

THE KISORO MEMORANDUM

JOINT STATEMENT BY INDIGENOUS PEOPLES OF UGANDA ON THE NEED FOR FULL RECOGNITION OF OUR RIGHTS

Preamble

1. We, the 51 representatives from indigenous peoples of Uganda, who include the Batwa, Ik, Tepeth, Benet and Ngikarimojong, and their support organisations gathered in Kisoro from June 8th to 10th, 2018. We gathered here to review research compiled into the challenges facing indigenous peoples in Uganda, and formulate our own recommendations for the Government of Uganda, UN agencies and other relevant actors, in order to address the challenges that our peoples and communities face. This statement reflects our understanding and experience of the challenges and interests of the peoples gathered here, but does not seek or claim to represent all indigenous peoples in Uganda.
2. We acknowledge the Government of Uganda's commitment to realise core international human rights standards, including the International Covenants on Economic, Social and Cultural Rights, and on Civil and Political Rights, the Convention on the Elimination of Racial Discrimination, the Convention on the Rights of the Child and the Convention on the Elimination of Discrimination Against Women, among others. We note however that the full realisation of these rights for indigenous peoples, on the basis of equality with all Ugandans, is an aspiration but not yet a reality.
3. We developed this statement in the spirit of solidarity and with recognition of the different histories and current political situations of the peoples represented. We stand together with our brothers and sisters to advance the recognition of our rights.

Indigenous peoples' issues of concern and demands

Land issues

4. The issue of land is the most crucial shared issue that we identify facing indigenous peoples in Uganda. Our lands are being grabbed by neighbouring communities, government authorities and institutions, companies and investors. Lands are gazetted as conservation areas and ownership and access rights are denied, or are appropriated in other ways. For many indigenous peoples our rights to ancestral lands are not recognised. Such injustices occurred historically and remain unresolved, and continue to occur today.
5. The Batwa face landlessness, extreme poverty and even possible extinction after being forcibly evicted by the Government of Uganda in the early 1990's from their ancestral lands for the creation of protected areas which include the Mgahinga, Bwindi and Semliki National Parks and the Echuya forest reserve, managed under the Uganda Wildlife Authority or the National Forestry Authority.
6. The declaration of the Mt Elgon National Park in 1993 without the consent of the Benet ultimately removed their rights to own and access their ancestral territories, although some continued residence is possible in limited areas. Land on the lower slopes of Mt Elgon offered to the Benet to diversify their livelihoods failed to reach all the Benet community members due to mismanagement and corruption among non-Benet leaders.

7. In Karamoja region some marginalised indigenous peoples, notably the Ik and the Tepeth, face a lack of recognition of their land rights. The Ik live with high insecurity and violence. They face encroachment by surrounding dominant groups for agriculture and settlement, and for grazing, causing significant degradation as well as loss of productive land into gazetted protected areas. The Tepeth and Ik mountainous ancestral lands, including in Mt Moroto and the Timu forest respectively, have been progressively gazetted into government ownership under the National Forestry Authority, and they are now threatened with eviction and face extreme uncertainty.

8. In the same region, the majority Ngikarimojong face threats from companies, individuals, investors and government agencies grabbing land without consultation or consent, both for mineral exploitation and for conservation purposes.

9. Across Uganda government policies and laws focus on settled farming as a preferred agricultural land use pattern and fail to account for the traditional livelihoods and land use patterns of many indigenous peoples, including hunting, gathering and nomadic pastoralism

We therefore demand the Government of Uganda to:

- a) Provide support for indigenous peoples in Uganda to delineate their boundaries with other districts/sub-counties and other communities,
- b) Provide appropriate land titles over such lands, and ensure that those who encroach on indigenous ancestral lands are prosecuted according to the laws of Uganda,
- c) Provide for the return of land gazetted or otherwise taken without the free, prior and informed consent of the affect indigenous peoples, or where this is not possible, take immediate steps to provide restitution for such land acquisition, including just and fair compensation
- d) Ensure that further acquisition of land from indigenous peoples is undertaken only with the free, prior and informed consent of the peoples concerned and only for reasons of over-riding public interest. Fair and just compensation must be provided in all cases, and the option for return where possible.
- e) Review and amend relevant laws of Uganda, including the Land Act (1998), the Uganda Wildlife Act (1996) and the National Forestry and Trees Planting Act (2003), to ensure that the rights and interests of indigenous peoples over their lands are protected
- f) Ensure that national policies recognise and pay attention to the traditional and customary land use systems of indigenous peoples, including hunting, gathering, nomadic pastoralism and other land-based livelihoods
- g) Immediately and fully implement the 2005 Ugandan High Court judgement in favour of the Benet and reinstate their land¹
- h) Recognise the historic injustice done to the land rights of the now landless Batwa indigenous people and allow their return to their ancestral homelands

¹ Uganda Land Alliance, Ltd. v Uganda Wildlife Authority, Miscellaneous Cause No. 0001 of 2004 (High Court of Uganda at Mbale)

- i) Recognise and promote the roles of the Batwa in the traditional management of their forests, and justly and fairly compensate for the suffering caused since the final and official eviction of 1991

We further request that UN agencies in Uganda:

- a) Require the full and effective participation of indigenous peoples, and their free, prior and informed consent, for any project or programme impacting on their land rights
- b) Provide financial and technical support for indigenous peoples to delineate their territories in cooperation with the relevant government Ministries and Authorities

Recognition and identification of indigenous peoples in Uganda

10. We acknowledge the fact that the Government of Uganda, as stated in a number of policy documents and reports, recognises that there are communities with distinct ways of life and cultures that require specific attention in order to overcome their extreme marginalization and life on margins of Ugandan society, and that there are specific steps that need to be taken to recognise and protect such peoples and communities. We welcome the emerging use of the term ‘indigenous peoples’ across the Government of Uganda.

11. However, there is no law – including the Constitution of Uganda – that explicitly mentions indigenous peoples. The Constitution only provides for “affirmative actions in favour of marginalized groups on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against them.”²

12. Furthermore there is no national policy or guidance on the principle of consultation or free, prior and informed consent to guide the actions of government agencies and other actors working with indigenous peoples’ communities

13. Government policies and laws fail to recognise the traditional governance systems and decision-making structures of indigenous peoples

We therefore demand the Government of Uganda to:

- a) Review and amend the Constitution of Uganda, in consultation with indigenous peoples, to recognise and respect the rights of indigenous peoples, including in particular amending Articles 26 (protection from deprivation of property) and 32 (affirmative action in favour of marginalised groups) of the Constitution
- b) Develop, in consultation with indigenous peoples, an over-arching policy to promote the rights of indigenous peoples addressing, among others, the concerns raised in this Memorandum
- c) Further develop, in consultation with indigenous peoples, a national policy or guidance on free, prior and informed consent for all actors working with indigenous communities
- d) Recognise the traditional governance and decision-making structures of indigenous peoples, including in matters of land governance and natural resource management

² Article 32, Constitution of Uganda

- e) Recognise, respect and promote the right to sustain and practice culture, including through providing support for indigenous languages and provision of culturally appropriate and locally determined curricula in indigenous languages
- f) Disaggregate data related to indigenous peoples, ensuring the principle of self-identification is respected, and ensure that data collected is accurate through validation at the community and district levels

We further request that:

- g) UN agencies active in Uganda ensure the full and effective participation of indigenous peoples in any project or programme impacting on our rights and our interests

Social, economic and political discrimination

14. We note with concern that many indigenous peoples in Uganda continue to face extreme marginalization in all social, economic and political domains. Indigenous peoples are marginalized in terms of equal access to healthcare, education, political participation, basic services and the justice systems. Infrastructure provided in indigenous peoples' areas is often extremely poor, hampering travel and provision of other services.

15. Many indigenous peoples in Uganda face gradual loss of identity through loss of language and culture, in the face of assimilationist educational policies and lack of direct support for indigenous languages and culturally appropriate curricula.

16. Access to formal education is challenging for many indigenous peoples in Uganda, although the specific situations differ. Batwa access to education at all levels is highly dependent on unsustainable donor funds as they are not able to afford food, uniforms and necessary scholastic materials.

17. Many schools being used by the Benet are within the Park area where no permanent buildings are allowed, leaving poor temporary structures that are not maintained. There is very limited secondary provision with only one senior girls school close by and boys need to travel very long distances.

18. The Ik, with a population of over 14,000, have only 2 government-supported primary schools to provide for their children, which have no boarding facilities and therefore cannot be used by children living far away. No secondary or technical schools are available within the Ik areas.

19. The Tepeth remain marginalised in the Karamoja region, and are experiencing loss of language and culture in the face of assimilationist education policies. Although primary schooling exists, they remain without a secondary school at the sub-county level.

20. Indigenous peoples are limited in their ability to access district quota bursaries provided for further education due to lack of information about government bursary funds to support promising students. Access is further limited by systematic discrimination against indigenous peoples in local government services and corruption.

21. Health and sanitation services in indigenous areas are often poor, limited in number and with low levels of staff, equipment and medicine. Traditional health care systems are discouraged and demonised, while at the same time access to the forests and other resources that provided traditional medicines for indigenous peoples is increasingly limited and in some cases blocked entirely.

22. Despite some advances in recent years, many indigenous peoples in Uganda do not have full access to decision-making structures and political representation, through their chosen representatives. The situation is extreme for the Batwa and Benet, where access even to local authority structures is limited or absent all together, and efforts to reach political office are hampered by negative stereotypes. Access for the Ik and Tepeth to formal authority structures is much better, but similar to the Ngikarimojong, traditional governance structures are not recognised, including for land management and conservation purposes.

23. We further note that our traditional ways of life, traditional livelihoods and cultures continue to be disadvantaged by the Government of Uganda. The Ngikarimojong continue to face discrimination against their nomadic pastoral lifestyle, which results in a general lack of service provision.

We therefore demand the Government of Uganda:

- a) Introduce a policy of affirmative action across all sectors, including improvement of representation of indigenous peoples in decision-making structures at all levels
- b) As part of affirmative action, introduce targeted provision of health, sanitation, educational services and infrastructure to ensure that indigenous peoples are not marginalised from such services regardless of population numbers or traditional livelihood system. This includes targeted provision of employment opportunities.
- c) Recognise, respect and promote traditional governance and decision-making systems, including systems of land management and conservation
- d) Build the capacity of government agencies, institutions and structures to understand, respect and promote the rights of indigenous peoples through training and sensitization programmes
- e) Build the capacity of indigenous peoples' representative organisations, including provision of funding for self-determined projects and initiatives and providing entrepreneur training and financial literacy support at the community level.
- f) Provide support for the documentation and promotion of traditional knowledge, including providing support for the inclusion of traditional knowledge in the management of natural resources and health provision.
- g) Ensure that violations of the rights of indigenous peoples, including violation of individual human rights such as rape, murder and others, are investigated and prosecuted effectively, quickly and without discrimination

Our commitments

24. The indigenous peoples' representatives gathered here commit to working towards a Joint Advocacy Platform for the rights of indigenous peoples in Uganda. This statement will be translated into the relevant languages and provided to our communities and organisations.

25. We will continue our work to sensitize our communities and peoples about our rights and work to advance our interests as indigenous peoples in Uganda. We will work collectively in solidarity as brothers and sisters, standing for all our rights, as we face the future.

26. We aim to meet again in a year to review actions taken by the Government in response to this Kisoro Memorandum.

Conclusion

27. We call on the Government of Uganda to live up to its commitments in a number of policy documents and proposed actions to advance our rights and improve the conditions of indigenous peoples in Uganda. Without these actions Uganda will fail to achieve the Sustainable Development Goals (SDGs) and cannot reach Uganda's own Vision 2020 or Vision 2040. We ask that this is done in line with international instruments like the UN Declaration on the Rights of Indigenous Peoples and according to the guidance of the African Commission on Human and Peoples' Rights, which provides a human rights approach to identifying indigenous peoples in Africa. We insist that we demand for these issues to be resolved not as a favour, but as a recognition of our rights as indigenous peoples of Uganda.

Organisations present and supporting this memorandum:

Benet Lobby Group

United Organisation for Batwa Development in Uganda (UOBDU)

Katikekile Action for Development (KAD)

Karamajong Development Forum (representatives from Moroto, Kotido Nakapivirit)

Mt Elgon Benet Indigenous Peoples Group

Katikakiye Action for Development

Development in Gardening

In Agenda Development Initiative

African International Christian Ministry (AICM)

MRG International, Africa office

Forest Peoples Programme