forge respectful relationships and friendships with women of other ethnic groups, and feel that they can generally circulate freely in society without being commented on by others.

## Identity

The Twa have a distinctive cultural identity. Like many other central African forest-dwelling hunter-gatherers, the Twa and their neighbouring ethnic groups now speak the same language, but there are suggestions that the Twa originally had their own language. They have a distinctive pronunciation and intonation, and older Twa say that the Twa used to have a specific vocabulary, particularly of words relating to the forest. Twa have their own dances and are also famous for their singing. They have a sense of their own history as a forest-dwelling people, famed for their hunting skills, as servants at the royal courts, and as historical figures in the battles for territory and clan power in the nineteenth and twentieth centuries.<sup>54</sup> They are proud of their profession as potters. However, the Twa's sense of identity is also deeply coloured by their experience of being shunned by others and of feeling powerless against injustices inflicted by the state and neighbouring non-Twa communities.

Given their marginalization and the discrimination against them, Twa prefer to live in their own isolated communities, and generally settle where there are other Twa, rather among other ethnic communities.<sup>55</sup> They have a strong sense of social cohesion against the threats presented by the outside world, even though they have few resources to offer each other practical support.

Non-Twa are often irritated by the Twa's lack of interest in associating with the dominant society, and claim that by remaining in their own settlements the Twa are 'marginalizing themselves'.

However, where Twa do live in mixed settlements, for example in the planned *imidugudu* villages in Rwanda, there are many disputes with neighbours, who accuse them of trespassing on fields, and causing a nuisance with the smoke generated by firing clay plots. In one such community on the outskirts of Kigali, the Twa are so fed up with the constant tensions that they are considering abandoning their hard-won houses to move elsewhere. Twa organizations play an important role in supporting Twa in such situations and in helping to find solutions acceptable to the different parties.

Although Twa want an end to the discrimination and prejudice against them, they do not want to have to give up their identity as Twa in the process.

*'We want our children to keep their identity as Twa. If a person changes their identity they are not human, not worthy, even if they are educated. If they are educated and keep their Twa identity, that's how they will acquire compassion and the idea of helping their people. Twa should get educated so that everyone knows that the Twa are developing and claiming their rights.'*

(Middle-aged Twa woman, Gitega, Burundi, April 2003)

## Twa organizations

In all four countries the Twa have created their own NGOs and community-based organizations to advocate for Twa rights and improve the situation of rural Twa communities.

The most active Twa organizations are:

- Burundi – Union Chrétienne Pour l'Education et le Développement des Dëshérités (UCEDD), Unissons Nous pour la Promotion Batwa (UNIPROBA).
- DRC – Action d'Appui pour la Protection des Droits de Minorités en Afrique Centrale (AAPDMAC), Centre d'Accompagnement des Autochtones Pygmées et Minoritaires Vulnérables (CAMV), Programme d'Intégration et de Développement du Peuple Pygmée au Kivu (PIDP), Union pour l'Emancipation de la Femme Autochtone (UEFA).
- Rwanda – African Indigenous and Minority Peoples Organization (AIMPO), Association pour la Promotion Batwa (APB), Communauté des Autochtones Rwandais (CAURWA).
- Uganda – United Organization for Batwa Development in Uganda (UOBDU).

Twa women outnumber the men among the beneficiaries of the projects run by the Twa organizations. These projects are helping to develop more secure livelihoods, and include: enhancing farming methods and livestock production; commercializing craft products; improving vocational skills such as hairdressing and sewing; and access to micro credit. The Twa organizations are a vital source of information for Twa women about childcare (including hygiene and sanitation, nutrition and vaccinations), and on national legislation affecting women, such as new inheritance laws. They encourage Twa women to put themselves forward for local positions of responsibility

and to participate in local and national elections. Many of the Twa organizations support Twa children at primary school, and in some cases at secondary school, and run literacy classes. They produce information materials, including radio broadcasts, and have held numerous seminars and conferences to educate Twa people, the public and government about human rights issues. In DRC, one organization is supporting Twa women who are victims of sexual violence as a result of armed conflict. A Rwandan Twa organization is using literacy classes to look at women's issues using participatory rural appraisal methodology.

While the Twa organizations' community development and advocacy work is a vital support for Twa communities, their effectiveness is often limited by weak technical skills and resources. Few of the organizations have programmes specifically focused on women that would permit a deeper exploration of issues around Twa women's rights and empowerment. Very few individuals in the organizations have received gender training, and gender awareness is not mainstreamed. Women are involved mainly as beneficiaries and implementers of projects, and to a lesser extent as managers and spokespeople. In most of the organizations, men comprise most of the staff, and hold the higher-ranking posts. Twa organizations explain this disparity in terms of Twa women's lower educational levels, but they recognize that gender stereotyping may also play a role.

Partly due to a lack of capacity and resources, most of the Twa organizations do not have close contacts with government gender ministries, NGOs working on women's rights and economic development, or international agencies working on gender issues, and do not actively participate in gender policy development. Therefore, Twa organizations are ill-informed about policy issues or the services that could benefit Twa women. They currently have few close allies within the national women's movements, thus limiting their capacity for advocacy on Twa women's rights.

# International human rights

Over the past 50 years a body of international law defining human rights standards has been agreed by states along with mechanisms for monitoring states' compliance with these standards. Indigenous peoples have used this international human rights framework to draw attention to their situation and to put pressure on governments to uphold the standards they have signed up to.

The situation of the Twa as a whole, and of Twa women, violates many of the rights enshrined in these international agreements. Although Twa representatives have participated in many UN meetings dealing with human rights, Twa groups have made little headway in using international human rights to get Twa issues on government agendas. This section provides a brief overview of the key international laws and how they can be used by Twa activists and their support organizations to uphold the rights of Twa women and Twa people.

Burundi, DRC, Rwanda and Uganda have ratified the international agreements described below and are therefore legally bound by them.<sup>56</sup> The Constitutions of DRC and Rwanda affirm their commitment to the international treaties and agreements they have ratified, and acknowledge these international treaties' binding nature (see Articles 190 and 193 of the Rwandan and DRC Constitutions respectively). Burundi's Arusha Accord states that the international agreements ratified by Burundi shall form an integral part of the Constitution (Protocol 2, Article 3).

## Indigenous peoples' rights in international law

### International Covenant on Civil and Political Rights (ICCPR)

Article 1 of the ICCPR states that:

*All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. All peoples may, for their own ends, freely dispose of their natural wealth and resources [...]. In no case may a people be deprived of its own means of subsistence. The States Parties to the present Covenant [...] shall promote the realization of the right of self-determination, and shall respect that right [...].'*

Recognition of indigenous peoples' right to self-determination within the UN is contentious and is resisted by many states because they fear indigenous peoples' secession from the state. However, in most cases, indigenous peoples have no desire to secede but wish to exercise their rights as peoples within the state to gain control over their lives and ensure their cultural survival.

The UN has established Committees to monitor states' compliance with the international human rights instruments. These Committees examine periodic reports submitted by states and issue Concluding Observations on states' implementation of human rights, and General Recommendations setting out the Committee's view of the obligations of states under these instruments. Some Committees also examine complaints submitted by individuals or groups of individuals, alleging state violations of rights.

The Human Rights Committee (HRC) set up to oversee states' compliance with the ICCPR has declared that the ICCPR applies to peoples within states, that indigenous peoples have the right to self-determination, and that states must respect that right. For example, the HRC urged Mexico to:

*'take all necessary measures to safeguard for the indigenous communities respect for the rights and freedoms to which they are entitled individually and as a group; to eradicate the abuses to which they are subjected; and to respect their customs and culture and their traditional patterns of living, enabling them to enjoy the usufruct of their lands and natural resources. Appropriate measures should also be taken to increase their participation in the country's institutions and the exercise of the right to self-determination.'*<sup>57</sup>

Article 27 of the ICCPR concerns the rights of ethnic, religious or linguistic minorities to enjoy their own culture, to practise their own religion, and to use their own language. The HRC recognizes that indigenous peoples' subsistence and traditional economic activities are an integral part of their culture, that interference with these activities can undermine their cultural integrity and survival, and that indigenous lands and resources must be safeguarded if these rights are to be upheld.

For example, in a complaint brought by the indigenous Lake Lubicon Cree against Canada for carrying out natural resource extraction in their territory, which nega-

tively affected their traditional subsistence practices, the HRC found that Canada had violated Article 27.<sup>58</sup> In response, Canada offered to remedy the violation by recognizing a territory for the Lubicon Cree, and their sub-surface mineral rights in two-thirds of that territory, as well as providing benefits, money and programmes.

Under Article 27, the HRC considers that forcible relocation of indigenous peoples constitutes a denial of rights to the enjoyment of culture,<sup>59</sup> and requires states to restore and protect indigenous peoples' titles to their native lands and to secure the continuation and sustainability of traditional indigenous economies including hunting, fishing and gathering.<sup>60</sup>

### The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

Article 1, paragraph 1 of ICERD defines racial discrimination as:

*'any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin, which has either the purpose or the effect of nullifying or impairing the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis in the political, social, cultural or any other field of public life.'*

The Committee on the Elimination of Racial Discrimination (CERD), which monitors ICERD's implementation, states that the Convention applies to indigenous peoples. In its 1997 General Recommendation, CERD calls upon states to:

*'recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return these lands and territories.'*<sup>61</sup>

Article 2 of the Convention prohibits racial discrimination and calls on states to take special measures where necessary to adequately protect the rights of certain racial groups. Article 5 sets out political, civil, social, economic and cultural rights including the right to own property individually or in association with others, the right to equal pay for equal work and rights to health, education and housing.

In its 1997 report to CERD, the Burundi government evaded the issue of the widespread discrimination between ethnic groups by stating:

*'Burundi has no races or ethnic groups [...] as the Hutus, Tutsis and Twas who make up its population do not possess distinctive territories, cultures, languages or religions [...] for this reason, no provision may be made for any special and concrete measures on behalf of such groups.'*<sup>62</sup>

CERD expressed its concern about Burundi's understanding of the terms 'race' and 'ethnic group' and reminded the state that belonging to a particular racial or ethnic group 'shall be based upon self-identification by the individual himself [*sic*]'.<sup>63</sup> CERD held that a large part of Burundi's population identifies itself:

*'as belonging to one of the three ethnic groups living in the country, either the Tutsis, the Hutus or the Twas, and that important parts of the population are living in conditions which do not guarantee the exercise of human rights under equal terms.'*

CERD noted that numerous reports referred to discrimination against the Hutus and Twa, and recommended that Burundi's next state report provide information on the representation of members of the Tutsi, Hutu and Twa ethnic groups in the government, the administration, the judiciary, the police and the army.<sup>64</sup>

The issue of recognition of ethnic groups is also relevant in Rwanda, which, in reaction to the ethnically driven policies of exclusion by previous regimes, has decided 'to remove all references to ethnic origin in official documents'<sup>65</sup> and mention of ethnic groups is considered unacceptable. The Twa's self-identification of their ethnic origin, while upheld by CERD, runs counter to government policy.

CERD has requested better statistical information from DRC and Uganda to enable it to assess how minorities are participating in social and economic development, and how they are represented. CERD expressed its concern at the allegations of discrimination against Twa in DRC. CERD also called on Uganda to explain how it was implementing the constitutional provisions for affirmative action in favour of marginalized groups.<sup>66</sup>

### The African Charter on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights was set up to promote the rights of African individuals and peoples. It is also the monitoring body of the Charter. Articles 3–17 of the Charter set out individual rights. Articles 19–24 recognize the rights of peoples, such as the right of peoples to equality and to be free from domination by other peoples; and the right to self-determination and to freely dispose of natural wealth. Under Article 21,

in the case of spoliation (i.e. plunder or pillage), a dispossessed people has the right to the lawful recovery of its property as well as to adequate compensation.

The Commission has clearly interpreted the term 'peoples' rights' to mean the rights of different peoples within the state and says that these peoples are entitled to the right to self-determination and to the other peoples' rights in the Charter, providing that this does not involve secession from the state.<sup>67</sup>

## Women's rights in international law

### International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

CEDAW has been ratified by 16 African countries including Burundi, DRC, Rwanda and Uganda.

States are required to eliminate discrimination against women by upholding the principle of the equality of men and women, taking 'all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise' (Article 2e) and taking 'all appropriate measures [...] to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women' (Article 2f). Under Article 5, states must take appropriate measures to modify the social and cultural behaviour of men and women to eliminate prejudices based on stereotypes and ideas of the inferiority or superiority of the sexes.

States must eliminate discrimination against women in political and public life so that women can participate in the formulation of government policy and participate at all levels of government (Article 7). Article 10 requires states to take appropriate measures to ensure equal rights for women in education, including equal access to studies in both rural and urban educational establishments, equal access to literacy programmes and the reduction of female drop-out rates. States must also eliminate discrimination against women in employment, and uphold the right to equal pay and treatment in respect of work of equal value.

Article 14 describes states' responsibilities to ensure rural women's participation in development planning and in all community activities, access to all types of training and education, access to agricultural credit and loans, and 'equal treatment in land and agrarian reform as well as in land resettlement schemes' (Article 14g).

Article 16 gives women and men the same rights in family relations, including: entering marriage only with free and full consent; the same rights in marriage and in its dissolution; in matters relating to children; and in

respect of ownership, management and disposal of property. Article 16 also requires states to define the minimum legal age of marriage and to make official registration of marriages compulsory.

The Committee monitoring CEDAW's implementation has also confirmed that gender-based violence violates women's fundamental human rights, and notes that men's abrogation of their family responsibilities can be a form of violence. Under Article 2e, states can be held responsible for private acts of violence against women if they fail to act to prevent gender-based violence or to investigate and punish such violence.<sup>68</sup>

Regarding equality in marriage, the CEDAW Committee calls for *de facto* relationships to be given legal protection so that women cohabiting with men have equal status in family life, and can share income and assets. Land reform schemes must observe the right of women, regardless of marital status, to share redistributed land on equal terms with men. The Committee notes that laws or customs that grant men a greater share of property at the end of a marriage or *de facto* relationship have a serious impact on a woman's practical ability to divorce her husband, to support herself or her family, and to live in dignity as an independent person. The Committee calls for a woman to be consulted prior to the disposal of property owned by the parties during a marriage or *de facto* relationship. Further, the Committee notes that polygamous marriage contravenes a woman's right to equality with men, and can have serious emotional and financial consequences for women and their dependents, concluding that polygamous marriages ought to be prohibited.<sup>69</sup>

### Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

The African Commission's Protocol on the Rights of Women in Africa was adopted in July 2003 by the African Union and will come into force after its ratification by 15 countries. Its implementation will be supervised by the African Commission on Human and Peoples' Rights, pending the establishment of the African Court on Human and Peoples' Rights. Although the Protocol covers similar issues to CEDAW, its focus on African women should encourage African states to be proactive in countering violations of African women's rights. It has several provisions of particular relevance to Twa women.

States are required to enforce laws prohibiting 'all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public' (Article 4a), and to guarantee that:

*'monogamy is encouraged as the preferred form of marriage, and that the rights of women in marriage and family, including in polygamous marital relationships are promoted and protected'* (Article 6c)

Article 11 obliges states to protect women in armed conflicts.

On land issues, the Protocol requires states to provide women with access to land (Article 14) and to promote women's access to and control over productive resources such as land (Article 19). These provisions are broader than those of CEDAW, which protects women's rights to equal treatment only in situations of land reform and land resettlement (Article 14g).

Under Article 24a of the Protocol, states undertake to:

*'ensure the protection of poor women and women heads of families including women from marginalized population groups and provide an environment suitable to their condition and their special physical, economic and social needs.'*

### Indigenous women's rights

The Beijing Declaration of Indigenous Women (1995) sets the indigenous women's platform firmly within the indigenous movement as a whole. Although indigenous women suffer multiple discriminations, as indigenous peoples and as women, most indigenous women activists consider that the experiences of women within indigenous society are largely determined by the wider economic and political contexts which prevent indigenous peoples controlling their own lives and affairs.

The international indigenous women's movement therefore focuses on the political and economic forces that particularly affect indigenous peoples, and thus indigenous women. For them, issues such as international economic pressure; the lack of land rights; and the undermining of traditional livelihoods by wildlife conservation areas, development projects, logging and mining, need to be tackled alongside issues of women's equal access and participation in decision-making, equal status with men, equal pay, and freedom from domestic or cultural violence.

The Beijing Declaration of Indigenous Women recognizes that indigenous women are discriminated against within their own cultures. It calls on governments to create legal and social instruments to protect women from domestic and state violence, and for the reinforcement of indigenous customary law and justice systems which are supportive of women victims of violence, and the eradication of indigenous laws, customs and traditions which discriminate against women (Articles 35 and 36). Indigenous women demand equal political participation at all

levels of indigenous and modern socio-political structures and systems (Article 44).

In June 2000, the UN General Assembly held a special session in New York (known as Beijing +5) to evaluate the progress of women since the 1995 Beijing Conference. Four African indigenous women participated at that meeting. The resulting UN Resolution includes six paragraphs calling on governments to increase indigenous women's participation in politics and decision-making, to tackle violence against indigenous women, and to protect their knowledge of traditional medicines and biodiversity (paras 66b, 69h and 71a). Indigenous women should participate fully in research to develop culturally appropriate policies, educational and training programmes and capacity-building programmes to enhance indigenous women's participation in decision-making (para. 93d, e, j).<sup>70</sup>

## Using international human rights

The UN system offers several mechanisms whereby non-state parties can challenge governments on their human rights record. For example, NGOs can submit so-called 'shadow reports' to the UN monitoring Committees to provide an alternative view of the situation, which the Committees read along with the state report, and can use to question the state. The Committees' Conclusions and Recommendations, while not binding on states, draw international attention to the situation and can put pressure on the state to take action.

Complaints from individuals or groups of individuals alleging state violations of rights in the ICCPR can be brought if the state has ratified the ICCPR's Optional Protocol 1 (OP1). DRC and Uganda have ratified OP1, therefore in principle Twa in those countries could submit complaints. The decisions of the HRC on the violations alleged in the complaints are not legally binding, but can result in the state taking corrective action in favour of indigenous peoples. Provisions for receiving complaints also exist for ICERD and CEDAW but, of the four Great Lakes states, only Burundi has signed, but not yet ratified, the Optional Protocol to CEDAW.

A similar system permitting non-state parties to submit information in connection with the periodic state reports, and to submit complaints, exists in the ACHPR.

Preparation and submission of shadow reports and complaints involves technical and legal considerations. The UN and NGOs have produced guides for indigenous peoples that explain the procedures, but organizations that have not used these procedures before should seek support from organizations experienced in working with the Committees.<sup>71</sup>

Within the UN system, there is a Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, and a Special Rapporteur on violence against women, who collect information about and investigate rights violations. There are also Special Rapporteurs for Burundi and DRC. The Special Rapporteurs on indigenous people, Burundi and DRC have mentioned the situation of the Twa in their reports; however, Twa organizations could submit more detailed information to them.<sup>72</sup> The African Commission on Human and Peoples' Rights Working Group on the Rights

of Indigenous People/Communities in Africa has recommended a rapporteur on indigenous rights for Africa.

The recently established UN Permanent Forum on Indigenous Issues has one state-appointed expert and one indigenous-nominated expert for the African region, whose task is to report on the situation and make recommendations. Twa can submit information to these representatives and ask them to visit their countries to investigate their situations. For example, the indigenous representative for Africa at the Permanent Forum visited Rwanda in 2002 to investigate the situation of the Twa.

# National legal and policy issues

Three of the four countries under consideration in this report have recently enacted new Constitutions. Burundi's Constitution of the Transitional Government is based on the Arusha Peace Accord signed on 28 August 2000. DRC's Transitional Constitution was agreed on 1 April 2003. Rwanda's Constitution became law on 4 June 2003. Uganda's Constitution came into force in 1995. Although none of the states has specific integrated policies to address the multiple needs of the Twa, their laws and policies offer several possibilities for the Twa.

## Land

### Burundi

Burundi's Constitution recognizes that injustices have occurred in the reallocation and distribution of land since 1972 and calls for the proposed Sub-commission on Land to promote the restoration of property, and reconciliation between groups. While this refers primarily to the conflicts between Hutu and Tutsi, Twa have also been dispossessed of land, and should be involved in the reconciliation process. Under the Constitution, every Burundian citizen shall have property rights and be compensated for expropriation. The Constitution requires a review of current policy on distribution of state-owned land to give priority to displaced, regrouped and dispersed persons, and returnees. This review would also be an opportunity to advocate for measures to address the landlessness of the Twa.

### DRC

The Transitional Constitution reaffirms that the soil and subsoil belong to the state, but offers some possibilities for Twa communities by stipulating that: 'The conditions for conceding these lands are determined by law, which must protect the interests of local populations.' In addition, new forest laws replacing the Forest Code of 1949 recognize the interests of local communities; for example, local populations must be consulted during the classification of forests into different use categories and in the development of management plans.<sup>73</sup> Some parts of forests gazetted for environmental protection may be left for local populations to satisfy their needs. Local populations can apply for a forest concession free-of-charge on their ancestral lands. The law recognizes that local populations have use rights resulting from local customs and tradi-

tions, and permits them to remove forest products to satisfy their needs. These provisions should be studied by Twa communities and their support organizations to identify possibilities for Twa community control and use of forest resources.

### Rwanda

A new land code and policy are being developed in Rwanda. These are likely to be enacted in late 2003 or early 2004.<sup>74</sup>

Positive elements for the Twa in the new land code and policy are:

- everyone has the right to land;
- all forms of discrimination in land rights are prohibited;
- transfer of land concessions requires the prior consent of all immediate family members – this could reduce the loss of Twa lands through ignorance or distress sales (i.e. in emergencies such as famines); and
- improved provisions for planned villages (*imidugudu*) may enable Twa to obtain housing.

Elements that could impact negatively on the Twa are:

- registration of land will be compulsory; the cost implications for Twa are unknown;
- most Twa communities lack agricultural land and will be excluded from the land titling process, unless Twa are specifically included among the groups of landless people who are eligible for land provision;
- land must be used (at least 50 per cent covered with crops or grazed by livestock, or used for construction) otherwise it may be confiscated; Twa who currently 'underuse' their land could lose their land;
- the land policy emphasizes individual (family) rights over communal land rights; however, Twa communities may prefer to hold communal rights. If individual land titles are issued, ownership will probably be vested in husbands, weakening Twa women's rights to land unless there are formal mechanisms for co-ownership; and
- the policy promotes a minimum plot size of 1 ha, concentrating settlement in *imidugudu* and a shift in livelihoods from subsistence farming to labouring on other peoples' land. Twa are already scarcely able to survive on wage labour and loss of their plots through land concentration could remove a vital buffer against destitution.

## Uganda

Uniquely among the four Great Lakes countries, Uganda's Constitution vests ownership of the land in its people, not in the state (Article 237). Article 30 of the 1998 Uganda Land Act gives occupants secure rights to land that they have occupied and used for 12 years or more, if this use has been unchallenged by the registered owner. This could benefit Twa communities that are still living on the ancestral lands they occupied in the forest.

The Land Act permits individuals, families and communities who hold land under customary law to obtain a certificate of ownership, which specifies the customary rights pertaining to the land and can be used to obtain credit. The Land Act permits communal land associations for ownership and management of land, whether under customary law or otherwise. Customary practices which deny women or children access to ownership, occupation or use of any land are prohibited. Land Committees have the duty to ensure that the rights of vulnerable groups are protected.

## Protection of women's land rights

### Burundi and DRC

In Burundi and DRC legal protection for women's inheritance and property rights is weak. In Burundi, widows only have use rights over family land, which depend on the goodwill of their adult children and brothers-in-law. Divorced women do not even have use rights. Daughters are fifth in line to inherit their father's property. Burundi's Transitional Constitution requires legislation on women's inheritance rights to be enacted, but this has not yet been done.<sup>75</sup>

The DRC Constitution has no special measures to protect women's land rights. In DRC, while all recognized children, legitimate or not, are the main beneficiaries on the death of a parent, the surviving spouse has to share the inheritance with the parents of the deceased, and his or her siblings and half-siblings.<sup>76</sup>

### Rwanda

Article 26 of the Constitution recognizes only civil monogamous marriage and gives men and women equal rights during marriage and divorce. Rwanda's 1999 Inheritance Law protects women's rights to property by permitting widows to inherit half the husband's assets. It also permits all legitimate children to inherit in equal part, with no discrimination between male and female children.<sup>77</sup> Disposal of property requires the assent of both spouses. Less than 1 ha of land cannot be partitioned but

must be sold and the profits divided. As most Twa women are not legally married they cannot benefit from these provisions, and must rely on customary practices, which may or may not enable them and their children to secure a share of family property following divorce or death of the spouse.

The formalizing of land rights through the proposed Rwanda Land Code may weaken women's rights and access to land if land title is vested in husbands, rather than spousal co-ownership. The legal recognition of women's inheritance rights and the Land Code's requirement for land transfer to have the consent of all family members, will go some way to protecting women's interests.

## Uganda

Under the Ugandan Constitution (Article 31) men and women have equal rights in marriage and to inherit the property of their deceased spouses. Section 40 of the 1998 Uganda Land Act requires the written consent of the spouse and dependent children to transactions involving family land. However, husbands retain ownership and can intimidate their wives into giving consent, or can forge the necessary documents. An amendment to Section 40 passed in July 2003 broadens the definition of spousal land and prevents the spouse's objection to the sale lapsing after 60 days. However, women's rights activists are pressing for formal recognition of wives' co-ownership rights.<sup>78</sup>

Uganda's Succession Act concerning what happens to the property of a deceased person, assumes equal inheritance by male and female children, but customary practices tend to influence inheritance more than statutory law. The proposed Domestic Relations Bill would strengthen women's rights by enabling widows to inherit half of the family home, unaffected by remarriage, and all children would get an equal share of the estate.<sup>79</sup> However, parliamentary opposition to sections of the Bill proposing to regulate polygamy has held up the approval of the Bill.

The Land Act requires most types of land management bodies to have at least one-third female representation. These provisions for women's representation could encourage Twa women to seek support on land issues, and perhaps, in time, to seek representation on these bodies.

## Livelihoods

### Equal pay

The DRC Constitution prohibits discrimination at work on the grounds of origins, sex, opinions or beliefs. The Rwandan and Ugandan Constitutions affirm the right to

equal pay for equal work. The Burundi Constitution contains no such provisions, however the labour laws of all four countries prohibit discriminatory practices in employment, and require workers to be given equal pay for equal work.

The lower daily wages received by Twa labourers compared with labourers of other ethnic groups, contravene the laws of the four countries and the DRC, Rwandan and Ugandan Constitutions. They also contravene Convention 111 of the 1958 Discrimination (Employment and Occupation) Convention of the International Labour Organization (ILO), which has been ratified by Burundi, DRC and Rwanda. In collaboration with a national or international trade union, government or employer's organization, Twa organizations can bring this information to the attention of the ILO which regularly monitors states' compliance, and has complaints procedures which are relatively accessible.<sup>80</sup>

## Poverty reduction

In Rwanda and Uganda, national poverty reduction strategies (PRS) have been launched under the auspices of the World Bank to obtain debt relief and low-cost loans from the International Monetary Fund (IMF), as well as to tackle poverty. Countries draw up Poverty Reduction Strategy Papers (PRSPs) setting out their programme for reducing poverty, which is meant to include the participation of civil society organizations and NGOs. Rwanda and Uganda's poverty reduction initiatives are under way, and DRC has submitted an interim PRSP to the World Bank.

The Twa population is one of the poorest sectors in all of the four Great Lakes countries. If the proposed poverty-reduction measures are to be effective, they must reach the Twa, and improve their situation.

Twa NGOs and support organizations can participate in PRS processes and raise key poverty-related issues such as land tenure and access to health and education services. Further, poverty-reduction initiatives need to be monitored to determine whether they are reaching the Twa. For example, Rwanda is piloting the '*ubudehe*' community development initiative, which provides each cell in the country with a grant of US \$1,000 to carry out projects decided by the community. It is doubtful whether Twa women or men are fully included in the community-level discussions and planning of projects, or benefit equitably from the projects.<sup>81</sup>

The Rwandan government is also developing a Rural Economic Strategy. Twa NGOs and support organizations should monitor this to ensure that rural Twa have equal access to any benefits under the scheme and to counter any negative impacts.

## Promotion of women and gender equity

### Burundi

The Burundi Constitution emphasizes the role of women in the country's reconstruction, including: assistance for sexually abused women, income-generating activities, membership of aid distribution committees, provisions for women heads of households, rebuilding of houses for homeless women, and restoring entitlements for widows and orphans. All of these actions are relevant to Twa women. The Constitution requires legislation on women's inheritance rights to be enacted, along with measures to increase women's access to credit and land, education, financial capacity, and social and legal status. However, the legislative process is very slow.

Domestic violence is widespread in Burundi. The Family Law of 1980 was revised in 1993 to give women greater rights. For example, disposal of communal assets requires the consent of both spouses; however, the form of consent has not been specified enabling men to sell property without the knowledge of their wives. Other discriminatory provisions in the bankruptcy law, the labour code, nationality law and tax law need revision.<sup>82</sup>

### DRC

Constitutional protection for women in DRC is relatively weak. Article 51 identifies the state's responsibility to eliminate discrimination against women, promote women's rights and representation, ensure women's participation in the nation's development, and combat violence against women in public and private life. However, Constitutional rights are not spelled out clearly. Articles 99 and 105 require only a 'significant' female representation in the National Assembly and the Senate.

Civil and customary marriages registered with the authorities are legally recognized. Bride price is considered an essential component of marriage. Officially only monogamy is recognized, but polygamy is common. Marriage requires the consent of both spouses, and both have the same rights and responsibilities concerning their children. However, there are still many discriminatory aspects of Congolese family law.<sup>83</sup> For example, where there is a family dispute, the views of the father take precedence. Marital property is managed by the husband, whether it is held separately or in common. Fathers are usually given custody of children after divorce or separation. Currently women lose their legal capacity once they are married and require their husband's authorization to acquire property, sign a contract or travel. However, the new Labour Code has removed the requirement for a wife to obtain her husband's permission before seeking employment. The Penal

Code sets out harsher penalties for women who have committed adultery than for men, and prohibits the dissemination of contraceptives.

## Rwanda

The Rwandan Constitution affirms the equality of men and women, and stipulates at least 30 per cent female representation in the Senate and Chamber of Deputies; establishes a national structure of Women's Councils to ensure women's representation at each level of local administration; and provides for a Gender Monitoring Office to monitor how the government is promoting gender equity. Several Rwandan laws, which currently discriminate against women, including the Family Law and Penal Code, are being revised.

Article 26 of the Constitution recognizes civil monogamous marriage only, thus most wives in Rwanda, married under customary law, including Twa wives, are not protected by the law. Rape within marriage is not recognized by the law. The Penal Code prohibits infliction of injuries and torture, but does not specifically address domestic violence. In theory, battered women can make complaints at cell and sector level, but many women are too daunted by the public scrutiny this involves.<sup>84</sup>

## Uganda

The Ugandan Constitution gives women equal dignity of the person with men; equal opportunities in political, economic and social activities; and the right to affirmative action to redress imbalances created by history, tradition or custom. The Constitution provides for at least 30 per cent representation of women at each administrative level.

Currently Ugandan law recognizes civil, Christian, Islamic and customary (monogamous and polygamous) marriages. Polygamy creates many social, economic and emotional difficulties for women but is deeply entrenched in Ugandan society.<sup>85</sup> Rather than abolishing polygamy, the draft Domestic Relations Bill proposes to regulate it by building in safeguards for the wife and family. Customary marriages can be registered with the local authorities, giving women protection in law. Twa women are currently unaware of this provision, which could be of benefit to them providing registration is not too costly.

A survey of the general population reported domestic violence against women in 81 per cent of communities.<sup>86</sup> It is difficult for women to use the law to control the violence of their husbands. The village courts are the cheapest for most women, but the sanctions imposed on violent men may be very light. Women reporting domestic violence to the police have to be visibly damaged, and are often blamed by the police for inviting the violence. Husbands remain immune from prosecution for marital rape.

## National gender policies

Burundi, Rwanda and Uganda have developed comprehensive gender policies to mainstream gender in government policy; carry out affirmative action for women; and reduce women's poverty. These policies also aim to tackle gender-based violence and increase women's participation in decision-making. Twa organizations and support agencies can use these policies to engage with governments on Twa women's issues, and get Twa women recognized as a vulnerable group requiring affirmative action. There are no such gender policies in DRC.<sup>87</sup>

National Women's Councils have been set up in Rwanda and Uganda to disseminate information and mobilize the grassroots, administer micro credit schemes, and empower women.<sup>88</sup> At present, Women's Council members are volunteers and are largely untrained so their impact is limited. However, increased representation of Twa women on Women's Councils could strengthen their contacts and solidarity with other women, and enable them to bring their problems to a wider audience.

## Education

All four Constitutions affirm the right to basic education for all. Under Article 40 of Rwanda's new Constitution, school fees will be abolished in state primary schools; however, schools may charge for materials and uniforms. Rwanda's draft Education Sector Policy and Education Sector Strategic Plan have several elements that are relevant to Twa education. The policy aims to eliminate all disparities in education, and to make education accessible to all Rwandans. Strategies to achieve this include involving all parties, including NGOs and civil society, in policy development; providing functional literacy for all people; publicizing that education is for all Rwandans equally, without discrimination; assisting poor families with payment of school fees; supporting marginalized districts and vulnerable groups; and paying special attention to female participation and achievement in education. The education strategy includes a 'catch-up' scheme to reintegrate children not in primary school, the development of pro-poor initiatives and criteria for 'disadvantaged' children, and guidelines for access and social inclusion in higher education to diversify the student intake.<sup>89</sup>

Uganda's programme for universal primary education was launched in 1997, and school enrolment has steadily increased. Universal primary education was recently extended from four children to all children in a family.<sup>90</sup> The Ministry of Education has a Policy Framework for all Disadvantaged Groups, to provide complementary education programmes for children disadvantaged by social, cultural, geographical, political and economic barriers.

Under this policy, for example, non-formal basic education is provided for children in Karamoja. The applicability of this policy to Twa children could be explored. The government has also established a national adult literacy programme that targets women, and awards women school leavers bonus points to enable them to meet the entrance requirements for Makerere University.

Burundi's education policy aims to develop education on the basis of equity and to eliminate disparities. The policy aims for universal primary education by 2010, with plans to make primary education free for disadvantaged and destitute children, and to develop a programme to reintegrate children who have dropped out of school.<sup>91</sup>

So far DRC has not developed an education policy.

## Participation and representation

### Prohibition of discrimination

The Constitutions of all four countries prohibit discrimination on any grounds, including age, ethnic origin, religion or sex. The Burundi Constitution requires all Burundians to live in harmony, respecting other's dignity and differences. DRC's Constitution affirms that all ethnic groups and nationalities living in DRC since independence have equal rights and protection under the law (Article 14).<sup>92</sup> Rwanda's Constitution underlines the government's commitment to eradicate ethnic and regional divisions. Article 46 requires citizens to promote mutual respect and tolerance.

### Representation of minority groups

Burundi and Rwanda have constitutional provisions enabling Twa to be represented in the legislature. The Rwandan Constitution enables the President to nominate eight representatives of 'historically marginalized communities' to sit in the Senate. This would apply to Twa, thus potentially giving them political representation for the first time. However, these seats could be given to other marginalized groups, and the requirements for Senators (highly skilled in the fields of science, law, economics, politics, sociology and culture, or in senior positions in public or private sector) may be impossible for Twa, male or female, to fulfil. The Burundi Transitional Constitution reserves three places explicitly for Twa in the Senate (two places are currently occupied) and requires commune councils to reflect the ethnic diversity of their constituencies, if necessary by co-opting individuals from under-represented ethnic groups.

Article 36 of the Ugandan Constitution gives minorities the right to participate in decision-making and says that their views must be included in the making of national plans and programmes. The Preamble commits

Uganda to the fair representation of marginalized groups on all constitutional and other bodies; to involve the people in the formulation and implementation of development plans and programmes which affect them; and to integrate all the peoples of Uganda, while respecting their ethnic and cultural diversity. Article 37 guarantees everyone the right to practise and promote their culture in community with others.

### Support for vulnerable groups and affirmative action

Protocol 1, Article 7, of the Burundi Constitution provides for 'Deliberate promotion of disadvantaged groups, particularly the Twa, to correct the existing imbalances in all sectors...'. In addition, the government is required to provide special assistance for the protection, rehabilitation and advancement of vulnerable groups. The Burundi Constitution requires a historical study to be undertaken based on materials in the national archives, 'that will lead to a common interpretation of Burundi's history'. This will provide an opportunity for the Twa's role to be acknowledged.

The new Rwandan Constitution obliges the state to provide special measures for vulnerable groups. In April 2000 Rwanda's National Unity and Reconciliation Commission (NURC) acknowledged:

*'The marginalisation of the Twa people is a dark side of our society [...] they have been systematically forgotten as if they do not exist [...] they have genuine concerns.'*<sup>93</sup>

NURC recommended affirmative action for the Twa in terms of free education and health services. This has not yet happened, but NURC was given a small budget for support to Twa communities. In October 2001 Rwanda's Transitional Assembly passed an anti-discrimination law against anyone practising discrimination and segregation in the country. Government commentators stated that the law: '...makes it possible and legal to enforce positive discrimination in favour of vulnerable groups like the Twa, the disabled and the girl child'.<sup>94</sup>

Article 32 of the Ugandan Constitution provides for 'affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom...'. Article 180 provides for affirmative action for all marginalized groups regarding the composition and function of local government councils, and Article 21 (4a) enables Parliament to enact laws to redress social, economic or other imbalances in society. An Equal Opportunities Commission (EOC) is being set up to redress imbalances caused by history, gender and custom, as well as to carry out proactive measures

to prevent the recurrence of such inequalities. Its remit includes ethnic minority issues and it will have a quasi-judicial role with enforcement powers. The EOC would, for example, be able to investigate how the Twa became landless, and how this could be redressed. The government's Social Development Sector Strategic Investment Plan brings together children, disability, gender, labour,

poverty, women and youth, to respond to the needs of people left out of the mainstream development process. It also includes activities to reach ethnic minorities. However, the budget for this is very small.<sup>95</sup>

It does not appear that DRC currently has affirmative action policies for vulnerable groups.

# Conclusions

The difficulties faced by Twa women stem from the extremely disadvantaged situation of the Twa people as a whole, and their gender. The Twa are an indigenous people, formerly forest-dwelling hunter-gatherers, whose rights in international law have been ignored and violated. Throughout most of their territory the Twa have been dispossessed of their lands, often recently, with virtually no compensation or alternative land provision. The loss of lands and lack of access to natural resources has resulted in severe poverty, which has limited Twa people's access to adequate education, health services, housing and sanitation, information and justice. Deep-rooted ethnic prejudices against the Twa, coupled with their poverty, have contributed to their exclusion from decision-making bodies, and to their social, economic and political marginalization. Twa have lost many of their traditional cultural resources and institutions, social systems and values as these were closely tied up with their forest-based livelihoods systems. No longer able to lead a traditional life, the Twa are acutely aware of their deprivation. The situation of the Twa violates many of the provisions in international human rights standards adopted by Burundi, DRC, Rwanda and Uganda, including the African Charter, ICERD and ICCPR.

The lack of land particularly affects Twa women as they are mainly responsible for providing food for the family and raising the children. Without land, they can scarcely generate enough income to meet the daily food needs of the family. To enable Twa women to have access to land, Twa communities should be included in government land distribution schemes, such as those proposed in Burundi and Rwanda, and all possibilities for land acquisition through private sources should be explored. There are also strong arguments in international law for the restitution of indigenous lands that were expropriated by conservation and development projects.<sup>96</sup>

Many Twa prefer to live together in their own communities, therefore Twa should have the option of communal land tenure, and all settlement schemes should be based on their free, prior and informed consent. Under prevailing (non-traditional) land tenure systems, Twa women are disadvantaged because their customary rights to use and own land are less than those of men. As land titles become formalized, usually by vesting ownership in the husband, thus giving him the power to mortgage or sell land, Twa women's land security will be further threatened.

In Rwanda and Uganda, divorce and inheritance laws protect women's rights to land, providing that the women are legally married. Legal marriage is thus an existing mechanism that could improve Twa women's land rights. The rights of Twa women, who are not legally married, to use and own land generally appear to be weaker than those of men, yet it is not unusual for a Twa woman to keep her land after separating from her husband or being widowed. Legal marriage may have unforeseen impacts on traditional Twa community institutions, which may have other means to ensure fair treatment of women. Within a traditional setting, legal marriage may have disadvantages; for example, it may be more difficult for a Twa woman to dissolve an unsatisfactory legal marriage than a customary marriage. Before advocating that Twa women adopt national legal norms, more research is needed on Twa social systems and institutions to determine what aspects of customary law are beneficial for Twa women.

Twa children are one of the groups least able to access education, unless special measures are provided for them. Twa girls have extra hurdles to overcome – scarce family resources for education are spent on boys, girls are expected to continue domestic work during their school years and to get married earlier than boys. Twa girls and women are probably one of the most disadvantaged groups in the region in terms of education, particularly at secondary and tertiary levels. This has severe consequences for Twa women's empowerment as, in the opinion of other ethnic groups, the Twa's lack of education and literacy skills compromises their suitability as leaders and holders of positions of responsibility. Lack of secondary education also compromises Twa women's employability in non-manual jobs.

In many respects, Twa society is fairly egalitarian. There is no societal preference for sons over daughters; Twa women are not controlled by their fathers or uncles. Twa women generally choose their marriage partners, and they are free to separate from their husbands if they wish. Twa men recognize their wives' roles in supporting the family; women control their earnings, and are sometimes given responsibility for managing their husband's earnings too. The division of labour between men and women is quite complementary, particularly in pottery, an activity that Twa communities value as part of their identity especially in Burundi and Rwanda. Twa men will look after children and cook if necessary. Food, even if scarce, is shared fairly between all family members. Women can, in

some circumstances, inherit land and retain land after divorce or widowhood. Within their communities, Twa women are outspoken and play a prominent role in decision-making.

Notwithstanding these positive aspects of Twa society, Twa women suffer emotional and physical trauma as a result of abuse, family neglect and domestic violence. This is largely due to Twa men's alcohol consumption. Alcoholism is a phenomenon seen in many indigenous societies that are facing cultural collapse, and where men are no longer able to carry out their traditional roles as hunters and respected providers for the family. A related issue is the polygamy practised by some Twa men which undermines Twa women's dignity, threatens their survival by reducing access to land and resources, and which Twa women find deeply objectionable.

Respect for Twa culture and social behaviour in general should not be used as an excuse to ignore sexual discrimination against Twa women. This principle is upheld by the UN's Human Rights Committee, which has made clear that while minorities enjoy rights to language, culture and religion under Article 27 of the ICCPR, these rights do not permit them to violate women's equality.<sup>97</sup>

Although many rural people in Burundi, eastern DRC, Rwanda and south-western Uganda are poor and lack land, the rural Twa as a group are universally poor and landless, and subject to particular prejudice based on their ethnic identity. This is clearly a discriminatory situation and needs action by the governments of these countries.

Although Twa are scarcely mentioned in governments' legal and policy frameworks, the Twa can use various provisions to advocate their cause and press for

improvements in their situation, particularly that of Twa women. These include affirmative actions for minorities, vulnerable groups and women; land reviews, policies and legislation; policies to promote women's representation, and measures to increase women's knowledge of their rights and their access to services and professional training; and poverty reduction programmes. Twa organizations and support agencies are working on many of these issues. However, as Nkurunziza has advocated in his study of the Twa in Burundi, policies to address the exclusion of the Twa must be holistic and integrated, providing immediate welfare support, medium-term capacity building and long-term empowerment.<sup>98</sup>

Twa people want to be able to engage with national society, in order to overcome prejudice and discrimination against them, claim their rights and access services like other citizens of their countries. This right to participate equally in national society is not contingent on the Twa conforming to societal norms of appearance, diet, lifestyle, settlement patterns or occupation, unless they freely choose to do so. The Twa have the right to retain their cultural identity, to integrate into mainstream culture or to remain distinctive in whichever way they wish to. Policies developed by governments should therefore not be proscriptive with a 'one-size-fits-all' approach, but be applied flexibly. Policies must respect the right of Twa communities to make their own choices about their future, which may differ between different communities.

Respect for Twa people, based on the recognition of their rights as indigenous peoples and the embracing of cultural distinctiveness, will help the Great Lakes governments and societies develop into truly democratic multicultural states, where the voices and perceptions of all groups are respected.<sup>99</sup>

# Recommendations

## 1. Government recognition of Twa rights

The governments of Burundi, DRC, Rwanda and Uganda should fully implement national laws prohibiting discrimination and protecting the identity of ethnic groups. They should recognize the Twa as indigenous inhabitants of those countries and provide full protection of their individual and collective rights, in accordance with states parties' obligations under international law.

## 2. International human rights standards

The governments should ratify and implement the relevant international standards, including CEDAW, ICERD, ICCPR, and ILO Conventions 169 on Indigenous and Tribal Peoples, and 111 on Discrimination in Employment. Twa organizations should submit shadow reports to the relevant treaty monitoring bodies, and should submit individual complaints where possible. They should provide Special Rapporteurs with information and request them to investigate situations. Twa organizations should examine the possibilities for restitution of Twa lands under international human rights law.

## 3. Address Twa landlessness

Government ministries and departments in charge of land distribution and reallocation should ensure that government land distribution programmes include measures to address landlessness of Twa communities, based on a thorough assessment of Twa land needs, carried out with full and effective participation of representatives of Twa communities, including women. Governments and institutions responsible for the past expropriation of Twa lands should compensate Twa communities with lands of equal quality. Laws and policies, particularly relating to land rights, should recognize traditional forms of land ownership and land use, and ensure that Twa women have equal rights with men to use, ownership, inheritance and disposal of lands. Twa organizations should explore options for Twa community control of traditionally occupied lands, for example, under the new forest laws of DRC.

## 4. Right to development

To promote economic autonomy, governments should enforce existing laws ensuring the right to equal pay for equal work without discrimination on any grounds including sex or ethnic origin. Twa organizations, in particular women's groups, should participate fully and

effectively in the elaboration of development policies and programmes, including Poverty Reduction Strategy Papers.

## 5. Integrated policies

Twa organizations, governments and development agencies should work together to develop and implement integrated policies for the Twa, to meet urgent education, housing and food needs; build Twa capacity for self-reliance and increase Twa participation in decision-making at all levels, particularly focusing on equal participation and opportunities for Twa women. Twa organizations and governments should provide human rights education for Twa communities, and intercultural education programmes should be included in all school curricula, to ensure that pupils learn about the cultures and histories of all ethnic groups, with particular attention paid to countering stereotypes and myths.

## 6. Specific needs of Twa women

Governments, Twa organizations and women's rights organizations should implement programmes to address the exclusion and discrimination experienced by Twa women, to increase Twa women and girls' access to agricultural inputs, credit, information, education, employment, income, health services, literacy, training, and positions of responsibility and leadership. Twa organizations should mainstream gender issues within their programmes and work towards equal opportunities for men and women within their organizations. Development agencies and NGOs working on women's rights should work with Twa women and Twa organizations to ensure that their interventions address the specific issues faced by Twa women, including by collecting and disseminating disaggregated statistics on access of Twa women to economic opportunity, education and health. Donors should provide resources and capacity building support to Twa organizations to help them implement effective advocacy and development programmes for Twa women, and Twa as a whole.

## 7. Sexual discrimination and violence against Twa women

Twa communities, Twa organizations, women's rights bodies and governments should work together to eradicate violence and sexual discrimination against Twa women, whether perpetrated by Twa communities or by other ethnic groups, by carrying out public education

programmes, and ensuring that Twa women have full and effective access to justice. This should be based on a sympathetic understanding of the strains within Twa societies as a result of the collapse of their traditional culture and lifestyle, and be carried out in collaboration with local customary institutions and administrative structures. Judges, police and government officials should receive training on women's rights and domestic violence. Laws should fully protect women from domestic violence, for example by criminalizing rape within marriage. Programmes should be implemented to address the issue of alcohol abuse among Twa men.

### **8. Protection of ethnic groups in conflict**

Peace-keeping operations and national security forces working to secure peace in regions affected by wars and/or rebellions should pay specific attention to the need to protect ethnic groups, including women and children. Staff, police and military personnel should receive training on the specific needs and vulnerability of

marginalized ethnic groups, including women, in particular with regard to the use of sexual violence as a tool of war.

### **9. Research on Twa social systems and customary rights**

Twa organizations and representatives of Twa communities, including women, should carry out research to gain a better understanding of Twa social systems, culture and customary rights, in particular, the rights of Twa women. Twa organizations may use the results to assess the likely effects of any proposed or existing laws, policies or projects on Twa women's access and control of resources, their autonomy and financial independence; to advocate for their modification where appropriate; and to design interventions that contribute to Twa women's empowerment. Twa organizations should encourage a process of consultation within Twa communities regarding the impact of customary laws and practices on the right of women to freedom from discrimination.

# Relevant international instruments

## United Nations International Covenant on Civil and Political Rights (1966)

### Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

## International Convention on the Elimination of All Forms of Racial Discrimination (1965)

### Article 1

1. In this Convention, the term 'racial discrimination' shall mean 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.

## Convention on the Elimination of All Forms of Discrimination Against Women (1979)

### Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

[...]

- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise.
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.

### Article 5

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

### Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies.
- (b) To participate in the formulation of government policy and the

implementation thereof and to hold public office and perform all public functions at all levels of government.

- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

### Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education [...].

### Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

### Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations [...].

## ILO 111 Discrimination (Employment and Occupation) Convention (1958)

### Article 2

Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

## ILO 169 Indigenous and Tribal Peoples Convention (1989)

### Article 3

1. Indigenous and tribal peoples shall enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination. The provisions of the Convention shall be applied without discrimination to male and female members of these peoples.

### Article 7

1. The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.

### Article 14

1. The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropri-

ate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.

## **African Charter on Human and Peoples' Rights (1981)**

### **Article 19**

All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.

### **Article 20**

1. All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.  
[...]

### **Article 21**

1. All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.
2. In case of spoliation, the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.  
[...]

### **Article 22**

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.
2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

## **Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (11 July 2003)**

### **Article 6**

#### **Marriage**

States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that [...];

- c) monogamy is encouraged as the preferred form of marriage and that the rights of women in marriage and family, including in polygamous marital relationships are promoted and protected;  
[...]
- j) during her marriage, a woman shall have the right to acquire her own property and to administer and manage it freely.

### **Article 11**

#### **Protection of Women in Armed Conflicts**

1. States Parties undertake to respect and ensure respect for the rules of international humanitarian law applicable in armed conflict situations which affect the population, particularly women.
2. States Parties shall, in accordance with the obligations incumbent upon them under the international humanitarian law, protect civilians including women, irrespective of the population to which they belong, in the event of armed conflict.

### **Article 14**

#### **Health and Reproductive Rights**

1. States Parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted.

### **Article 19**

#### **Right to Sustainable Development**

Women shall have the right to fully enjoy their right to sustainable development. In this connection, the States Parties shall take all appropriate measures to:  
[...]

- b) ensure participation of women at all levels in the conceptualisation, decision-making, implementation and evaluation of development policies and programmes;
- c) promote women's access to and control over productive resources such as land and guarantee their right to property;
- d) promote women's access to credit, training, skills development and extension services at rural and urban levels in order to provide women with a higher quality of life and reduce the level of poverty among women.

### **Article 24**

#### **Special Protection of Women in Distress**

The States Parties undertake to:

- a) ensure the protection of poor women and women heads of families including women from marginalized population groups and provide an environment suitable to their condition and their special physical, economic and social needs.

# Notes

- 1 This report uses the stem 'Twa' in place of the Bantu nomenclature of 'Batwa' (plural) and 'Mutwa' (singular). In north and south Kivu, Democratic Republic of Congo (DRC), the term 'Mbuti' tends to be used by the upland Twa groups and 'Twa' by the groups living close to Lake Kivu. This report does not cover the indigenous hunter-gathers of the Ituri in north-eastern DRC who are also known as Mbuti, or other so-called 'Pygmy' groups in DRC, such as the Cwa in southern DRC and the western Twa in Equateur and Bandundu provinces. Information on these groups is given in Luling, V. and Kenrick, J., *Forest Foragers of Tropical Africa: A Dossier on the Present Condition of the 'Pygmy' Peoples*, London, Survival International, 1993. Further research is needed to clarify the relationships between Pygmy groups with similar names.
- 2 The origin stories of non-Twa ethnic groups of the region invoke migrations, wars and conquest to explain their arrival in the area, while Twa oral histories emphasize that the Twa originated in the area (Lewis, J., *The Batwa Pygmies of the Great Lakes Region*, London, MRG, 2000, pp. 5–7, 19). Historical research indicating that forests in south-western Uganda, eastern DRC, and western and northern Rwanda were occupied by Twa prior to the arrival of other groups includes Mateke, P., 'The struggle for dominance in Bufumbira, 1830–1920', *Uganda Journal*, vol. 34 (1), 1970; Maquet, J. and Naigiziki, S., 'Les droits fonciers dans le Rwanda ancien', *Zaire*, vol. 4, 1957, pp. 355–6; Schumacher, P., 'Expeditionen zu den zentralafrikanischen Kivu-Pygmäen', *Mémoires de l'Institut Royal Congo Belge*, vol. 5, p. 400; and Vansina, J., *Le Rwanda ancien: Le Royaume nyiginya*, Paris, Editions Karthala, pp. 25, 32–4.
- 3 For a detailed account of the concept of indigenous peoples in Africa, see Barume, A.K., *Heading Towards Extinction? Indigenous Rights in Africa: The Case of the Twa of the Kahuzi-Biega National Park, Democratic Republic of Congo*, Copenhagen, Forest Peoples Programme and IWGIA, 2000, pp. 32–61.
- 4 African Commission on Human and Peoples' Rights Working Group on the Rights of Indigenous People/Communities in Africa, *Conceptual Framework Paper. Second Draft*, December 2002, pp. 3–8.
- 5 It is not possible to give an accurate figure for the whole Twa population. Recent census data, disaggregated by ethnic origin, is only available for Uganda, and is likely to underestimate numbers of marginalized, isolated and mobile communities, such as the Twa. Apart from a handful of specialist studies of the Twa cited in this report, there is little published quantitative socio-economic data for the Twa, and even less for Twa women. The population estimates cited are from Lewis, 2000, *op. cit.*, p. 5. Recent census figures for Ugandan Twa are 3,500, comprising 2,500 in south-western Uganda and 1,000 in other districts (Kabanankye, K.I.B., personal communication, July 2003).
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- 37 Among the few, educated, urban Twa men, several have married non-Twa women.
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### Other information

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For the African Charter on Human and Peoples' Rights, see [www.achpr.org/html/basicinstruments.html#1](http://www.achpr.org/html/basicinstruments.html#1)

For the Draft Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, see [www.achpr.org/html/basicinstruments.html#b](http://www.achpr.org/html/basicinstruments.html#b)

For the Burundi Arusha Accord and Constitution, see [www.usip.org/library/pa/burundi/pa\\_burundi\\_08282000\\_toc.html](http://www.usip.org/library/pa/burundi/pa_burundi_08282000_toc.html); for the DRC Constitution, see [www.geocities.com/bureaupolitiq-uefsd/projet\\_constitution\\_6\\_3\\_03.html](http://www.geocities.com/bureaupolitiq-uefsd/projet_constitution_6_3_03.html); for the Rwandan Constitution, see [www.cjcr.gov.rw/eng/index.htm](http://www.cjcr.gov.rw/eng/index.htm); and for the Ugandan Constitution, see [www.government.go.ug/constitution/index.php](http://www.government.go.ug/constitution/index.php)

### Other useful websites include:

African Commission on Human and Peoples' Rights, [www.achpr.org](http://www.achpr.org); United Nations Division for the Advancement of Women, [www.un.org/womenwatch/daw](http://www.un.org/womenwatch/daw); UN treaty body database, including states parties' reports and documents issued by UN Committees <http://unhcr.ch/tbs/doc.nsf>; United Nations Women's Rights, [www.unhcr.ch/women](http://www.unhcr.ch/women); UN Special Rapporteur on Indigenous Peoples, [www.unhcr.ch/indigenous/rapporteur.htm](http://www.unhcr.ch/indigenous/rapporteur.htm); UN Permanent Forum on Indigenous Issues, [www.unhcr.ch/indigenous/forum.htm](http://www.unhcr.ch/indigenous/forum.htm); UN Working Group on Indigenous Populations, [www.unhcr.ch/indigenous/ind\\_wgip.htm](http://www.unhcr.ch/indigenous/ind_wgip.htm); International Labour Organization, [www.ilo.org](http://www.ilo.org)

# Getting involved

MRG relies on the generous support of institutions and individuals to further our work. All donations received contribute directly to our projects with minorities and indigenous peoples.

One valuable way to support us is to subscribe to our report series. Subscribers receive regular MRG reports and annual review. We also have over 100 titles which can be purchased from our publications catalogue. In addition, MRG publications are available to minority and indigenous peoples' organizations through our library scheme.

MRG's unique publications provide well-researched, accurate and impartial information on minority and indigenous peoples' rights worldwide. We offer critical analysis and new perspectives on international issues. Our specialist training materials include essential guides for NGOs and others on international human rights instruments, and on accessing international bodies. Many MRG publications have been translated into several languages.

If you would like to know more about MRG, how to support us and how to work with us, please visit our website [www.minorityrights.org](http://www.minorityrights.org), or contact our London office.

# Further reading from MRG

## *Public Participation and Minorities*

*Yash Ghai*

Describes the range of devices that can be used to provide for participation, and discusses experiences of constitutional and political provision for minorities and indigenous peoples.

2001 ISBN 1 897693 88 5, 28pp, £5.95/US\$10.95

## *International Labour Organization: A Handbook for Minorities and Indigenous Peoples*

*Chandra Roy and Mike Kaye*

Describes the instruments and mechanisms of the International Labour Organization and how they can be accessed in relation to issues including discrimination, migrant workers, child labour and indigenous rights.

2002 ISBN 1 897693 39 7, 52pp, £5.95/US\$10.95

## *Uganda: The Marginalization of Minorities*

*Wairama G. Baker*

Examines the situation of minorities, and human rights concerns including access to education, health and political participation - entitlements that are enshrined in the Ugandan Constitution.

2001 ISBN 1 897693 68 0, 32pp, £5.95/US\$10.95

## *The Batwa Pygmies of the Great Lakes Region*

*Jerome Lewis*

An historical account of the Batwa, the multiple ways in which their rights are violated, and how they have sought to accommodate themselves to changing circumstances.

2000 ISBN 1 897693 38 9, 32pp, £5.95/US\$10.95

# working to secure the rights of minorities and indigenous peoples

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## Twa Women, Twa Rights in the Great Lakes Region of Africa

The Twa, as an indigenous people in the Great Lakes region of Africa, are shunned by many other ethnic groups. If Twa communities as a whole suffer from discrimination, marginalization and extreme poverty, then Twa women suffer this and more. This situation has been exacerbated by violent conflict in the region.

Dorothy Jackson has many years experience of working with the region's Twa communities and Twa women. Twa women's voices can be heard clearly in this report, calling for change and for recognition of their rights – as indigenous people and as women. Despite the day-to-day discrimination and poverty, Twa women are resourceful and resilient, as this report shows.

Central to the issues facing Twa women, and their communities, is land. Twa have traditionally been dependent on their forests and land but today most Twa are landless. Their culture – and even their existence – is under threat. Added to this, the changes that are happening within Twa societies are overturning the relatively equal relationship between women and men.

This report considers government policies and international human rights law that could be used by Twa organizations and support agencies in Burundi, Democratic Republic of Congo, Rwanda and Uganda. The report concludes with a set of recommendations aimed at these states' governments and at development organizations.