



Ethnicity and Human Rights in Uganda: A Desk Study of Human Rights issues faced by Ethnic Minorities and Indigenous Groups

FINAL REPORT
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Cover Photo: Courtesy of Steven Ariong, the Daily Monitor, February 23, 2012

Looming hunger in the Karamoja region has forced many young children to take over adult roles like preparing meals for each other as their parents trek long distances in search of more food.

List of abbreviations

ABEK	Alternative Education for Karamoja	RDC	Resident District Commissioner
ACHPR	African Charter on Human and People's Rights	UGANET	Uganda Network on Law Ethics and HIV/AIDS
AICM	African International Christian Ministry	UHRC	Uganda Human Rights Commission
ASTU	Anti Stock Theft Unit	ULA	Uganda Land Alliance
AU	African Union	UN	United Nations
BLG	Benet Lobby Group	UNDP	United Nations Development Programme
CAT	Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	UNESCO	United Nations Education Scientific and cultural Organisation
CBD	Convention of Biological Diversity	UNFPA	United Nations Population Fund
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women	UNHCHR	United Nations High Commission for Human Rights
CECORE	Center for Conflict Resolution	UOBDU	United Organization for Batwa Development in Uganda
CIDP	AU Convention on Internally Displaced Persons	UPDF	Uganda People's Defence Forces
CRC	Convention on the Rights of the Child	UPE	Universal Primary Education
CSOs	Civil Society Organizations	UPR	Universal Periodic Review
EACJ	East African Court of Justice	USE	Universal Secondary Education
EMG	Ethnic minority Group	UWA	Uganda Wild Life Authority
EOC	Equal Opportunities Commission	WFP	World Food Programme
FGM	Female Genital Mutilation		
FPP	Forest Peoples Programme		
HRBAs	Human Rights Based Approach (es)		
ICCPR	International Covenant on Civil and Political Rights		
ICERD	International Convention on all forms of Racial Discrimination		
ICESCR	International Covenant on Economic, Social and Cultural Rights		
IMF	International Monetary Fund		
IRC	International Rescue Committee		
KIDDP	Karamoja Integrated Disarmament and Development Programme		
LEMU	Land and Equity Movement Uganda		
LGBTI	Lesbians Gays Bisexual Transgender Intersex		
LRA	Lords Resistance Army		
M&E	Monitoring and Evaluation		
MoJCA	Ministry of Justice and Constitutional Affairs		
MOU	Memorandum of Understanding		
MRG	Minority Rights Group International		
MUP	Multiple Use Programme		
NGOs	Non Governmental Organizations		
NDP	National Development Plan		
NUREP	Northern Uganda Rehabilitation Programme		
NUSAF	Northern Uganda Social Action Fund		
PWD	People with Disabilities		

Forward

Global Rights is a unique human rights capacity building that believes in the dignity and equality of all human beings. We believe that systemic change is rooted in the individual. We work side by side activists in Africa, Asia and Latin America to break down barriers that deny people their human rights. A powerful tool to overcome power imbalances in society is access to justice. In Uganda, Global Rights works with local partners to promote human rights through a community-based paralegal program that increases access to justice for this remote population in Bundibugyo district. Recently, Global Rights Uganda has launched a new project to address ethnic discrimination.

Uganda is a nation divided along ethnic fault lines that have fueled a number of internal conflicts. These conflicts have invariably led to human rights violations. Since independence in 1962, the country has experienced intra-state violence, including a 22-year civil war in the north. In the northwestern part of Uganda, insecurity and conflict amongst the pastoral communities of the Karamojong continues. However, governmental officials and the society, by and large, deny the existence of discrimination in Uganda. Global Rights believes that a substantive societal discourse must begin in order to overcome the problems caused by discrimination and to address the human rights violations that have occurred because of it.

To begin to tackle the complex issues that surround ethnic discrimination in Uganda, Global Rights launched a pilot project focusing on Kampala district. Preliminary findings showed that very little research and analysis existed on the issue in Uganda. Therefore, Global Rights commissioned a study on Ethnicity and Human Rights focusing on human rights issues that minorities and indigenous groups face. The study provides a more complete picture of the nature, patterns and extent of ethnic discrimination in Uganda and who is most affected. It further identifies research gaps that exist and need to be addressed.

This study will lay the groundwork to develop regional and international advocacy strategies for combating ethnic discrimination. The study contains specific recommendations for the Ugandan government, civil society organizations, the African Union, and relevant bodies within the United Nations which we hope will be relevant and of use. We hope the study will be a useful reference point for those interested in issues of ethnicity, minorities and human rights in Uganda.

AVID Development compiled and produced this study. We would like to thank the Ford Foundation East Africa for its support of Global Rights' pilot project on ethnic diversity.

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July 2012

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Executive Summary- Key Findings, Issues and Recommendations

i) Background

1. This desk study was conducted as part of the Global Rights pilot project on promoting ethnic diversity in Uganda. Global Rights strives to **understand the complex human rights issues that surround ethnicity and indigenous/ethnic minority groups in Uganda**. Through this study, Global Rights seeks to establish a more complete picture of the nature, patterns and extent of discrimination affecting ethnic minorities in Uganda and to highlight the most affected groups. Additionally, Global Rights seeks to identify current strategies being taken for the advancement of these groups, as well as any significant gaps that exist.
2. The findings will be used to **inform and shape subsequent activities of the pilot project** and contribute towards better information and local capacity to address issues of ethnic minorities and indigenous groups in Uganda. It is further envisaged that this study will help lay the groundwork to develop regional and international advocacy strategies for combating ethnic discrimination. This will include specific recommendations for Global Rights on how to engage different duty bearers and stakeholders including the Ugandan government, Non Governmental organizations, and relevant bodies at the regional and international levels.
3. AVID Development undertook this study in February and March 2012 largely based on a **desk review of** current status, issues and challenges regarding ethnicity and human rights in Uganda with specific focus on the rights of ethnic minorities and indigenous groups. A full list of materials reviewed is at **Annex 1**. In addition, a few interviews were held with key stakeholders to clarify and establish issues raised in the reports and establish current and ongoing initiatives to address ethnic tensions and promote and protect the rights of ethnic minorities and indigenous groups. A list of persons interviewed is at **Annex 2**.

ii) Key Issues/ Findings:

a) Persistence of tensions based on ethnicity, religion, geographical/ regional

4. Uganda is a **widely diverse country** with over 33 million people;¹ at least 65 recognized indigenous groups as per the Constitution of the Republic of Uganda (Schedule 3) and over 5 dominant religions.² However, Uganda's Cultural diversity has not been well managed and the persistence of ethnic, religious, and regional tensions in Uganda has been widely noted³ and is a cause of concern. Ethnic tensions which can be traced to colonial times, have not been well managed in Uganda's history and they have increased disgruntlement and outright violence over time largely as a result of manipulation of tribal differences by successive regimes; regional imbalances in power sharing and political positions/ land; and fighting over resources- including land.
5. The resultant outcome has been **marginalization, exclusion and increased discrimination of different groups at different times in history** that has culminated in outbursts of physical violence e.g. the Banyoro/ Bakiga/ Bafuruki conflict over land and control of power; Itesot and Japhadola conflict over district status; Karimojong and Itesot over cattle; Baganda and the Central government flare up in 2009 steeped in the restoration of a federal system of government and return of Kingdom property confiscated by the government in 1966. Marginal and less powerful groups which don't have the resources and power to exert their rights have largely been excluded and suffered excessive discrimination in the allocation of resources and social services and their rights remain largely unrealised.

1 Estimated population based on last census 2002, factoring in population growth rates over the last decade

2 Key religions include the Roman Catholic, Anglican, Muslim, Pentecostal and Traditional

3 UHRC 2009: 12th Annual Report of the Uganda Human Rights Commission, 2009. Chapter 12 dwells on Ethnic Tensions, Cultural Cohesion, Challenges and their implications to Human Rights; Also see International Crisis Group, 2012: Uganda: No Resolution to Growing Tensions, Africa Report N°187 – 5 April 2012; see www.beyondjuba.org

b) Definition and Classification of Ethnic Minorities and indigenous groups

6. **There are widely varying interpretations of who a ‘minority’ is**, and whether a particular group qualifies to be categorized as a ‘minority group’, and the concept of ‘ethnic minorities’ and indigenous groups is often defined according to the context in which these groups exist or increasingly through self determination. In addition, overtime, a body of international law has emerged with the recognition that ethnic minorities and indigenous groups, by virtue of their circumstances require additional protection and promotion of specific rights including:
 - right to the lands, territories and resources which they have traditionally owned, occupied
 - right to protection of cultural identity
 - right to non discrimination and equality
 - right to effective participation
 - right to protection of their survival through combating violence
7. The Constitution of the Republic of Uganda (schedule 3) **has a wide interpretation** in which the term “*indigenous*” refers to a wide list of 65 indigenous communities in the Country with the main criteria being tribes/ groups “indigenous to Africa”. This interpretation is wide and not in line with the specific interpretation of Indigenous groups and ethnic minorities as per international and regional human rights standards and the African Commission has made a strong recommendation for the government of Uganda to clarify on the criteria for identifying indigenous peoples in Uganda.⁴ While Ugandan agencies (e.g. Ministry of Gender, Labour and Social Development and the UHRC) do cater for vulnerable and marginalized communities, the vague and wide interpretation of indigenous groups is often prone to misinterpretation and abuse contributing to further marginalization of ethnic minorities and indigenous groups that deservedly need special attention by virtue of their specific circumstances.
8. In most cases, ethnic minorities and indigenous groups in Uganda are classified on the basis of their number in relation to the total population, as well the extent to which they enjoy rights in community with others. From the national statistics (*see Section A*), EMGS are fewer than other groups within the population, have different cultures and traditions (e.g. the semi nomadic pastoralists such as the Karimojong and the Basongora/ Bahima and hunter –gatherers such as the Batwa and Benet (largely cultivators now) and often suffer discrimination from dominant neighbouring tribes, as well as marginalization with regard to access to services and representation. The wide diversity of indigenous groups in the country has also contributed to ethnic tensions and at times outright conflict over resources such as land, water and cattle. As such **a contextually relevant definition of ethnic minorities and indigenous groups should recognize not only the numbers but also the power and control issues at play between the various groups in the community.**⁵
9. This study **recognizes the existence of minority groups such as the Asian Community**⁶ and the Lesbian, Gay, Bisexual, Transgender Intersex (LGBTI) community which have in the last years undergone increased discrimination on the basis of race and their sexuality (respectively). However for purposes of this study, focus is on ethnic minorities- those disadvantaged ethnic, national, religious, linguistic or cultural groups that may not necessarily be smaller in number than the rest of the population, but are also often less powerful and at times discriminated on the basis of their ethnicity, religion, culture or language .⁷

c) Policy and Legal gaps

10. Ethnicity in Uganda is a subject that has not featured much in national policy discussions even while debate rages on in the public through the media and informal discussions. Indeed, the existence of discrimination

4 Report on the African Commission’s Working Group on Indigenous populations/ communities. Research and Information visit to the Republic of Uganda (14-17 and 24-29 July 2006) adopted at the 43rd Ordinary Session, 7-22 May 2008

5 Challenges of Ethnic Minority Groups in Achieving their full Potential: The Role of Development Actors, Community Development Resource Network, http://www.cdrn.or.ug/downloads/Policy_Brief_EMG.pdf

6 This includes Indians and Chinese, and the number is growing as immigrants seek settlement in the country.

7 See Minority Rights Group International definition of Minorities at www.minorityrights.org

on grounds of ethnicity in Uganda has been rebutted at the highest levels of government and this has contributed to the lack of public visibility and limited discussion of the issue.⁸ Several structural and root causes of Ethnic tensions remain unresolved hampering national reconciliation and integration in Uganda. Calls for a **National Truth and Reconciliation process to bring healing and justice to the nation have not been met with enthusiasm at the policy level and a National Reconciliation Bill 2009 remains in draft.**

11. The **issues of EMGs are not well appreciated at the national level and have largely been marginalized** in the Poverty Reduction Support Strategies and now the National Development Plan.⁹ Despite ideals and intentions in national policy frameworks such as the National Development Plan and the Northern Uganda Rehabilitation Programme (NUREP); development is not a reality in areas populated by indigenous groups such as the Karimojong and Batwa largely due to “political malfeasance, misappropriation of resources, and a deep rooted neglect of areas that are largely perceived to be “backward” and often not given due attention.”¹⁰
12. The baseline undertaken by the Equal Opportunities Commission in 2009¹¹ further established that **issues of ethnic minorities in Uganda are not regarded to be of utmost importance at a policy level.** While Government has put in place institutions such as the Equal Opportunities Commission, these lack adequate resourcing to enable them undertake their mandate and issues of minority groups are not sufficiently mainstreamed in development and planning processes. In addition, many persons did not see the need for a different set of policy frameworks or laws for this group, and in fact, there have been attempts to assimilate them into the dominant society, an approach which has impacted negatively on their values and cultural diversity.
13. The Constitution of the Republic of Uganda 1995 provides some guarantees protecting the rights of EMGs for instance on affirmative action (Article 32) and the right to participate in decision making processes (Article 36). However, **Uganda lacks a coherent legal and policy framework to implement international human rights provisions for the protection of ethnic minorities.** The government is yet to ratify and implement the UNESCO Convention on Promotion and Protection of Cultural Expression and the ILO Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries. Similarly, the existing law, the Equal Opportunities Act 2007 lumps EMGs together with other marginalized groups leaving them without a legal framework that caters for their specific rights and needs. Also, the scattered nature of provisions on discrimination in the various legal frameworks, makes enforcement and monitoring of these rights more difficult.
14. *There is **little effective representation within decision making structures, both at the central** and local government levels.* There is no EMG representation in parliament or on the executive.¹² Most EMGs are generally represented by people from other ethnic groups and even those that manage to get elected are often because of their degree of assimilation and not because of their capacity to fight for the rights of others. This limits the extent to which concerns and interest of the EMGs are discussed at policy level at the national and local levels.¹³

d) **Weak institutional capacity to promote/ protect rights of EMGs**

15. The key government agencies for the promotion of human rights and equality are the **Uganda Human Rights Commission and the Equal Opportunities Commission (EOC).** The UHRC has a wide mandate to promote and protect human rights and in the course of its work, has attempted to address issues concerning Ethnic

8 Report on the African Commission’s Working Group on Indigenous populations/ communities, Op Cit pages 41-44

9 Samia Liaquat, 2010: Poverty Reduction Strategy Papers: Failing Minorities and indigenous peoples, Minority Rights Group International

10 Op cit at p.26

11 EOC, 2010: Survey Report on Equity and Equal Opportunities Capacity Gaps for Vulnerable Groups in Northern Uganda, July 2010

12 Henry Neza, Uganda Report on Indigenous People and Protected areas, Indigenous Information Network, 2001

13 Ethnic Minorities in Uganda: Universal Periodic Review Joint Submissions for Uganda, Minority Rights Group International et al, 2011, p. 5.

Minorities and indigenous groups. However, the UHRC admits that they do not have adequate capacity to address issues of minority groups.¹⁴

16. The EOC is a constitutional body set up by Act of Parliament (Equal Opportunities Act, 2007) in fulfilment of Article 32 (3) of the Constitution. Its mandate is to redress existing imbalances that perpetuate inequalities and exacerbate vulnerability among the various categories of the population in Uganda. It was inaugurated on 8th July 2010 and despite a slow start, the EOC is now in the process of taking on new staff and undertaking a few activities. To-date, it has conducted a survey in northern Uganda and has established a data base on ethnic minorities that is yet been launched. The **EOC is however largely incapacitated and lacks adequate human and financial resources** to deal with the issues of EMGs.
17. **Other key issues affecting EMGs** include the Limited Access to Services and control of productive assets; high conflict and security concerns; non recognition and violation of women's rights; limited avenues to access justice and remedies for breach of EMG rights; low awareness of rights and mechanisms to enforce them; and no participation in local and national governance structures and processes.

iii) Proposed and Ongoing Initiatives:

18. A **number of initiatives have been undertaken or are underway** by the state, international and local based organisations aimed at institutional building e.g. for the EOC, and UHRC; law reform e.g. the Draft National Land Policy¹⁵ with specific provisions for ownership and control of natural resources by EMGs particularly pastoralists; humanitarian support e.g. by the Development Partners and research, advocacy and capacity building by Civil Society Organisations.
19. A number of **gaps however remain** largely around the national policy engagement on issues of ethnicity and human rights; inadequate legal and policy framework for the full realization of EMG's rights; implementation of key recommendations made by treaty bodies and mechanisms including recommendations of the African Commission report (2009); raising awareness around the rights of EMGs; capacity building for duty bearers including State Party Institutions and Civil Society organisations at the National level and those working with EMGs at the grassroots, as well enhancing the status of EMGs to immediately and effectively access basic services especially access to justice and health.
20. Overall, the human rights status of ethnic minorities and indigenous groups in Uganda remains dire and there is urgent need for concerted effort among all stakeholders to highlight the plight of EMGs and avert both a humanitarian situation and violations among the landless Batwa in Kisoro and Bundibugyo but also ongoing human rights violations that have long characterized the disarmament process in Karamoja.

iv) Recommendations and entry points for Global Rights

21. Given the sensitivities surrounding ethnicity in Uganda, historical context and huge scale of the problem, Global rights can work with existing actors at the international and national level to:
 - a) Facilitate the **establishment of an advocacy platform/ forum** at national level drawing in key stakeholders working on Ethnicity and Human Rights and more specifically on the rights of ethnic minorities and indigenous groups so as to prioritize, coordinate and advocate for key issues at a national and international level. Priority areas include: discussions on ethnicity and human rights in Uganda; engaging the Uganda Bureau of Statistics (UBOS) to ensure adequate disaggregation of national data in the upcoming CENSUS 2012 and other national surveys so as to capture the social, economic and political indicators critical to EMGs; engaging the National Planning Authority (NPA) to ensure that issues of ethnicity and

14 Interview with Ms. Roselyn Karugonjo- (Director Monitoring and Evaluation) and Freda Nalumansi Mugambe (Human Rights Officer – Vulnerable Person's Unit) 01, March 2012. The UHRC in its Annual Report of 2008 focused some of its findings on EMGs

15 Also see: Laura Young and Korir Sing "Oei, 2011: Land, livelihoods and identifies: inter- community conflicts in East Africa; MRG International

ethnic minorities and indigenous groups are captured in the National Development

- b) **Build Capacity of duty bearers at national level and grassroots** by developing and implementing a training curriculum on ethnicity and the rights of EMGs under the international, regional and national legal and policy framework; current status and challenges; and advocacy strategies.
- c) Draw **regional and international attention to the plight of EMGs** in Uganda by initiating and contributing to shadow reporting to regional and international mechanisms on Ethnicity, human rights and the state of EMGs in Uganda. Also follow up on status of implementation of the recommendations by treaty bodies including the African Commission's Working Group on Indigenous Populations/ Communities; the Committee on the Rights of the Children specific recommendation on Education among Batwa Children; and Committee on the Elimination of all forms of Racial Discrimination to address discrimination on the basis of ethnicity. Also, advocate for the **mainstreaming of issues concerning EMGs in State reports** to various treaty body mechanisms at international and regional level.
- d) Engage **JLOS, UHRC and the EOC on specific cases** of violation of rights and institute a Public Interest Litigation Case on specific issues of discrimination and violation of rights of Ethnic Minorities and Indigenous groups in Uganda contrary to universal human rights standards.

Section A: Context of Ethnic Minorities and Indigenous Groups at the International, Regional and National Level

The overall characteristics of groups identifying themselves as indigenous peoples are that their cultures and ways of life differ considerably from the dominant society and that their cultures are under threat, in some case to the point of extinction. A key characteristic for most of them is that the survival of their particular way of life depends on access and rights to their traditional lands and the natural resources thereon. They suffer from discrimination and are regarded as less developed and less advanced than other dominant sectors of society.... This discrimination, domination and marginalization violates their human rights as peoples/ communities, threatens the continuation of their cultures and ways of life and prevents them from being able to genuinely participate in decisions regarding their own future and forms of development.

*African Commission's Working Group of Experts on Indigenous Populations/ Communities,
Adopted by the African Commission at its 34th Ordinary Session, November 2003*

A. 1. Ethnicity in Uganda

1. Uganda has a **wide and vast ethnic and cultural diversity** with 65 recognized ethnic and indigenous groups as per schedule 3 in the Constitution of the Republic of Uganda.¹⁶ In determining which communities and groups are indigenous to Uganda, the Constitution provides that “any person born in Uganda one of whose parents or grandparents is or was a member of any of the indigenous communities existing and residing with the borders of Uganda as at the first day of February, 1926 and set out in the Third Schedule to the Constitution is eligible to be Ugandan.”¹⁷
2. In 2002, following the Census, Uganda had a total population of 23 million with a recognised list of 56 indigenous groups fitting the criteria in the Constitution (above). However, over time, the numbers and composition of recognised ethnic groups has grown to the **65 groups in the Third Schedule** with the addition of 10 groups including the Aliba, Aringa, Banyabutumbi, Banyaruguru, Barundi, Gimara, Kuku, Ngikutio, Reli, and Shana.¹⁸ Overall, the criteria and methodology of adding new groups to the list is not clear, while the original composition was based on the existence of tribes within the set boundaries during the colonial era, it's not clear how the new groups have identified.
3. There are aspects of recognition of self determination based on the definition of ethnicity as used under the 2002 census which sought to define ethnicity as a segment of a society whose members are thought by themselves and/ or others to have a common origin, share important segments of a common culture and participate in shared activities in which common origin and culture are significant ingredients.¹⁹ Clearly, some groups have sub divided from bigger groups e.g. the Banyaruguru from the Banyankole and the Banyala from the Baganda and been recognised as independent entities, however some other groups that have self determined are yet to be included in the Schedule including the Meru, Basese, Bagangaizi, Bagaya, Mwangwar, Benet (Ndoroobo).²⁰
4. The table below highlights the **distribution of ethnic groups in Uganda by population size**. There is no single dominant group or tribe in Uganda and at least 71% of the population (16.5m as of 2002) is almost equally divided between nine most populous tribes of the Baganda, Banyankole, Basoga, Bakiga, Iteso, Langi, Acholi, Bagisu, Lugbara, each with a population of one million or more. At the other end of the spectrum are

16 As at 15th February 2006

17 Article 10(a) of the Constitution of the Republic of Uganda on citizenship by birth

18 Schedule III of the Constitution of the Republic of Uganda

19 Uganda Bureau of Statistics; The 2002 Uganda Population and Housing Census- Analytical Report on population composition

20 Position Paper on Ethnic Minority Rights in Uganda, Community Development Resource Network, Civil Society Capacity Building Programme, July 2007 p. V

19 groups that have been identified with less than 25,000 thousand people to include: the So (Tepeth), Banyara, Batuku, Chope, Babukusu, Banyabindi, Lendu, Basongora, IK (Teuso), Batwa, Bahehe, Dodoth, Ethur, Mening, Jie, Mvuba, Nyangia, Napore, and Vonoma.

Table 1: Distribution of ethnic groups by population size

Population size	Number	Ethnic Groups	Population ('000s)	Percentage
1 million or more	9	Baganda, Banyankole, Basoga, Bakiga, Iteso, Langi, Acholi, Bagisu, Lugbara	16,529.4	71.0
500,000 – 1,000,000	4	Banyoro, Bakonzo, Batoro, Alur	2,412.8	10.4
250,000 – 500,000	8	Bafumbira, Bagwere, Japadhola, Banyole, Banyarwanda, Madi, Basamia, Karimojong	2,706.8	11.6
100,000 – 250,000	5	Sabinyi, Bahororo, Kumam, Baruli, Kakwa	798.4	3.4
25,000 – 100,000	11	Jonam, Bagwe, Pokot, Babwisi, Bakenyi, Bagungu, Batagwenda, Baamba, Kuku, Kebu (Okebu), Nubi	586.0	2.5
Less than 25,000	19	So (Tepeth), Banyara, Batuku, Chope, Babukusu, Banyabindi, Lendu, Basongora, IK (Teuso), Batwa, Bahehe, Dodoth, Ethur, Mening, Jie, Mvuba, Nyangia, Napore, Vonoma	180.8	0.7
Others		None indigenous groups	93.5	0.4
Total	56		23,287.6	100

Source: The 2002 Uganda population and housing census population composition analytical report

5. **Managing diversity:** under the National objectives and Directive Principles of State Policy, it's stated that *"every effort shall be made to integrate all the peoples of Uganda while at the same time recognizing the existence of their ethnic, religious, ideological, political and cultural diversity."*²¹ However, with such diversity in population size and groups, tensions are bound to arise on the basis of these same differences.
6. The **African Peer Review Mechanism (APRM) country report No.7**²² notes that African States have had serious problems managing diversity first because their constituent groups were forcibly and arbitrarily incorporated by colonization. This forced integration *"coupled with state authored systems of discrimination and inequality has led to a long history of agitation over the right to self determination by dominated, oppressed and marginalized groups of which minorities constitute a special group."* On Uganda, the APRM notes that since independence, Ugandan politics have been marked by continued tribal and regional divisions, most poignantly between the north and south. Previous political regimes and brutal dictatorships used the ethnic and cultural diversity of Uganda as a means to divide and rule the country which resulted in cycles of violence and general degeneration of livelihoods, which have not been effectively addressed even by development programmes.²³
7. The Refugee Law Project has through its Beyond Juba Project²⁴ extensively studied and documented all major past and current conflicts and their legacies in Uganda in a countrywide exercise called the National Reconciliation and Transitional Justice Audit (NR&TJ Audit). They map the country along 7 key fault lines including West Nile Region, Northern Uganda, Karamoja Region, Eastern Region, Central Region, Western (Rwenzori) Region and West Central Region. In all these regions, **ethnic divisions/ rivalries have contributed**

21 National Objectives and Directive Principles of State Policy, Objective III on National Unity and stability subsection ii.

22 APRM Country Review Report No.7, January 2009 at p.x to xi

23 Op cit at P.47

24 See www.beyondjuba.org. The Beyond Juba project- a joint initiative of the Refugee Law Project, the Human Rights and Peace Centre, and the Faculty of Law, Makerere University aims to build consensus on sustainable peace building and national reconciliation process in Uganda and is currently in its second Phase of implementation. The first phase of the project run from 2007-2011.

to tensions, worsening tribal sentiments and conflict.²⁵ For instance, among the Karimojong pastoralists communities and the Iteso who lead a sedentary lifestyle; increasing ethnic tensions between the Banyonro and the Bakiga over power and resources including land; and tensions between sub groups of the Baganda tribe.

8. The **Uganda Human Rights Commission in its 12th Annual Report of 2009** devotes a chapter on 'Ethnic Tensions, Challenges to cultural cohesion and their implications for human rights observance.'²⁶ The UHRC highlights key ethnic tensions in 2009 notably:²⁷ the tensions between the Buganda Kingdom (Mengo Administration) and Central Government largely over Buganda's demand for a federal status (and several grievances including disagreement over return of kingdom property and land and involvement of Kabaka's government in partisan politics), culminating in violent riots in September 2009; the Banyoro and Bakiga/ Bafuruki tensions over marginalization of indigenous Banyoro communities and dispossession of land by the Bakiga immigrants; ongoing Karimojong ethnic conflicts largely based on inter clan raids for cattle; and wrangles over creation of new districts for instance among the Jophadola and Iteso in Tororo District. None of these conflicts have been effectively resolved, and in the absence of national dialogue on the issue of ethnicity, tensions continue to simmer even where temporary truces have been called e.g. between the Buganda Government and the Central Government.
9. These tensions were recently highlighted by a **media debate sparked by an article "Should Ugandans be able to change their tribes"** in which the Author²⁸ notes that there is simmering aggression and resentment against specific tribes, notably the Banyankole who are "in power" by virtue of the President being from that tribe and perceived to be controlling national resources. The author calls for a move towards national identify and away from tribal identify through intermarriage, investment in the region and social integration through long stay. This article sparked a heated discussion around tribalism revealing simmering sentiments that indicate that perhaps it not only about tribe and ethnicity but as one respondent puts its *"we should not think along tribal lines, it's more about social injustice, nepotism, Baganda marginalization, impartial forces recruitment, selfishness, greed, absolute theft commonly called corruption and ego tripping."*²⁹
10. Ultimately, the key resultant outcome of the **ongoing ethnic and cultural tensions has been the increased discrimination, inequality; marginalization and exclusion of various groups** over the years depending on who is in power and who controls the resources. In many cases, minority groups without power and voice are most likely to suffer. The APRM report notes³⁰ that across Africa and in Uganda, there are "gross inequalities among the constituent groups in terms of development, resource endowment, territorial size and population and this has been one of the major causes of problems among minorities.
11. The Refugee Law Project and other stakeholders³¹ have called for a **National Truth and Reconciliation process to bring healing and justice to the nation**. Since 2005, a civil society Coalition for National Reconciliation in Uganda (CORU) came together to build consensus on a national reconciliation process in Uganda.³² CORU came out with a first draft of a proposed National Reconciliation bill for Uganda 2009, however, to date, this Bill is yet to be debated and enacted by Parliament.

25 Also see the Uganda Human Rights Commission, 12th Annual Report 2009 (2010) which notes that Uganda's history is littered with incidents of human rights violations related to ethnic and cultural tensions at P. 142

26 Op cit from P.137

27 Op cit P.142-148

28 By Donald Rukare- Country Director, Global Rights published in the Daily Monitor- see <http://www.monitor.co.ug/OpEd/Commentary/-/689364/1312024/-/129nbv0z/-/index.html>

29 Email response to Article on *Should Ugandans be able to Change their tribes*. Names withheld

30 APRM Uganda Country Report No.7 at p.x. Also see the UHRC, 12th Annual Report 2009 at P. 142

31 See: Senior High Court Judge Backs calls for National Truth Seeking in Uganda, by Stephen Oola. October 20, 2010; Published by Peace Direct in Insight on Conflict at <http://www.insightonconflict.org/2010/10/senior-high-court-judge-backs-call-for-national-truth-seeking-in-uganda/>

32 CORU's diverse membership stems from CSOs, NGOs, and academic institutions, to religious and peace building organisations, research institutions and individuals working for peace, justice, and development in Uganda, all of which believe the need for national truth seeking is a key to sustainable peace building.

12. In addition, there is need for government to **develop redistributive policies to ensure that resources are reallocated equitably among the different indigenous groups**; develop programmes that seek to empower groups that have been marginalized and discriminated against; and that there are mechanisms to address ethnic tensions and rivalries where they exist.

A.2 Defining Ethnic Minorities and Indigenous Groups in Uganda

13. **Defining indigenous groups and ethnic minorities in Uganda is particularly complex given that the Constitution recognizes at least 65 distinct ethnic groups³³ which are all “indigenous.”** In addition, many groups regard themselves as ‘minorities’³⁴ and marginalised by virtue of various issues including the historical (colonialism) and post- colonial context which has been characterized by divisive politics, conflict and marginalization of and between various tribes and communities at one time or another.
14. While no clear definition exists, there have been efforts to categorize ethnic minorities/ indigenous groups in Uganda. The Uganda Human Rights Commission and the Equal Opportunities Commission both include marginalization and vulnerability as key ingredients in determining the minority situation of a community and group,³⁵ while the Uganda Bureau of Statistics disaggregates and identifies ethnic groups with population less than 25,000.

Table 2: Population of ethnic minority groups in Uganda of 25,000 people or less³⁶

Ethnic Group	Population	%	Location (District)
1. Venoma	119	0.001	Kapchorwa, Arua and Kayunga
2. Nyangia	332	0.001	Kotido
3. Mvuba	863	0.004	Arua and Mukono
4. Mening	1,092	0.005	Kotido
5. Ethur	2,342	0.01	
6. Bahehe	3,358	0.01	Rukungiri and Busia
7. Batwa	6,705	0.03	Kasese, Bushenyi and Kabale
8. Ik (Teuso)	8,497	0.04	Kaabong
9. Basongora	10,153	0.04	Kasese
10. Lendu	11,155	0.05	Masindi, Hoima and Nebbi
11. Banyabindi	13,912	0.06	Mubende and Kasese
12. Babukusu	14,961	0.06	Masindi and Bugiri
13. Chope	20,517	0.09	Masindi
14. Batuku	20,532	0.09	Bundibugyo
15. Banyala	20,612	0.09	Kamuli and Kayunga
16. So (Tepeth)	21,527	0.09	Nakapiripirit
17. Nubi	25,118	0.1	Luweero

Source: Uganda National Bureau of Statistics, 2002

15. To-date, focus of government and civil society interventions has largely been on the Batwa (hunter- gatherer communities) and the Karimojong (pastoralists) who have experienced systematic and entrenched exclusion and marginalization and by virtue of the armed conflict in Karamoja region. However, some indigenous groups that are equally discriminated and marginalized are not **listed among the official tribes of Uganda under the third schedule of the Uganda Constitution as amended February 2006 and are not as well** profiled including the Meru, Basese, Bagangaizi, Bagaya, Mwangwar, Benet (Ndoorobo).³⁷

33 The Constitution of the Republic of Uganda, Third Schedule as amended in 2006

34 Note that there is no provision under Ugandan law for a group to declare itself a minority.

35 Op cit at P.42

36 Uganda National Bureau of Statistics, National Census 2002

37 Position Paper on Ethnic Minority Rights in Uganda, Community Development Resource Network, Civil Society Ca-

16. The ambiguous nature of Uganda's position is contrary to international human rights standards on the **principle of self-identification by ethnic/ racial groups** as emphasized by the UN Committee on the Convention on the Elimination of all forms of Racial Discrimination (CERD). The Committee stated in its general recommendation on identification of ethnic or racial groups³⁸ that "such identification shall, if no justification exists to the contrary, be based upon self identification by the individual concerned."
17. The African Commission³⁹ notes that there is a **terminological and conceptual confusion in so far as the term "indigenous peoples" is concerned in Uganda** and that the lack of a coherent understanding of the scope and nature of challenges experienced by indigenous communities is likely to perpetuate policy failure and poverty among indigenous groups. Indeed, the ambiguity in the Constitution around the definition of indigenous groups has been interpreted by different tribes to clamor for marginalization and vulnerability status as a way of accessing more resources from the State. Ethnic minority groups that are often perceived as backward and without voice are likely to be discriminated, excluded from national development processes and lose out on minority rights protection as perceived under international and regional law.⁴⁰
18. In line with international standards, the African Commission's Working Group of Experts in Indigenous Populations/ Communities provides key ingredients for recognition to include discrimination,⁴¹ domination and marginalization that not only violate their human rights as peoples/ communities, but also threatens the continuation of their cultures and ways of life (group and identify issues which are central to their struggle as indigenous peoples) and prevents them from being able to genuinely participate in decisions regarding their own future and forms of development.⁴² The African Commission calls for **further discussion and deeper understanding of the terminology of indigenous peoples/ communities and ethnic minorities** and for the Government of Uganda to bring its definition in line with international and regionally accepted standards so as to enable the formulation of policy options that take into account the specific scope and challenges experienced by indigenous groups.⁴³

A.3. *International and Regional Policy and Legal framework pertaining to EMGs*

19. At the regional and international level, despite previous challenges in establishing a universally acceptable definition; progress has been made in identifying key characteristics of ethnic minorities and indigenous groups. The UNESCO Convention on Promotion and Protection of Cultural Expression (adopted by the General Assembly on 13 September 2007) and the ILO Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries both provide legal recognition and protection to indigenous groups to their lands, territories and resources with due, respect to their customs, traditions and land tenure systems.

capacity Building Programme, July 2007 p. V

- 38 UN CERD Committee General Recommendation No 8 of 1990 Article 1 paragraphs 1 and 4. This principle of self identification has been recognized by the African Commission on Human and People's Rights at its 34th Session in 2003 and under the ILO Convention No.169
- 39 Report on the Research and Information Visit to The Republic of Uganda, July 2006, published in 2009 at P 43-45
- 40 Also see the Report of the African Commission's Working Group on Indigenous Populations and Communities- Research and Information Visit to The Republic of Uganda July 2006, published in 2009, at P.41-42
- 41 The International Convention on the Elimination of Racial Discrimination (ICERD) in Article 1 defines "discrimination" to 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."
- 42 Other indicators for identifying minorities include high birth and mortality rates, poor health services/facilities, low levels of literacy or skills, a lack of resources compared to other groups, marginalization in land ownership or exclusion a country's economic, political or social cultural and need for special protective and/or corrective measures to be able to attain a state of normalcy in 'society'. See Gurr, T.R., 1993: Minorities at Risk: A global View of Ethnopolitical Conflicts, with contributions from B. Harff, M.G. Marshall, J.R. Scarrit, United States Institute of Peace Press, Washington D.C.; and Wairama, G. Baker, 2001: Uganda: The Marginalization of Minorities, Minority Rights Group Report, p. 8
- 43 Report of the African Commission's Working Group on Indigenous Populations and Communities- Research and Information Visit to The Republic of Uganda July 2006, published in 2009, at P. 45

20. A body of soft law and general principles has also been established over the years through the various treaty bodies through general comments and declarations such as the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities,⁴⁴ and special mechanisms including the UN Independent Expert on Minority Rights. For instance, the UN Independent Expert on Minority Rights to Columbia in 2010 identified a number of broad areas of concern to minorities including effective participation in political life and decision making, protection of cultural identity especially from assimilation by more dominant groups; and non discrimination and equality and the right of minorities to participate in economic life.⁴⁵
21. A perception that has long existed is that the definition of ethnic minorities should be based on numerical strength. However, in a recent report⁴⁶ issued to the Human Rights Council by the UN Independent Expert on Minority Rights on her visit to Rwanda in 2011, this issue is discussed with the view that numerical strength is not the sole factor on which to assess whether a group constitutes a minority within a community. Instead of numerical strength, the independent expert focuses her work on “national, ethnic, religious and linguistic groups whose generally non-dominant positions within their societies demand protection to allow them to exercise all their rights, including minority rights to the fullest.” She recognises “that in some countries, a distinct group constituting a numerical majority may be oppressed by a smaller group which is using its political or economic dominance to deny certain rights to other groups.”⁴⁷
22. In general, within these broad characteristics, the international standards in place to protect and promote the rights of ethnic minorities/ indigenous peoples seek to address and redress particular forms of abuses and violations that they are likely to suffer. The human rights of ethnic minorities and indigenous groups are explicitly set out in the following instruments:
- Universal Declaration of Human Rights (1948) - Articles 1, 2, 7 and 23 of equality and non discrimination
 - Declaration of the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (1992) – Articles 1 to 9
 - International Covenant on Civil and Political Rights (1966) – Articles 2, 14, 24, 26, 27
 - International Covenant on Economic, Social and Cultural Rights (1966) – Article 2, 7 and 13
 - Convention on the Rights of the Child (1989) – Articles 2,17,28,29,30
 - Convention on the Elimination of all forms of Racial Discrimination (1965) – Articles 2, 5 and 6
 - The African Charter on Human and Peoples’ Rights (1981) – Articles 8, 22
 - The African Charter on Human and People’s Rights on the Rights of Women in Africa- The Maputo Protocol (2003)
 - ILO Indigenous and Tribal Peoples Convention, (No. 169) - Articles 2, 3, 6, and 7
23. In addition to universally accepted human rights standards, these instruments additionally provide for specific rights of ethnic minorities and indigenous groups that take into account their unique and special status by virtue of their vulnerability to discrimination and marginalization. Some of the key human rights include:
- freedom from any distinction, exclusion, restriction or preference which has the purpose or effect of impairing the enjoyment of human rights and fundamental freedoms.
 - freedom from discrimination in all areas and levels of education, employment, access to health care, housing, and social services.
 - equal recognition before the law, to equality before the courts, and to equal protection of the law.
 - right to participate effectively in cultural, religious, social, economic and public life
 - right to enjoy and develop own culture and language.
 - right to participate in shaping decisions and policies of concern at local, national and international levels.
 - right to autonomy in matters internal to the group, including in the fields of culture and religion

44 A/RES/47/135, December 1992

45 See UN Human Rights Council, *Report of the independent expert on minority issues, Gay McDougall*, 16 December 2010, A/HRC/16/45, accessible at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/178/14/PDF/G1017814.pdf?OpenElement>

46 UN Human Rights Council, *Report of the independent expert on minority issues, Addendum : Mission to Rwanda*, 28 November 2011, A/HRC/19/56/Add.1 , available at: <http://www.unhcr.org/refworld/docid/4f392d9d2.html>

47 Op cit at P.4

24. Uganda has **ratified major international and regional instruments critical to the protection and promotion of human rights** save for the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities and the International Labour Organisation (ILO) Convention 169 relating to indigenous and Tribal Peoples in Independent Countries which are critical for the overall protection and promotion of the rights of ethnic minorities and indigenous groups. It's perceived that this resistance by the State to apply international standards to the term "indigenous groups" (and by relation to ratify these international instruments), could be in line with government policy to recognize the multi- ethnicity of the country (as per the 65 recognized indigenous groups in the Constitution) and its nationhood project.⁴⁸ **The need to ratify the ILO Convention 169 and bring Uganda's standards in line with international human rights standards in this area remains pending.**
25. While Uganda has ratified major human rights instruments, the **status of implementation is low.**⁴⁹ The (African Peer Review Mechanism) APRM Country Review Report of Uganda⁵⁰ notes that many of the instruments have not been systematically recorded for dissemination to state and non-state actors and translated into policy, legislation or specific actions. In addition, Uganda's **reporting status remains wanting and the majority of State human rights reports fail to capture adequate insights into the status, issues and challenges facing EMGs, leaving a dearth of information at this level.** For instance, the Universal Primary Review report of 2011 only states that the status of EMGs is "unsatisfactory" but does not state in what way or what the key issues are.

Table 3: Uganda's ratification and reporting of key international and regional instruments

Treaty	Year of ratification	Last reporting date
a) ICCPR	21/06/95	March 2004
b) ICESCR	21/01/87	No report submitted
c) CEDAW	22/07/85	4-7 th periodic reports 2010
d) CRC	17/08/90	May 2008
e) ICERD	21/11/80	Due 15/09/97, Rec'd 02/08/03
f) CAT	03/11/86	(2nd-10 th Periodic Report)
g) ACHPR	10/05/86	May 2005
h) CIDP	2009	11/04/11
i) CBD	1992	-
j) Maputo Protocol	2010	-

26. In addition **follow up on concluding observations and recommendations of treaty bodies is weak.** For instance, with specific reference to the **Convention on the Elimination of All Forms of Racial Discrimination (ICERD)**, Uganda was reviewed in 2003 based on the 2nd – 10th periodic reports, which were due biennially from 21 December 1983 to 21 December 1999, but were submitted as one document (after almost 20 years of not reporting). The ICERD Committee welcomed the establishment of the Ugandan Human Rights Commission as a positive step in implementing the Convention, but raised concerns around; the lack of disaggregated data or precise information on the ethnic composition of the population; the socio-economic situation of ethnic and national groups; the lack of information on the offence of sectarianism as provided for in the Penal Code; as well as the absence of an explicit penal provision in the State party's legislation prohibiting organizations and propaganda activities that advocate racial hatred, as required by article 4 (b) of the Convention.⁵¹ The Committee recommended for a revision of the Penal Code but subsequent amendments of the Penal Code in 2010 did not take these issues into account, while disaggregation of data to highlight specific issues of EMGs remains weak.
27. Another example is given of the **failure by government to put in place specific measures to ensure that Batwa children have continued access to education** in line with the Concluding Observations of the UN

48 Report of the African Commission's Working Group on Indigenous Populations and Communities- Research and Information Visit to The Republic of Uganda July 2006, published in 2009, at P. 42

49 African Peer Review Mechanism Country Review Report No. 7, January 2009

50 African Peer Review Mechanism Country Review Report No. 7, January 2009 at P.283

51 UN Doc. CERD/C/62/CO/11, June 2003.

Committee on the Rights of the Child in 2005.⁵² The Committee made specific recommendations to the government to undertake a study to assess the situation and needs of the Batwa Children and elaborate a plan of action to protect these children and ensure their access to social services; and adopt adequate means and measures to ensure that Batwa communities including children are provided with information regarding birth registration procedures, access to health care facilities and education.⁵³

A.4. National policy and legal framework

28. The **Constitution of Uganda** lays out some groundwork for the protection of ethnic minorities/ indigenous groups. National Objectives III and VI of the Constitution of Uganda 1995 prescribe a culture of cooperation and tolerance for the various customs and traditions resident in the country as well as the gender balance and fair representation of marginalized groups on all constitutional and other bodies. Marginalization of EMGs is prohibited under Article 32(1) while Article 36 assures specific protection of the rights of minorities. Article 180(2)(c) provides for affirmative action and participation on local governments for all marginalized groups referred to in article 32 of the Constitution.
29. Despite these constitutional guarantees, **Uganda lacks a consolidated legal and policy framework** to recognize and implement international human rights standards for the protection of ethnic minorities i.e. those in the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities and the International Labour Organisation (ILO) Convention 169 relating to indigenous and Tribal Peoples in Independent Countries. This hampers the task of harmonizing constitutional rights for minorities with international standards and makes the enforcement and monitoring of those rights more difficult.⁵⁴ The absence of specific provisions in the Constitution dealing with categorization of ethnic minorities and indigenous groups and specific legislation laying down sufficient details further hampers implementation and enforcement of these rights at national level.
30. At the Policy level, **The Uganda National Development Plan (2010-2015)** has a chapter on rights mainstreaming human rights in the wider Social Development Sectors. It acknowledges the UHRC as the principal institution for promoting human rights and fronts the human rights tenets of equity in access to opportunities and democratic control of the resources of the country in all areas.⁵⁵ The NDP also contains specific action plans to mainstream gender issues in all aspects of development, however it lacks specific reference to the issues of EMGs. As such it's unlikely that sufficient funds and resources will be placed at the disposal of key institutions to deal with these issues in the medium term.⁵⁶ The NDP is up for review at the end of 2012 and its pertinent Global Rights and other stakeholders sufficiently engage to ensure that rights of EMGs are mainstreamed in the NDP and that adequate resources are set aside commensurate to the scale of the challenge and actual status of EMGs.
31. There are specific policy plans that are in place to address marginalization and vulnerability of regions such as the **Peace, Recovery and Development Plan for Northern Uganda (PRDP)** 2007-2010 following the 20 year conflict in Northern Uganda. The PRDP works towards recovery in the war-torn region of Northern Uganda. The few successes however have been marred by challenges such as insufficient funding, incoherent project selection and widespread confusion across sectors about implementation. It has therefore not been able to deliver the required affirmative action for Northern Uganda as promised. Similarly, the

52 UN Committee on the Rights of the Child: Concluding Observations, Uganda, 23/11/2005 CRC/C/UGA/CO/2 <http://www.unhcr.org/refworld/docid/45377eb70.html>

53 UN Doc. CRC/C/UGA/CO/2, 23 November 2005

54 Wairama, G. Baker, 2001; Uganda: The Marginalisation of Minorities, , Minority Rights Group Report, pg. 10

55 Universal Periodic Review, Uganda Report October 2011 pg. 22

56 Also See: Samia Liaquat Ali Khan, 2010: Poverty Reduction Strategy Papers: Failing Minorities and indigenous peoples, Minority Rights Group International. The author contends that PRSPs have largely ignored the plight of minorities and indigenous who are usually among the most marginalized and poor, often live in remote areas, don't speak the national/ or official language; lack information about government procedures and do not have the resources to participate in such processes. An example is given of the Karimojong who have failed to benefit from successive PRSPs despite millions of dollars spent on development programmes partly due to corruption and misuse of resources, poor coordination between stakeholders, and limited technical capacity in government

Karamoja Integrated Development and Disarmament Programme (KIDDP) 2007/2008-2009/2010 is a medium term development framework specifically tailored to address the unique context and development challenges in Karamoja region. It focuses on human security and promotion of conditions for recovery and development in Karamoja.” Serious problems with the plan exist however, particularly since the disarmament operations carried out by the UPDF have resulted in grave human rights violations.⁵⁷

32. That said, **aspects of rights of ethnic minorities/ indigenous groups are recognized in some legislation**. For instance, Section 24 of the **1998 Land Act** details the right to land of communities to graze, hunt, gather honey and other forest resources for food and medicinal purposes, and any other purposes as may be traditional among the community. It is noticeable however that the 1998 Land Act fails to address land claims of minority and marginalized groups. The Uganda National Draft Land Policy⁵⁸ seeks to breach these gaps and contains important recognition of the rights of minorities and of pastoralists whose rights are to be guaranteed by the State. The Draft Policy recognizes ethnic minorities as “*ancestral and traditional owners*” and that development of natural resources “*often takes place at the expense of the rights of such ethnic minorities*”.⁵⁹
33. In an interesting shift, under the Draft Land Policy, the **Uganda government commits to pay fair compensation to EMGs displaced from their ancestral lands**- in the past and in the future- which provision is a fundamental step that could see disenfranchised indigenous communities such as the Karimojong, Batwa and Benet finally compensated for eviction from their natural habitats that were later gazetted as national parks. However, the policy is yet to be approved by Cabinet.⁶⁰
34. It’s worth noting that the Draft Land Policy also highlights **aspects of control and ownership of communal land and recognizes women’s land rights** (both joint and common ownership). It however faces challenges such as equating security of tenure with titling of land which has prompted some communities to incorporate as legal bodies/ associations so as to acquire certificates of title. Such processes might inadvertently be hijacked by the stronger/ influential members of the community against the rights of vulnerable members of the community including women and EMGs.
35. Furthermore, there are possibilities for contradictions and further discrimination of EMGs in various pieces of legislation. For instance, the **National Environment Statute of 1995** protects customary interests in land and traditional uses of forests.⁶¹ However this Statute together with the Land Act authorize the government to exclude human activities in any forest area by declaring it a protected forest, thus nullifying the customary land rights of Indigenous Peoples. Another law to note is the **Karamoja Development Statute of 1995** which is mandated to spearhead the urgent development of Karamoja resulting in some cases in the appropriation of resources- land and minerals without adequate consultation and involvement of the community.
36. The **absence of a specific consolidated law on EMGs** further exacerbates their marginalization and exclusion because no special attention is provided especially in prioritization and distribution of national resources. Clumping particular rights relevant to EMGs with those of everybody diminishes the vulnerability and marginalization suffered by EMGs and their special circumstances, to their detriment and impacts on the formulation of specific and holistic programmes and allocation of sufficient resources.

57 UN Country Team Submissions to the Universal Periodic Review, 2010, UNOHCHR

58 Uganda National Draft Land Policy-Final Draft- Ministry of Land, Housing and Urban Development, 30th March 2011

59 Op cit Sections 58-66

60 Also see: Laura Young and Korir Sing “Oei, 2011: Land, livelihoods and identities: inter- community conflicts in East Africa; MRG International

61 National Environment Act 1995 (Statute No.4)- S.46- The Authority (National Environment and Management Authority) shall issue guidelines and prescribe measures for the management of all forests in Uganda—in doing so S46(5) “Traditional uses of forests which are indispensable to the local communities and are compatible with the principle of sustainable development shall be protected”

A.5. Institutional framework

37. The key national institutions for the promotion and protection of human rights including the rights of EMGs are the Uganda Human Rights Commission (UHRC) and the Equal Opportunities Commission (EOC). The Uganda Human Rights Commission (UHRC) is established under Article 51 of the Constitution as an independent National Human Rights Institution and Article 52 empowers it to investigate violations of any human right. It also has a mandate to monitor the government's compliance with international treaty and convention obligations on human rights. Its reports are presented before Parliament and are reviewed by the Legal and Parliamentary Affairs Committee.
38. The UHRC has undertaken some work on EMGs with specific focus on the Karimojong where it undertook specific research and advocacy work on the humanitarian plight of the Karimojong⁶² and raised key concerns around human rights violations and abuses meted out by the State forces in the process of disarmament of the Karimojong. However, **the UHRC admits that they do not have adequate capacity to address issues of minority groups** and despite undertaking a number of fact finding missions and producing reports on their status, they are yet to take on specific cases of EMGs and lack a data base on complaints and cases of EMGs.⁶³
39. The **Equal Opportunities Commission (EOC)** was established in 2009 under the Equal Opportunities Act 2007 and pursuant to Article 32 (3) and (4) of the Constitution and Principle VI of the National Objectives and Directive Principles of State Policy. The EOC was established to give effect to the State's constitutional mandate to eliminate discrimination and inequalities against any individual or group of persons on grounds of, among others, ethnic origin, and to take affirmative action in favour of these marginalized groups. Article 180(2) (c) enjoins local governments to effect the provisions of Article 32.⁶⁴
40. Despite the establishment of the EOC, there has been a **delay in implementation of its objectives** two years after its launch. This is largely attributed to the public's ignorance of the Commission's mandate and limited public funding.⁶⁵ As such, the Commission's work has been limited to initial set up activities such as recruitment of staff, although it has undertaken some studies including a survey on vulnerable groups in Northern Uganda⁶⁶ and is in the process of establishing a data base on ethnic minorities that is yet to be launched. The EOC has also taken on a few cases for instance, it's currently handling a case in Kasese district where one of the complainants- a Mutwa- was voted into office but was denied a position on the district board because he is a Mutwa and therefore cannot head a department in the district by virtue of his tribe which is a minority in the district.⁶⁷ Overall, however, **there is limited institutional capacity and resources at the EOC and UHRC to holistically address** the key issues of EMGs across the country.
41. It's worth noting that the Government has long established the Ministry in Charge of Karamoja Affairs to address the specific development challenges of the Karamoja region, however the implementation of the planned programmes was often poorly implemented and mismanaged and often riddled with corruption and poor prioritization.⁶⁸ However, the presidential appointment of the 1st Lady as full Cabinet Minister of Karamoja and in addition, appointment of a Minister of State for the region is perceived as tangible government commitment and prioritization of the region. The **Office of the Prime Minister reports that there has been "tremendous improvement" in the area of security for both people and their property including**

62 Human Rights and the Search for Peace in Karamoja, UHRC Special Report, 2004 and subsequent Annual Reports - Specifically the 6th and 7th Annual Reports of the UHRC

63 Interview with Ms. Roselyn Karugonjo- (Director Monitoring and Evaluation) and Freda Nalumansi Mugambe (Human Rights Officer – Vulnerable Person's Unit), March 01, 2012. The UHRC in its Annual Report of 2008 focused some of its findings on EMGs

64 Universal Periodic Review, Uganda Report October 2011 pg. 12

65 Ibid; also see: EOC in limbo since its creation; The Daily Monitor Friday February 10, 2012; by Stephen Otago

66 Survey Report on Equity and Equal Opportunities Capacity Gaps for Vulnerable Groups in Northern Uganda, July 2010

67 Interview with Mr. Mujuni Benard – Makuba Ag. Secretary EOC, March 01, 2012. The complaints were sent to the EOC through a locally based CSO called the United Organization for Batwa Development in Uganda (UOBDU)[

68 See: Laura Young and Korir Sing "Oei, 2011: Land, livelihoods and identifies: inter- community conflicts in East Africa; MRG International

livestock and that massive raids witnessed a year ago are no longer reported. The OPM also reports that initiatives of cross-border peace and conflict resolution with the Governments of the neighboring countries of Kenya and South Sudan have put in place measures to curb cross-border cattle rustling and trafficking in small arms and that violence in the region is receding.⁶⁹ These reports are yet to be independently corroborated.

42. Generally, the burden of addressing humanitarian issues faced by EMGs has **largely been left to civil society organizations** which work both at the international level through research and advocacy (such as Minority Rights Group and Care Uganda) and the local level largely on service delivery of basic social services. Majority of the local level (grass roots) CSOs have institutional weaknesses (staffing, resourcing) as well as limited capacity and knowledge to undertake in-depth research and advocacy and to deal with the complex cultural, legal, political and socio-economic problems affecting EMGs. Majority have been left out of the ongoing global and regional developments relating to indigenous peoples.⁷⁰ In addition, their interventions follow a piecemeal and uncoordinated approach largely dealing with individual groups instead of a national approach to address the issues of EMGs holistically.
43. **Enhancing the role of Local governments to plan for and protect the rights of EMGs-** While there are specific programmes in some areas to address development concerns such as the Karamoja Integrated Disarmament and Development Programme (KIDDP) in Karamoja, this is not the case in other areas and EMGs largely remain un-catered for through specific programmes that meet their unique needs. Local Governments are key duty bearers and should plan for specific programmes and funding for EMGs within their areas.
44. In conclusion, there are a number of laws and policies in place touching on the aspect of EMGs. There also exist some institutions working on the human rights of this group. However, several challenges abound, such as the piecemeal approach of the laws, as well as the challenges facing the existing institutions. There is need for consolidation of laws and policies on EMG, as well as the strengthening of institutional capacity to give specific attention to EMG rights and implement the provisions in the legal framework.

69 *Karamoja is not what media portrayed*; by Pius Bigirimana, Permanent Secretary, Office of the Prime Minister in rebuttal to Media Reports that were profiling the Ik conflict in the Karamoja region as reported in the Saturday Vision of February 25, Page 7. The OPM rebuttal was published on February 28, 2012 at <http://www.newvision.co.ug/news/629297-karamoja-is-not-what-media-portrayed.html>

70 Also see Report of the African Commission's Working Group on Indigenous Populations and Communities- Research and Information Visit to The Republic of Uganda July 2006, published in 2009, at P. 44

Section B: Analysis of issues affecting EMGs and Case Studies

"Minorities face such serious challenges for numerous reasons: legal regimes remain unimplemented or result in further discrimination against minority groups; there are existing conflicts between formal and customary laws; population pressures; population pressures and climate change; lack of coordination in conflict resolution programming and donor support, and non- recognition of indigenous livelihoods by states"

Laura Young and Korir Sing Oei', 2011: Land, livelihoods and identifies: inter- community conflicts in East Africa; MRG International

B.1 Overview

1. In Uganda, the absence of specific legislation on EMGs, weak institutional capacity and poor resourcing and the systematic and entrenched marginalization over the years has resulted in dire human rights situation and gross human rights violations for certain ethnic minorities and indigenous groups particularly, the pastoralists (notably the Karimojong and Basongora) and hunter gatherer communities (Batwa in the west and Benet in the Mt. Elgon region). For instance, in south-west Uganda, the Batwa pigmies are still suffering as a result of forced alienation from the forest while many of these ethnic minorities (notably the Tepeth in Karamoja and the Batwa in Bundibugyo and Kisoro) have been reduced to begging.⁷¹
2. The government notes that the situation of these groups and others in remote areas is still "unsatisfactory" according to the Universal Peer Review Uganda Country Report, 2011. However, it (government) claims to be actively seized of the matter and states that it continues to pursue the delicate path of accommodative dialogue with them, with a view to minimizing any disruptive approaches to the lifestyle and traditions of the concerned communities.⁷² The situation is compounded by the lack of disaggregated data or "precise information" on the ethnic composition of the population and socio-economic situation of ethnic and national groups.⁷³

B.2 Key issues relating to EMGs in Uganda

a) Limited Access to Services and control of productive assets

3. The enjoyment by EMGs of civil, political as well as economic, social and cultural rights remains wanting. Uganda's report to the Universal Periodic Review in 2011⁷⁴ states that the situation of minority groups is "unsatisfactory." Economic-socio violations affecting EMGs include **poor access to basic services such as education, health, water and feeder roads**. There are few empowerment and development programmes that are specifically aimed to promoting the rights of EMGs save for the specific programmes in the Karimojong area such as the Karamoja Integrated Disarmament and Development Programme (KIDDP). Most EMGs are located in remote areas, sometimes as a result of being shunned by the neighboring predominant tribes. Most minority communities such as the IK-Karimajong; the Batwa, the Basongora and the Benet remain isolated from the rest of the community due to mutual distrust that exists between them and the surrounding ethnic groups.
4. The lack of access to services leaves EMGs in **gross poverty and susceptible to chronic diseases and HIV/AIDS**.⁷⁵ They lack access to information and suffer low self-confidence. As a result of dire humanitarian situation, many members of EMGs have been reduced to begging and other unsavory practices including drug

71 Mark Lattimer, 2001: The Marginalization of Minorities, Minority Rights Group Report, November at pg. 3

72 Universal Peer Review Report, 2011

73 Concluding observations of the Committee on the Elimination of Racial Discrimination- Uganda, CERD/C/62/CO/11

74 Uganda Universal Periodic Review Report, Human Rights Council, 12th Session, Geneva, 3-14 October 2011

75 African International Christian Ministry (AICM): A Training Manual on Promotion of Human Rights Awareness among Batwa Communities in Southwestern Uganda; November 2009

and alcohol abuse and petty theft for survival.

5. **A majority of the ethnic minorities lack access to and control of productive assets, especially land.**⁷⁶ Many of them have lost the ancestral ownership of their native land, mainly as a result of government initiatives such as gazetting of forests and national parks and tribal wars with the neighboring majority groups. While it is appreciated that gazetting of forests and national parks is important for economic gains, ecological stability, educational and health advancement as well as national pride, the practice of eviction of the inhabitants without sufficient consultative processes or compensation has left many of the EMGs landless and with virtually no source of livelihood.

b) Increasing conflict and security concerns

6. **Some EMGs face threats to security and peaceful co-existence.** The Batwa were negatively affected by the armed conflict involving the Allied Democratic Forces (ADF) and have never been compensated for loss of life and property. Similarly, the IK are constantly attacked by the Turkana and Dodoth tribes from Kenya as they compete for pasture to graze their cattle. They suffer destruction of crops, plunder and rape. Similarly, the Basongora in Kasese continue to keep many numbers of cattle in spite of very limited land and in the process, they encroach on land in protected areas and that of their neighboring majority ethnic groups resulting in perpetual conflicts.⁷⁷
7. **The disarmament programme in Karamoja** has long been highlighted as a key concern⁷⁸ particularly taking into account human rights violations such as forceful disarmament that has resulted in the death of numerous Karimojong and the rampant rape and assault of women and girls. The use of armed force has been seen as contributing to insecurity in the region and loss of trust of the State and security agencies by the Karimojong. The situation has improved somewhat over the last few years, however, the proliferation of small arms in the region and subsequent insecurity in Karamoja remains a key concern.

c) Public participation

8. Contrary to provisions of Article 180(2)(c) of the Constitution of Uganda, on affirmative action for minorities on governance structures, EMGs are yet to be represented on local government structures at the local level, and neither are they represented at the national level e.g. in Parliament. EMGs also lack the capacity and are barely empowered to participate in and influence policy and development processes. For instance, it's not clear what input the pastoralist communities had in developing the Draft National Land Policy. EMGs are also not adequately represented in public offices, and where local programmes exist for their development, they are rarely consulted in their design. This negates the ability for self-representation and further affects programme ownership and implementation.

d) Gender and women's rights among the EMGs

9. While EMGs face economic, social and political marginalization as a group, **the status of women within these communities is often much worse off and women bear a double burden both as women and as members of ethnic minorities and experience multiple forms of discrimination.**⁷⁹ The intersection between race and gender faced by indigenous women was notably highlighted by two former United Nations' Special Rapporteurs on Violence ; Radhika Coomaraswamy and Yakin Erturk.⁸⁰ This is highlighted in a statement by

76 Challenges of Ethnic Minority Groups in Achieving their full Potential: The Role of Development Actors, Community Development Resource Network, http://www.cdrn.or.ug/downloads/Policy_Brief_EMG.pdf

77 Laura A. Young et al. 2011: Land, Livelihoods and identities: Inter- community conflicts in East Africa; Minority Rights Group International

78 E.g. by the Uganda Human Rights Commission in its Annual Reports and by the Donor Community

79 Joanna Hoare, Ed. 2011: State of the World's Minorities and Indigenous Peoples 2011; Focus on Women's Rights; MRG, Edited by. Also see Concluding comments of CEDAW: Nicaragua, UN Doc., CEDAW/C/NIC/CO/6, 2 February 2007, at Paragraph 31

80 Integration of the Human Rights of Women and the Gender Perspective – Violence Against Women, Report of the Special Rapporteur on violence against , its causes and consequences, Ms. Radhika Coomaraswamy, on trafficking

Erturk during a session of the UN's Permanent Forum on Indigenous Issues in 2008 when she stated:

"Indigenous women stand at the intersection of gender and racial inequality...it has become well known that since women are not a homogenous category, gender equality strategies designed in a vacuum do not work. Failure to recognize the intersectional nature of systems of oppression and integrate a racial and gender perspective when analyzing indigenous women's status will ultimately result in further reinforcing their subordination to both patriarchy and racism. Therefore, in addressing the status of indigenous women, it is essential to identify racial elements of gender discrimination as well as the gendered elements of race discrimination."

10. The **incidence of poverty among EMGs is often much higher and is exacerbated by lack of education** and numerous barriers including education and language barriers. This coupled with patriarchy, prejudice and entrenched gender roles leave women highly vulnerable and in many cases, they do not own land, and lack property and inheritance rights. Women as the care givers in the home are worse affected by the lack of basic amenities such as clean water and sanitation and access to cooking fuels.⁸¹
11. Women within the EMGs are often **common targets of violence**- both as a result of domestic violence and fall out of community based conflicts for scarce resources. As a result, despite low levels of reporting, the incidence of domestic violence and HIV/ AIDS are perceived to be much higher among EMGs as a result of sexual violence, retrogressive traditions and cultures that perpetuate inequality and a culture of fear and impunity.
12. Women also **hardly have authority to make decisions and are not in leadership positions** ⁸² There are however increasingly cases where women are rising up to play critical roles in leadership to address the condition of their communities e.g. as care givers and in conflict resolution. This is especially among the Karimojong where the proliferation of small arms, worsening relations among communities (e.g. as a result of cattle rustling) and pastoralist lifestyle has resulted in men leaving the home and women assuming some of their roles.

e) Access to Justice

13. The ICERD under article 6 requires states parties to ensure redress, protection and remedies through competent national tribunals and other state institutions, against any acts of racial discrimination which violate human rights and fundamental freedoms. However, in reality, international human rights standards on ethnic minority rights are yet to be domesticated and integrated into the national mechanisms. This hampers the task of harmonizing national legislation with international standards, and makes enforcement and monitoring of those rights more difficult.
14. In addition, there are **limited avenues to avail remedies for breach of EMG rights. EMGS are often unaware of their rights and mechanisms to claim and enforce them while Justice, Law and Order (JLOS) institutions are stretched and hard to access**. For instance in Bundibugyo where a majority of the Batwa reside, there is no resident state attorney, private law firms or even paralegals. ⁸³ Only one out of five courts is functional and there are only two judicial officers, a Magistrate Grade I and Grade II. Cases of a capital nature can only be handled in nearby Fort Portal and many of them fail due to factors such as high transport costs of witnesses and lack of facilitation for the police in transferring files and suspects.⁸⁴

in women, women's migration and violence against women, submitted in accordance with Commission on Human Rights resolution 1997/44, E/CN.4/2000/68,29 February 2000; 15 Years of the UN Special Rapporteur on Violence against Women (1994-2009)- A Critical Review, Initiated and guided by Yakin Erturk, UN, 2009

81 Gay. J. McDougal- UN Independent Expert on Minority Issues; forward in State of the World's Minorities and Indigenous Peoples 2011; Focus on Women's Rights; MRG

82 Chris Chapman and Alexander Kagaha: Resolving Conflicts using traditional mechanisms in the Karamoja and Teso regions in Uganda; MRG Briefing

83 Global Rights Legal Needs Assessment, Bundibugyo, 2010.

84 Ibid

15. In one fundamental land mark case on the rights of EMGs in Uganda, the indigenous community of the Benet sought and successfully won a court case to protest their forceful eviction from the ancestral land on the slopes of Mt. Elgon (which was gazetted as a national park) and to promote their land rights (*see specifics on section on Benet*)⁸⁵. A key setback has been the limited enforcement of this court decision to date resulting in the non- realization of fundamental rights to legal recognition and protection to their lands, territories and resources.

f) Limited Awareness of Rights

16. There is **limited awareness of rights of ethnic minorities by both minority groups and by the general public**. For instance the recognition of their right to enjoy their customs and traditions as a way of life has not been integrated within the general community. An example is within the education system. There is no or little attempt to teach minority pupils about the culture, history or traditions of their own people, or about minority rights. Among the Batwa, they are taught in Rufumbira or Rukiga and not Lutwa with little regard for their own languages.⁸⁶ Further, the media has not given due attention to matters of EMGs with news reporting majorly focusing on discrimination against particular individuals rather than groups generally.
17. Some of the **EMGs still hold onto regressive practices** that further denigrate the enjoyment of their human rights. The failure to take children to school or for immunization, the preference of girl children, early marriage, alcohol abuse and polygamy affect the general welfare and health of EMGs. At the same time, the position of women leaves a lot to be desired. Women from ethnic minority communities suffer double discrimination as they are frequently excluded from decision making processes and their gender interests are never accorded priority. These women are particularly impacted by the lack of basic facilities, especially reproductive health services, and are vulnerable to domestic violence.

g) Loss of Culture and Identity

18. With the loss of ancestral grounds (for instance among the Batwa and Benet) and the general scattering and movement of EMGs in search of livelihoods, there is the danger of extinction. There are attempts to assimilate them into the dominant groups, an action that has negatively affected their cultural diversity and values. Further, there is evidence of a gradual decline in the use of certain minority languages and cultural practices among minority groups notably the Batwa who are increasingly adapting the languages and customs of their neighbors to as to fit into those host societies.

h) Poor coordination among donors and civil society organizations

19. **Currently, there are very few organizations working in the arena of ethnic rights**. They follow a piecemeal and uncoordinated approach, constrained by little funding, few staff, rough working terrain and limited research on issues of ethnic minorities to guide their work.⁸⁷ Some of the key organisations include CARE, Uganda Functional Literacy Resource Centre (UFLRC), United Organization for Batwa Development in Uganda (UOBDU), Adventist development and Relief Agency (ADRA), Africa 2000, Africa Help, Community development Resource network (CDRN), UPHOLD, Action Aid, World Vision, Minority Rights Group International (MRGI), Oxfam, Benet Lobby Group, and Rural Welfare in Development. These actors have initiated development programmes in support of ethnic rights focusing on improving land and housing, enhancing education and adult literacy and income generation activities (including agriculture).
20. Overall, there is limited impact realised resulting in absence of EMG voice and severe lack of public visibility of the problems of ethnic minorities in Uganda. It is noted that there is often lack of coordination and cooperation among the organizations working with the Batwa, and that some are suspicious of “outsiders” seeking information about their work or visiting the communities with which they work. This lack of co-

85 See www.actionaidinternational/ug.org

86 Batwa Women in Uganda: disproportionate human rights violations. Alternative report to the combined 4th to 7th periodic reports of Uganda (CEDAW /C/ UGA/ 7)

87 Global Rights: Mapping and feasibility Study, 2009.

operation has led to duplication of effort and failure to capture different organizations' capacities in EMG development.⁸⁸

B.3. Specific case studies of the Batwa, Benet and Karimojong⁸⁹

i) Case Study of the Batwa

21. The Batwa Pygmies of Uganda (also known as Abayanda) live in the south-western region of Uganda and total approximately 6,000. The Batwa were evicted from their traditional homelands when the Bwindi and Mgahinga forests were declared national parks in 1991. This action deprived them of their primary source of livelihoods which depended on the forests in which they collected sustenance. The forests were also a spiritual refuge. Today, the Batwa do not have adequate access to the forest to pay tribute to their ancestors, and as a result their family structure is dying.⁹⁰ Thus, the Batwa have suffered loss of homeland and livelihood and are living in camps on the fringes of the forest in dire conditions.
22. The Batwa were not given any compensation for the resources they lost upon eviction from their traditional lands, and have since been scattered throughout East and Central Africa in about 10 countries including Burundi, Rwanda, Uganda, Central African Republic (CAR), DR Congo, Cameroon, Tanzania, Gabon and Rwanda amongst others⁹¹. As they can no longer pursue their livelihoods within the forests, they have had to find other means of survival. They have become squatters or labourers on neighbouring agricultural lands, with work usually exchanged for food. Other Batwa depend on the proceeds from begging and cultural dancing. According to the last government census in 2002, there are 5,591 Batwa in Uganda.⁹² Although the population census in 2002 gave total numbers in existent and showed increment in numbers, it did not accurately depict the Batwa population through appropriately disaggregated data. Consequently the ratio of men to women and children remains unknown.

Table 5: Batwa population by region according to 1991 and 2002 censuses

Regions	1991 Census Count	2002 Census Count
Central	173	1429
Eastern	85	295
North	264	161
Western	876	3706
Total	1398	5591

Source: UBOS census data 1991 and 2002

23. The Batwa have been subjects of unfair treatment. Sixty percent of the revenue generated from National Parks is meant to fund small projects for local communities, but because most Batwa are unaware of such government policy, they do not benefit from it. The government has made little or no effort to distribute such information, teach the Batwa about their rights, or enforce the said policies. Regrettably also, the Uganda Wildlife Authority (UWA) has been using the Batwa as a tourist attraction.⁹³
24. In 1993, in an effort to reduce negative relations between local populations with regard to land use in national parks, UWA promoted the Multiple Use Program (MUP), as a collaborative management initiative. While the program allowed some Batwa access to some of the land, it did not include them in any decision-making processes. Furthermore, the program decided which Batwa could use what land, which plants they

88 Aggripinnah Namara, GEF Impact Assessment, Case study: Impacts of Creation and Implementation of National Parks and of support to Batwa on their Livelihoods, Well Being and Use of Forest Products 2007, p. 3.

89 Identification of these three groups is based on the accessibility of information and the level of systematic and entrenched marginalisation in their case which has been highlighted in a number of reports. There is a dearth of information on other ethnic minority and indigenous groups which could be facing similar challenges.

90 Uganda Report on Indigenous People and Protected areas, Neza Henry, Indigenous Information Network

91 K.I.B. Kabanankye and D. Kwagala, Culture, Minorities and Linguistic Rights in Uganda: A Case Study of the Batwa and the Ik, pg. 17

92 Batwa Women in Uganda: Disproportionate Human Rights Violations, CEDAW Alternative report, October 2010.

93 Neza Henry, Uganda Report on Indigenous Peoples and Protected Areas, supra, p. 165.

could harvest, and what quantity of each resource could be utilized.⁹⁴ The Batwa were not permitted to negotiate nor were they consulted despite the support from a 1992 Bwindi Impenetrable National Park assessment that documented a high level of knowledge of the use and management of forest species among local Batwa.⁹⁵ Seven years later, in 2001, Batwa participation in the Multiple Use Program (MUP) remained extremely limited. Officially, there has been no decision about whether or not the Batwa will be allowed official access to traditional sites for spiritual purposes, while deliberations about the feasibility of allowing them access to wild yams, honey and fish continue.⁹⁶

25. The Batwa are not politically represented at either the local or the national level despite the fact that they have a King called *Nzito*.⁹⁷ In 2010, for the first time, a disabled Mutwa campaigned and was elected as chairman of disabled people in Murambo - Butanda Sub-county in Kabale district. He was also elected as the vice chairman at Parish level. While other neighbouring countries such as Rwanda and Burundi count Batwa representatives in some political positions, Uganda has yet to ensure that both the Batwa people generally and Batwa women in specific are fairly represented.⁹⁸
26. There are high levels of unemployment. 98% of Batwa adults of working age living in south-west Uganda were reported to be unemployed in 2004.⁹⁹ To survive, many Batwa work as casual laborers on the farms of neighboring communities and receive as compensation only “the right to stay on the landlord’s property, cultivate a small piece of his/her land and [receive] handouts of food and old clothing.”¹⁰⁰ Similarly, there are few opportunities for education, health care services, and marginal access to clean water, a direct contravention of National Objective XIV which guarantees all Ugandans a right to access education, health services, clean and safe water, work, decent shelter, adequate clothing, food security and pension and retirement benefits.” Malaria is the most common disease among the Batwa. However, they refuse to visit health centers, preferring instead to use local herbs and traditional remedies.
27. The Batwa **suffer low birth rates**; there are two still births out of every dozen live births (with an infant mortality rate of 17 per cent) and only five out of 10 children reach their first birthday.¹⁰¹ Further, out of those five children, few reach their fifteenth birthday. These figures are far worse than the national averages (63 per 1000 live births or 0.063%, World Bank Indicators 2010). They have also been adversely affected by HIV/AIDS.¹⁰² There is limited funding in the districts (such as Kisoro), which makes it difficult to have special programmes for the Batwa as a marginalized group. Consequently, they are catered for in the district plans as part of the general community.¹⁰³
28. There is evidence of a **gradual decline in the use of Batwa minority languages and cultural practices** and whereas most schools still teach in English, the teaching of minority languages remains virtually untouched. For instance, the Batwa are taught in Rufumbira or Rukiga and not Lutwa.¹⁰⁴ In practice many of them have had to drop the use of their languages and be assimilated into the languages of the dominant groups as a way of escaping segregation and discrimination on linguistic grounds.¹⁰⁵

94 Dorothy Jackson, *Implementation of International Commitments on Traditional Forest Related Knowledge: Indigenous Peoples’ Experiences in Central Africa* (Moreton-in-Marsh, UK: Forest Peoples Programme, 2004) 233.

95 id

96 Uganda Report on Indigenous People and Protected areas, Neza Henry, Indigenous Information Network, 2001.

97 Report on Ethnic Minorities in Uganda, Equal Opportunities Committee, 2008.

98 id

99 ACODE, *Living on the Margins: The Deprivation of Community-Based Property Rights of the Batwa Pygmies of South Western Uganda* (2005)

100 Ibid at p.9

101 Report of the African Commission’s WG on Indigenous Populations/Communities, IWGIA, 2009, p. 11.

102 id

103 Equal Opportunities Committee Report, 2008.

104 ACODE, *Living on the Margins* at p.10

105 EU Civil Society Capacity Building Programme; Position Paper on Ethnic Minority Rights, 2007.

29. **Batwa women also experience intersectional discrimination by virtue of their status as women and as members of an indigenous group that is an ethnic minority in Uganda.**¹⁰⁶ and suffer copious human rights violations including domestic violence. Polygamy and early marriage are common practices and access to health centres for maternal related services is poor since most Batwa women prefer to use traditional herbs. They also suffer negative stereotypes. Neighbouring tribes believe that sexual relations with a Mutwa woman can cure men from backache and/ or protect them against HIV/AIDS. This puts Batwa women and girls at an increased risk of sexual assault as well as infection of STDs.¹⁰⁷ Young girls are dissuaded from pursuing studies in order to help sustain the family at home; Further, because of poverty they do not have access to the basic sanitary hygiene products necessary for them to attend classes during their menstruations.¹⁰⁸
30. It was not until 2009 and after many years of sustained efforts from civil society organizations such as UOBDU, that the first Mutwa woman entered university.¹⁰⁹ This however does not represent the general situation because literacy rates for Batwa people in general are very low and for Batwa women, even much lower.¹¹⁰ There is no official data from the government on education among the Batwa but a study published in 2008 by the African International Christian Ministry (AICM), a Ugandan NGO, shows that about **81% of the adult male Batwa and 90% of the females did not know how to read and write or interpret numbers.**¹¹¹ This is alarming when compared to national average literacy rate of around 51%.¹¹²
31. Uganda's (4th – 7th) periodic report on the Convention on the Elimination of all Forms of Discrimination Against Women, (CEDAW), 2010 makes no mention of Batwa people or women in particular. Lamentably, government data on Batwa women is not available despite requests by the CEDAW Committee and other UN treaty bodies to provide **disaggregated and detailed information on indigenous women.** The Special Rapporteur on the Rights of Women in Africa has also called on African States and CSOs to embark on research and information gathering in reference to the human rights situation of indigenous women in Africa.¹¹³
32. There are **no Batwa women in political positions at high levels of government** in Uganda.¹¹⁴ With little or no education and heavy domestic workloads, there are little opportunities. In order to survive many Batwa women work as casual labourers on the farms of neighbouring communities in extreme and unchecked conditions of employment and exploitation that closely resemble bonded labour or slavery.

ii) Case Study of the Benet

33. The Benet live in the North eastern part of the country on the slopes of Mt. Elgon and number approximately 20,000. The Benet were traditionally hunter gatherers but since their expulsion from their ancestral lands in the forests on Mt. Elgon, they have increasingly taken on a cultivating lifestyle.¹¹⁵ Over the years, the Benet have been marginalized from the loss of their ancestral lands through conservation initiatives. They were resettled in 1983 outside Mt. Elgon National Park.

106 See: Makkonen, T., Multiple, Compound and Intersectional Discrimination: Bringing the experiences of the most marginalized to the fore. www.abo.fi/instut/imr/norfa/timo.pdf. Intersectional discrimination means recognizing that a person may be subjected to discrimination based on several aspects of their identity

107 Jackson, D., Twa Women Twa Rights in the Great Lakes Region of Africa, MRG, London, 2003 at pg. 13

108 F. Warrilow, The Right to Learn: Batwa Education in the Great Lake s Region of Africa, MRG, London 2008

109 Ibid

110 United Organisation of Batwa Development in Uganda (UOBDU), Report about Batwa data, August 2004, Uganda p. 6-7.

111 African International Christian Ministry, 2008 quoted in: A Situational Analysis of Gender-based Violence against Batwa Women in Kisoro, Kabale and Kanungu districts in Southwestern Uganda, A Research Carried out between Nov. 2008 and April 2009 by AICM and OOBUDU, May 2009 p. 13

112 ibid

113 Statement by Soyata Maiga, Special Rapporteur on the Rights of Women in Africa during a side event on indigenous women's rights held on the occasion of the 44th Ordinary session held in November 2008.

114 See: www.parliament.go.ug

115 http://www.culturalsurvival.org/Uganda+Country+Profile?gclid=CMj3_LejjK4CFaQmtAodnI2d3A

34. In 2005 the **Benet and their supporters won a landmark case to have their lands within the park returned to them.**¹¹⁶ Additionally, the court ruling was to the effect that the eviction of the Benet from their land and subsequent occupation of the land by UWA was illegal. The Court ordered return of the land to the Benet and restitution from the government in the form of social services in lieu of the damages the Benet had suffered due to their marginalization over the years.¹¹⁷ Despite this success, the Benet have struggled to get the ruling implemented by the government. In 2008, some progress was made and the Benet communities in Bukwo District have now been permanently resettled. In addition, approximately 1,000 Benet from Kapchorwa District, which the government had until now failed to recognise, have been acknowledged and temporarily resettled ahead of a more permanent solution.¹¹⁸
35. In February 2008, the Uganda Wildlife Authority and the Uganda People's Defense Forces evicted more than 4,000 people from the Benet and Ndorobo communities living in Mt. Elgon National Park following the killing of Annick Van De Venster, a Belgian tourist.¹¹⁹ Houses and crops were destroyed; cattle confiscated and people left homeless. They found shelter where they could: in caves and under trees. The luckier ones stayed in primary schools or moved in with their relatives.¹²⁰ More evictions followed even after this. According to information received by the Special Rapporteur James Anaya, 400 members of the Benet indigenous people were forcibly resettled from a 1,500 hectare area within the Mount Elgon National Park in February 2008.¹²¹
36. It is reported that the Uganda Wildlife Authority has been seeking payments of as much as 600,000 Uganda shillings (approx. USD 250) from the Benet in exchange for permanent resettlement outside the Mount Elgon National Park, contrary to the provisions of the Consent Judgment which allow them to live just outside of the National Park.¹²² It has also been alleged that Benet individuals are regularly threatened by the Uganda Wildlife Authority and sometimes forcibly evicted from their temporary dwellings, which has brought them constant insecurity and prevented them from conducting their traditional subsistence activities.¹²³

iii) Case Study of the Karimojong

37. The Karamojong group of inter-related clans and communities live in the North Eastern part of the country and form the largest ethnic minority in Uganda numbering approximately 966,000.¹²⁴ Their environment is harsh and fragile with a very high risk of drought. While they grow crops to supplement their diet, they rely mainly on cattle for their livelihood. The Karamoja region, consisting of Kotido and Moroto districts, is one of the least developed areas in the country and a vicious cycle of drought; hunger and violence characterize the region.
38. The 'Karamoja problem' arose when the colonial government adopted a policy to maintain Karamoja's natural heritage for tourism purposes, a policy that never took off due to the break down of law and order after

116 See www.actionaidinternational/ug.org -The Case was supported by Action Aid International Uganda and the Uganda Land Alliance

117 According to a 27 October 2005 Consent Judgment and Decree of the Ugandan High Court, the 1,500 hectare area in question has to be withdrawn from its designation as a National Park area and the indigenous Benet inhabitants therein were entitled to stay within the area undisturbed and carry out their agricultural activities.

118 <http://www.forestpeoples.org/sites/fpp/files/publication/2010/08/ugandaindigworld09eng.pdf>

119 Situation of the Benet Community living in the Kapchorwa District of Eastern Uganda on the Edges of Mt. Elgon, Report to James Anaya, Special Rapporteur on the human rights and fundamental freedoms of indigenous people, 1st April 2010

120 <http://chrislang.org/2008/06/27/uganda-thousands-of-indigenous-people-evicted-from-fsc-certified-mount-elgon-national-park/>

121 Op Cit Report to James Anaya Special Rapporteur on the human rights and fundamental freedoms of indigenous people, 1st April 2010

122 id

123 op cit

124 According to the 2002 national population and housing Census, the population of Karamoja has grown at an annual average rate of 7.2% from 370,423 in 1991 to 966,245 in 2002. The highest annual population growth rate of 9.7% was in Kotido District.

Uganda gained independence.¹²⁵ Since then, successive post independence governments dealt with the 'Karamoja problem' as one of refusal to change and integrate i.e. as a 'social deviance' problem. Government policies as reflected in the wording of relevant laws and decrees, e.g. the Pacification of Karamoja Decree, deny the Karamojong any meaningful participation in their own socio-cultural reforms. Government efforts seeking 'to civilize' the Karamojong have relied on heavy use of arms to stop the Karamojong culture of cattle raids in neighbouring areas which has resulted in a heavy death toll.¹²⁶ However, after the fall of Amin, the Karamojong renewed their resistance to government pressure to abandon their pastoral lifestyles.

39. Karamoja has **suffered frequent incursions both from its neighbouring tribes** as well as from government soldiers who raided and sold their cattle to local cattle traders.¹²⁷ This caused the Karamojong to distrust all government initiatives and to increasingly resort to self help, creating a vigilante culture in addition to traditional cattle raiding. With the need to have arms as a means of protecting their cattle, an internal and international trade in light arms was flourishing in the region by the 1980's – 90's. , Further, the continued militarization and armed conflict in southern Sudan, western Kenya and southern Ethiopia created a steady and lucrative trade in guns and ammunition across borders into and out of Karamoja.¹²⁸ Further complications were introduced into the Karamoja affairs in the 1990s when it was decided by the NRM government that the Karamojong be armed as a way of allowing them to defend themselves against attacks from Kenya (Jie, Pokot, Turkana) and Sudan. This government action raised the level of inter-ethnic conflict and cattle raiding conflicts with neighbouring Acholi, Itesot, Kumam and Langi in Uganda and the Pokot in Kenya. In response, the government promulgated a law forbidding the Karimojong from carrying their weapons outside of Karamoja and recently decided to disarm them.¹²⁹
40. There are dominant groups within the Karimojong clans; the Dodoth, Jie and Matheniko. The Ik (also known as Teuso), are one of the minority ethnic groups in Karamoja. The Ik are considered to be a minority ethnic group because of the uniqueness in language. The Ik language, similar to an Ethiopian dialect, is unique and cannot be understood by other communities in Karamoja. Further, their lifestyle is different. They do not keep cattle or other domestic animals but stay in the Timu forest outside Kidepo National Park where they gather fruit and honey, and hunt wild game. The National Forestry Authority controls Timu forest, depriving the Ik of part of their habitat. **The Ik as a subgroup are marginalized even more than other groups in Karamoja mainly because of their small number of approximately 5,000; their unique language, and lifestyle - they are not cattle keepers.**¹³⁰ However, the IK have not been specifically considered in development programmes for Karamoja.
41. Apart from being affected at certain points by the conflict between the Lord's Resistance Army (LRA) and the Government of Uganda, groups living in Karamoja have also been involved in cycles of cattle raiding and counter raiding. At various times, pastoralist or semi-pastoralist groups living across the border in Kenya and Sudan have also actively participated in these attacks. **Various strategies have been adopted in the past to address insecurity, resolve conflict and increase development opportunities for the people of Karamoja. Some successes have been registered, for instance with the use of traditional mechanisms to resolve inter- ethnic conflicts¹³¹ but huge challenges still remain.**¹³²

125 Uganda: The Marginalisation of Minorities, Wairama, G. Baker, MRG Report, November 2001 p. 19

126 See verbatim records of proceedings, op cit., and Report of the Commission of Inquiry into the violation of Human Rights 1986-1994, op. cit.

127 id

128 The theory behind the arming of the Karamojong was to enable them to defend themselves (and thus Uganda's North – eastern borders) against their traditional rivals from Kenya and against LRA rebel incursions. See Hartung, W.D. and Moix, B., U.S Arms to Africa and the Congo War, World Policy Institute at <http://www.worldpolicy.org/projects/arms/reports/congo.htm>

129 Uganda: The Marginalisation of Minorities, Wairama, G. Baker, MRG Report, November 2001 p. 30

130 Preventing Conflict in Karamoja. Early warning, Security and Development, Centre for Conflict resolution (CECORE), June 2011

131 Chris Chapman and Alexander Kagaha, Resolving conflicts using traditional mechanisms in the Karamoja and Teso regions of Uganda, MRG International

132 Karamoja Conflict and Security Assessment Report, Saferworld, September 2010 p.ii

42. Several interventions exist to address the plight of Karamoja to enhance the education levels of the population,¹³³ improve livelihoods and food security and prevent conflict in the region.¹³⁴ Under the NRM government, a **Ministry for Karamoja** was established to lead development initiatives in the region. In addition, a number of programmes such as the **Karamoja Development Programme** (established under the Karamoja Development Statute) and the **KIDDP** were established to coordinate disarmament and development processes in the region. Despite these advancements, the said interventions face challenges since the Karimojong feel that they were not adequately consulted about these programmes and impact of the ground has been minimal.¹³⁵
43. The government however, **has seemingly elevated the importance of the region's problem by appointing Janet Museveni**, First Lady as Minister for Karamoja (a full cabinet position) deputized by a Minister of State, which appointment is expected to generate some political gains towards the region. A recent statement by the Office of the Prime Minister¹³⁶ stated that the region has evidenced "*tremendous improvement*" in area of security for both people and their property including livestock and that there are no more reports of massive raids as it was just a year ago. This has largely been achieved through initiatives of cross-border peace and conflict resolution with the Governments of the neighbouring countries of Kenya and South Sudan and putting in place measures to curb cross-border cattle rustling and trafficking in small arms.
44. The Statement notes that the key challenges are cases of petty theft of property including livestock and issues of general enforcement of law and order in the community that the Government is addressing through various measures such as NAADS, NUSAF2, KALIP, UPE, USE and increased food production. The Government has also established police stations and police posts; deployed more police officers and over 3,000 Local Defence forces in the entire region including Kamion sub-county where the Ik live.
45. This statement is **yet to be independently collaborated by non-state actors** and the perception remains high that the region is still facing dire humanitarian conditions and a human rights violations. This is further fueled by the large number of women and children who have been driven to the towns to eke out a living begging on the streets with inadequate government attention to address this state of affairs.
46. In conclusion, **the human rights status of ethnic minorities and indigenous groups in Uganda remains largely dire with gross violations and failure by duty bearers** to effectively address key concerns enhancing their vulnerability and challenges faced by specific groups. The absence of voice and structures to articulate and raise these issues at local and national level means that EMGs remain at the peripheral of policy and development processes in Uganda. Even in cases like the Karimojong where targeted interventions have been made, impact on the ground remains weak largely due to complex national and regional dynamics in the region, but also due to corruption, and mismanagement of programmes.

133 For instance, the Alternative Education for Karamoja (ABEK) was introduced as a pilot programme to meet the specific needs of the nomadic lifestyle of the Karimojong and it targeted both adults and children. This programme has however remained at pilot stage and its impact could be diluted by the conflict and existence of small arms in the region- which often provide a more lucrative way out for the youth to access quick wealth through raiding.

134 See CECORE, June 2011: Preventing Conflict in Karamoja- Early Warning, Security and Development

135 Id; Samia Liaquat Ali Khan, 2010: Poverty Reduction Strategy Papers: Failing Minorities and indigenous peoples, Minority Rights Group International

136 *Karamoja is not what media portrayed*; by Pius Bigirimana, Permanent Secretary, Office of the Prime Minister published on February 28, 2012 at <http://www.newvision.co.ug/news/629297-karamoja-is-not-what-media-portrayed.html>

Section C: Conclusions and Recommendations

C.1 Proposed and On-going Initiatives to address the situation of EMGs

1. A **number of initiatives are underway by the State, international and local based organisations**. State interventions are largely through the establishment of the EOC and development programmes such as the Karamoja Integrated Disarmament and Development Programme (KIDPP). International NGOs such as Minority Rights Groups and Care Uganda have also undertaken research and advocacy while grassroots based organizations such as UOBDU (Uganda Organisation for Batwa Development in Uganda) and the African International Christian Ministry (AICM) have largely engaged in awareness raising, human rights training and service delivery particularly in basic health and education services. There has however been poor coordination among CSOs working on EMG issues and this has impacted on national voice and advocacy for the promotion of their rights.
2. There are some **proposed law reforms** that directly impact on the rights of EMGs. For instance, the Draft Land Policy 2011¹³⁷ contains important recognition of the rights of minorities particularly of pastoralists as “ancestral and traditional owners” of their land with a right to participate in the development of their land/ resources. The Draft Policy recognizes that development of natural resources “often takes place at the expense of the rights of such ethnic minorities” and the Government of Uganda commits to pay fair compensation to EMGs displaced from their ancestral lands- in the past and in the future. The Draft Policy is yet to be approved, but these are profound provisions that if passed have potential to fundamentally protect the rights of EMGs to their natural resources and access to livelihoods.¹³⁸
3. The **Donor Community**, particularly the European Union, Irish Aid, Danida and SIDA have supported interventions through Government development programmes (e.g. KIDDP), but also largely through funding research and service delivery through CSOs. Overall, while some progress has been attained in terms of raising awareness around the plight of EMGs, interventions largely remain uncoordinated and piecemeal and there is limited follow through in implementation of recommendations. At the same time, duty bearers particularly the EOC remain hugely incapacitated and ill resourced to fulfill their mandate while knowledge and capacity of local level CSOs to effectively research and advocate for specific rights of EMGs are quite low.
4. A number of **gaps however remain** largely around the legal and policy framework for the full realization of EMG’s rights; raising awareness around the rights of EMGs; capacity building for duty bearers including State Party Institutions and Civil Society organisations at the National level and those working with EMGs at the grassroots, as well enhancing the status of EMGs to immediately and effectively access basic services especially access to justice and health. Overall, the status of ethnic minorities and indigenous groups in Uganda remains dire and there is urgent need for concerted effort among all stakeholders to avert both a humanitarian situation among the landless Batwa in Kisoro and Bundibugyo but also ongoing human rights violations that have long characterized the disarmament process in Karamoja.
5. A **number of recommendations have been made** by treaty bodies and mechanisms¹³⁹ to the Government of Uganda and stakeholders working on EMGs, in keeping with international and regional human rights standards. Recommendations to Government have largely focused on:
 - enhanced coherence and understanding of the definition of ethnic minorities and indigenous groups and as such increased recognition for specific groups that have suffered systemic and entrenched marginalization and discrimination particularly the hunter gatherers and pastoralists
 - Ratification of ILO Convention 169

137 Uganda National Draft Land Policy-Final Draft- Ministry of Land, Housing and Urban Development, 30th March 2011- yet to be approved. See Sections- 58-66

138 Also see: Laura Young and Korir Sing “Oei, 2011: Land, livelihoods and identifies: inter- community conflicts in East Africa; MRG International

139 Notably, specific recommendations made by the African Commission- Report of the African Commission’s Working Group on Indigenous Populations and Communities, 2009 at Pp 72-74

- Addressing humanitarian situation among EMGs- particularly that of the Internally Displaced Persons and
 - Ensuring effective representation of indigenous peoples in local and national governance structures
 - Compensating EMGs for lands that were forcibly taken away without consent or consultation
 - Implementation of recommendations from treaty bodies and mechanisms specifically on the right to cultural sensitive education, disaggregation of data,
6. These recommendations have been replicated in numerous reports, however as seen earlier in the report, the status of implementation and enforcement by the State remains generally lacking and EMGs lack service provision, legal protection and meaningful economic development.

C.2 State Responses to addressing problems faced by EMGs

7. In response to numerous requests for action- specifically in response to the African Commission's Research and Information Visit in 2006, the State has made some specific responses to the effect that it has taken some measures to address the plight of EMGs.¹⁴⁰ Overall, the State highlights a progressive Constitution and willingness to address the specific challenges of EMGs as and when they arise. Examples are given of specific interventions including putting in place appropriate institutions such as the EOC and the Ministry in Charge of Karamoja Affairs; implementation of specific programmes such as KIDPP and the Alternative Education for Karamoja; degazettment of protected areas particularly in the Karamoja region for development purposes; and inter country dialogue to address the issues of EMGs particularly working with the Governments of Sudan and Kenya to address the small arms proliferation in Karamoja.
8. These interventions however appear minimalist in light of the scale of the challenges faced by EMGs in Uganda. During the study, interviews held with both the EOC and UHRC indicated that more could be done by the State in terms of enacting the appropriate legal framework; resourcing relevant institutions to be able to effectively fulfill their mandate and implement recommendations of treaty bodies and mechanisms; developing a clear policy and action plan on EMGs in consultation with EMGs; implementing existing provisions of the law e.g. in the Land Act; enhancing appropriate and culturally relevant service provision and raising awareness among the general public and ethnic minorities on the rights of EMGs to minimize their vulnerability.

C.3 Recommendations for Global Rights on possible entry points

Over the last two years, Global Rights has established a firm foundation for ensuring access to justice for women, racial and ethnic minorities in Uganda. It has activated a dynamic and diverse network of partners and local activists to challenge injustice. Delivery models and approaches have been tested and relationships have been established between civil society legal aid providers and formal justice sector institutions. Global Rights needs to build on this platform to develop a more strategic approach to address issues of ethnicity and particularly on the rights of Ethnic Minorities and indigenous groups.

9. Given the sensitivities surrounding ethnicity and EMGs in Uganda, historical context and huge scale of the problem, Global rights can work with existing actors at the international and national level to:
- a) Facilitate the **establishment of an advocacy platform/ forum** at national level drawing in key stakeholders working on issues of ethnicity and EMG rights (notably the EOC and UHRC) so as to prioritize, coordinate and advocate for key issues affecting EMGs including advocating for:
 - **Development of a contextually relevant definition of ethnic minorities and indigenous groups** in Uganda. This process is important as a first step in national recognition of these groups for purposes of designing and implementing specific policies and programmes to address their discrimination and marginalization
 - The **ratification of the ILO Convention and domestication of these provisions** either in existing laws such as the EOC Act, or enactment of a specific legislation on the rights of EMGs in Uganda.

140 Op cit at P.68-70

- **Enactment and implementation of key legislation and policies** that recognize the rights of ethnic minorities and indigenous groups such as the Draft Land Policy
 - Adequate **mainstreaming of key issues of EMGs in the National Development Plan** (2010-2015) which is up for review at the end of 2012
 - **Operationalisation and adequate resourcing** and funding of state institutions for the promotion of EMGs including the EOC and the UHRC.
 - Development and implementation of affirmative action interventions including the establishment of a **compensation fund to cater for the legal displacement of the ethnic minorities from their ancestral territories** notably the Batwa and the Benet.
 - Undertake in-depth field based research to further investigate and establish specific issues affecting EMGs and use the findings to inform advocacy and capacity building initiatives
 - Developing **awareness raising programmes** for EMGs and the general public on human rights and aspects of EMG life in Uganda.
 - Agree to **an action plan and measurement framework** to monitor progress including key targets and Performance Indicators with clear responsibility and timelines. Also agree to a reporting mechanism by both State party and Civil Society on what is being done to address the status of EMGs
 - **Disaggregation of data by Uganda Bureau of Statistic** and other government agencies to provide specific information on EMGs. The upcoming Census 2012 provides an opportune entry point, however given the advanced status of preparations; it might not be possible to influence the data tools at this stage. However, continuous engagement is recommended.
 - **Special attention and affirmative action to avert the plight of vulnerable groups** within the EMGs particularly women and children
- b) **Build Capacity of duty bearers at national level and grassroots** by developing and implementing a training curriculum on the rights of EMGs under the international, regional and national legal and policy framework; current status and challenges; and advocacy strategies.
- c) Draw **regional and international attention to the plight of EMGs** in Uganda by initiating and contributing to shadow reporting to regional and international mechanisms on the state of EMGs in Uganda and following up on status of implementation of the recommendations by treaty bodies including the African Commission's Working Group on Indigenous Populations/ Communities. Also, advocate for the **mainstreaming of issues concerning EMGs in State reports** to various treaty body mechanisms at international and regional level.
- d) Engage **JLOS, UHRC and the EOC on specific cases** of violation of rights and work with partners to:
- develop **formats/ guidelines for CSOs working with EMGs** to identify, report and follow up on human rights violations with JLOS institutions and other mechanisms including regional courts such as the East African Court of Justice (EACJ) and the African Court for Human Rights.
 - consider in-depth investigation of specific cases and **Public Interest Litigation** of the rights of EMGs in Uganda.

Annexes:

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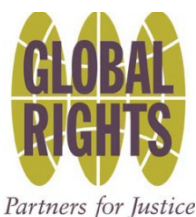
Annex 2: List of Persons interviewed¹⁴¹

Individuals Name/Institution	Organisation and Designation	Date
Kampala		
Mujuni Benard Makuba	Ag. Secretary- Equal Opportunities Commission, Ministry of Gender, Labour and Social Development	01/03/12
Mrs. Roselyn Karugonjo Segawa	Director Monitoring and Evaluation- Uganda Human Rights Commission	01/03/12
Freda Nalumansi Mugambe	Human Rights Officer, Vulnerable Person's Unit- Uganda Human Rights Commission	01/03/12
Jolly Kemigabo ¹⁴²	Africa Regional Manager, Minority Rights Group International	02/03/12
Kabann Kabanankye,	Resource mobilization and Networking Specialist, Centre for Tobacco Control in Africa (CTCA); Former Researcher, HURIPEC	07/03/12

¹⁴¹ This was predominantly a desk study and a few stakeholders were identified and interviewed to provide information to contextualize the study and clarify some emerging issues from the review of reports

¹⁴² A follow up discussion was not held due to time constraints on the part of the Regional Manager, however, sufficient documentation was shared and available to the study team

Annex 3: Terms of Reference



(December 2011)

Global Rights Uganda

CONSULTANT'S TERMS OF REFERENCE: Provision of Consultancy Services

1.1. Beneficiary Country: Uganda: Pilot Project on Promoting Ethnic Diversity in Uganda

1.2. Contracting Authority: Global Rights

1.3 Programme Overview/Background

Global Rights is an international human rights advocacy organisation that partners with local activists to challenge injustice, amplify new voices within the global discourse and create just societies through proven strategies. To this end, Global Rights is dedicated to civil society capacity building in the field of human rights in a number of areas including three core programme areas of Access to Justice, Women's Rights and Gender Equality, and Ethnic and Racial Equality.

Global Rights' programming focuses on ensuring access to justice for women, and racial and ethnic minorities. We assist the poor and marginalized to understand their legal rights, and give them the tools required to successfully seek remedies where violations have occurred.

As of 1 February 1926, the Constitution of Uganda provides for 65 recognized indigenous communities out of its population of 30 million.¹⁴³ These ethnic groups can be categorized into four broad groups, namely (1) the Bantu (2) the Nilotics (3) the Nilo-Hamites and the (4) Sudanic peoples.

Despite being a Republic for the last 48 years, ethnic and cultural diversity remain a serious challenge. Ethnic and racial discrimination has been a problem in Uganda even before Independence. Uganda, like its neighbors, Kenya and Rwanda, is a nation divided along ethnic fault lines that have fueled a number of internal conflicts. These conflicts have invariably led to human rights violations. The country has been plagued by intra-state violence since its independence in 1962. There was civil war for close to 22 years in Northern Uganda. In the north-western part of Uganda there continues to be insecurity and conflict amongst the pastoral communities of the Karamojong. Afro-barometer concludes that Northerners are far more deeply disaffected with the political and economic system, and there is a mounting gulf between them and the rest of the country, especially the more politically connected western region.¹⁴⁴ The ramifications of Idi Amin's expulsion of the Asians in 1972 are still evident in Ugandan society today.

The African Peer Review Mechanism (APRM) acknowledges that Uganda, like most post colonial states in Africa, faces an enormous challenge in managing diversity and points out that since independence Ugandan politics have been marked by continued tribal and regional divisions, most poignantly between the north and south.¹⁴⁵ The Refugee Law Project states that the deep seated division between Northern and Southern Uganda, is a divide that has engendered a fear of being dominated by either regions or ethnic groups and has served as a barrier to national unity. This north-south divide is symptomatic of other regional divisions that exist throughout

¹⁴³ Constitution of Uganda, as amended in 1995, Third Schedule.

¹⁴⁴ Afro-barometer, *Insiders & Outsiders varying perceptions of democracy & governance in Africa*, Paper No 27 (2003), vi. Also available online at <http://www.afrobarometer.org/papers/AfropaperNo27.pdf> (accessed 3 November 2010).

¹⁴⁵ African Peer Review Mechanism Republic of Uganda APRM Country Review Report No 7 (2009) 296-297.

Uganda.¹⁴⁶ In a recent report, the Uganda Human Rights Commission (UHRC) revealed that Uganda's history is littered with incidents of human rights violations related to ethnic and cultural tensions.¹⁴⁷ It is therefore evident that ethnicity and the attendant discrimination are issues that urgently need to be addressed.

Governmental officials, by and large, deny the existence of discrimination in Uganda. This, combined with other factors, lead to severe lack of public visibility of the problem. Global Rights believes that a substantive societal discourse must begin in order to overcome the problems caused by discrimination. Currently, there are very few, if any, organizations working in this arena and we feel that with our experience working collaboratively with partner organization Global Rights is uniquely positioned to work on this issue.

Uganda ratified the Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 1980 and the country was reviewed in 2003. Even though the Committee acknowledged the efforts made by the government such as the fact that the 1995 Constitution incorporates the basic provisions of the Convention; especially the right to equality and the prohibition of racial discrimination, it also expressed its concerns about the lack of disaggregated data "or precise information on the ethnic composition of the population and on the socio-economic situation of ethnic and national groups".¹⁴⁸

Uganda ratified the African Charter on Human and People's Rights; in 2006 the African Commission's Working Group on Indigenous Populations/Communities conducted a country visit to Uganda to find out about the human rights conditions of the Batwa, Benet; Basongora and Karamojong¹⁴⁹. The visit presented many challenges, especially the fact that there is reluctance in the country to accept the term "indigenous" under the international human rights standards and that certain ethnic groups like the Karamojon who have challenged the state in the north, are not considered a "vulnerable" group by governmental officials.

1.4. The Activity and purpose

Global Rights is running an innovative pilot project to understand the complex issues that surround ethnic discrimination in Uganda and to begin to build greater local capacity to combat it. The lessons learnt from this pilot project will form the basis for a national and East Africa wide project. The pilot project will increase the capacity of local partners to monitor, document and combat ethnically-motivated human rights violations. In the pilot, we will begin a dialogue about those issues using well-tested methods and trainings that Global Rights has used for over 10 years with Afro-Descendent organizations in Latin America, but appropriately adapting them to the Ugandan context.

Activists currently speak out against abuses, but often lack adequate documentation to advance their cause far beyond that. In addition, they often lack working knowledge of key national institutions responsible for setting policy and passing legislation that promote ethnic equality in Uganda. In this initial pilot project, our goal is to provide local stakeholders with accurate information and thorough training on monitoring, documentation and reporting skills and on relevant national laws and institutions, so that they can act within both a human rights and a legal framework to end patterns of ethnic discrimination that deny people access to their rights.

Because of our previous work elsewhere to combat ethnic and racial discrimination, we know that the most logical place to start is to compile existing research and analysis that has been done to date in Uganda. Preliminary findings show that some analysis has been done on the issue, but not a great deal. We intend to produce a study that analyzes the findings and recommendations of UN bodies such as the UNDP, the UN Human Rights Council, the Office of the High Commissioner of Human Rights, and the UN CERD Committee, as well as to the Ugandan Human Rights Commission, internal and external academic articles, and reports or studies written by

146 See Refugee Law Project Behind the Violence: Causes, Consequences and the Search for Solutions to the War in Northern Uganda." Working paper No. 11. page 10

147 Uganda Human Rights Commission, 12th Annual Report 2009 (2010) 142.

148 Concluding observations of the Committee on the Elimination of Racial Discrimination. Uganda, CERD/C/62/CO/11

149 African Commission on Human and Peoples' Rights. Report of the African Commission's Working Group on Indigenous Populations/Communities: Research and Information Visit to the Republic of Uganda, July 14-17, 24-29 May 2006. Report released in May 2008 and published in 2009.

other international and national NGOs working in the human rights field. From that analysis, we will have a more complete picture of the nature, patterns and extent of ethnic discrimination in Uganda and who is most affected. In that process, we aim to identify any significant research gaps that exist and need to be addressed. The study will be used to inform and shape subsequent activities of the pilot project which are on advocacy with national institutions.

This study will also help lay the groundwork to develop regional and international advocacy strategies for combating ethnic discrimination. This will include specific recommendations for the Ugandan government, civil society organizations, the African Union, and relevant bodies within the UN.

1.5 Objectives

The overall objective of the report will be to analyze the main human rights problems faced by indigenous/ethnic minorities in Uganda and the governmental efforts to redress those problems.

Specific objectives:

- Based on the history of the country to identify the main ethnic/indigenous groups that exist in the country.
- To analyze the international human rights instruments that Uganda has ratified that are relevant to ethnic/indigenous groups.
- To analyze the Constitutional and legal framework in the country that protects the rights of the different ethnic/indigenous groups.
- To know the human rights situation of the different ethnic/indigenous groups such as the Batwa, Benet; Basongora and Karamojon; among others in key areas such as access to land, health, employment, education, political participation,
- To make a special analysis of women and children belonging to the different ethnic/indigenous groups.
- To mention the main state responses to addressing the problems faced by the ethnic/religious minorities
- To develop conclusions and recommendations for Global Rights future areas of work on ethnic discrimination in Uganda (If possible recommendations for the government too).

1.6 Services and deliverables

Phase 1: Research and report production

Conduct research and produce a report in a professionally acceptable format and content that provides an analysis of the main human rights problems faced by indigenous/ethnic minorities in Uganda and the governmental efforts to redress those problems.

Provide Global Rights with copies of all relevant documents discussed in the report.

Phase 2: Presentation of report and its findings to civil society workshop

Provide an oral presentation of the findings of the report completed in Phase 1 at a workshop (dates to be communicated) and participate/lead a discussion of the report findings and conclusions to be drawn therefrom.

1.7 Timing and Duration

The first phase of the consultancy is envisioned to run from 31 January – 29 February 2012 with a maximum of 10 working days. The consultancy agreement is expected to be signed by 31 January 2012. The consultant would be expected to produce deliverables according to the following timetable:

- Within one week of the conclusion of the written consultancy agreement, meet with Global Rights to further define/clarify scope of work and present to Global Rights in electronic and hard copy for review, discussion, and comments a detailed written outline of the proposed desk research and outline of the contents of the written report
- Within 3 weeks of the conclusion of the written consultancy agreement, present to Global Rights in electronic and hard copy for review, discussion, and comment a first draft report
- Within 5 weeks of the conclusion of the written consultancy agreement, present to Global Rights in electronic and hard copy the final report together with electronic/hard copy of all relevant documents cited
- Meet in person or telephonically with Global Rights as required during the consultancy

The second phase of the consultancy is envisioned to span a maximum of 3 working days. During that period, the consultant will:

- Meet with Global Rights to clarify the scope and content of the workshop presentation
- Prepare for and provide an oral presentation of the report to the workshop

1.8 Scope of work

The specific activities of this assignment shall include providing consultancy services. The consultant shall be required to prepare the report and present and discuss the main findings at a workshop.

1.9 Methodology

The research must include the analysis of different sources; primary and secondary sources should include analysis of different reports, studies and documents written by the UN System, the African Commission on Human and People's Rights; international organizations, national institutions such as the Ugandan Human Rights Commission and national/local human rights NGOs. It should include information based on interviews with governmental officials, local NGOs, human rights activists and other relevant stakeholders. Reference to testimonies of victims could be relevant to show patterns of discrimination in the country. The Consultant should ask people if they want to appear in the report or if we can use their testimonies.

1.10. Consultancy Fees and Payments

The consultant will be paid a total of payable in 2 instalments, 40% at the conclusion of the agreement and 60% upon successful completion of deliverables.

1.11 Project management

The responsible body shall be Global Rights Uganda office. The Consultant shall report directly to the Country Director of Global Rights Uganda

1.12 Requirements – Personnel

The successful applicant for this consultancy shall be expected to have:

1. Advanced degree in law preferably in international human rights law
2. Five years' experience as a consultant in the field of human rights
3. Experience/knowledge of ethnic and racial discrimination norms
4. Documented experience in conducting extensive legal research
5. Documented experience in writing extensive legal reports
6. Documented experience providing oral presentations on legal/human rights subjects to mixed lay-legal audiences
7. Be proficient in English

1.13 Equipment

The expert/consultant shall be expected to provide all required equipment in regard to the proposed assignment.

1.14. Materials for submission

The applicant is expected to submit;

- A. A letter expression of interest
- B. Resume
- C. Writing sample

1.15. Application procedure

Applicants should submit a proposal taking into the selection criteria above. All applications must be submitted to:

The Country Director
Global Rights Uganda,
P.O. Box 25353
Kampala

1.16. Deadline

Applications are due no later than January 13 2012 and must be submitted to donaldr@globalrights.org copied to maryw@globalrights.org and meganc@globalrights.org. Applicants may submit questions seeking clarification by 6 January 2012 to donaldr@globalrights.org. We will conclude the selection process and sign a contract with the selected consultant by the end of January 2012. The assignment will begin in February 2012.

