

**CULTURE, MINORITIES AND LINGUISTIC
RIGHTS IN UGANDA:**

THE CASE OF THE BATWA AND THE Ik

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ACRONYMS AND ABBREVIATIONS

ABEK	Alternative Basic Education for Karamoja
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICTs	Information and Communication Technologies
IK	Indigenous Knowledge
ILO	International Labour Organisation
LGA	Local Government Act
MAAIF	Ministry of Agriculture Animal Industry and Fisheries
MDGs	Millennium Development Goals
MFPED	Ministry of Finance, Planning and Economic Development
MoCCD	Ministry of Culture and Community Development
MoEMD	Ministry of Energy and Mineral Development
MoES	Ministry of Education and Sports
MoGLSD	Ministry of Gender Labour and Social Development
MoH	Ministry of Health
MoIA	Ministry of Internal Affairs
MoJCA	Ministry of Justice and Constitutional Affairs
MoLG	Ministry of Local Government
MTTI	Ministry of Tourism Trade and Industry
MWLE	Ministry of Water, Lands and Environment
NCF	National Culture Forum
NGO	Non Governmental Organisation
NPA	National Planning Authority
OVC	Orphans and Vulnerable Children
PEAP	Poverty Eradication Action Plan.
PHC	Population and Housing Census
SDIP	Social Development Sector Strategic Investment Plan
UBOS	Uganda Bureau of Statistics
UDHR	Universal Declaration of Human Rights
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UPE	Universal Primary Education
UPPAP	Uganda Participatory Poverty Assessment Project

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SUMMARY OF THE REPORT AND POLICY RECOMMENDATIONS

Through a variety of programmes—including the Poverty Eradication Action Plan (PEAP)—the government of Uganda has acknowledged that culture (and by implication language) is an intrinsically important dimension of a person's identity. Culture and language are a form of capital with the potential to move people out of income poverty. The government has consequently endorsed the international, regional and national legal framework and instruments that guarantee the right to culture and the use of one's language both in public and in private. The State's duty to protect, promote and respect language rights, as well as the known contribution of the language factor in the development process, also serve to justify an inquiry into this matter.

Despite a broadly accommodative policy framework, however, there is a general lack of appreciation of the significance and value of Uganda's cultural heritage towards the realization of Uganda's development goals. The situation is aggravated by the absence of statistics on culture, which would provide evidence of the contribution of culture to social and economic development. Against the above considerations, this working paper assesses the impact of national and international law and policy on the vitality of languages in Uganda generally and on minority languages in particular, using the cases of the Batwa and the Ik as illustration. While the language expected to be spoken by the Batwa is hardly known and/or written anywhere, the Ik language, Icietot, is used mainly in the private domain. Unfortunately, the use of Icietot has been equated to backwardness by the dominant ethnic groups, and is in danger of extinction.

Like many other ethnic minorities, the Batwa and the Ik exhibit similar social and economic characteristics, including marginalization and exploitation. This is to the extent that their identity, culture, and languages are predisposed to extinction. Given the trends in the extinction of the languages of ethnic minorities, the marginalization, discrimination and social exclusion of the Batwa and Ik highlights the modalities, challenges and opportunities in the implementation of government's obligation to promote, protect and facilitate cultural rights. Hence, it is necessary to examine Uganda's administrative, legal and other structures that affect the right to culture and language in light of existing International Instruments. Technology and the development of the media (especially electronic media) present an opportunity to share ideas. Conversely, this technology threatens the very survival of those languages that have no platform or entry-point into the global arena. In order to provide a firm foundation for a critical discussion of the issue of language as a human right, it is important to both highlight the richness of Uganda's diversity of cultures and languages, as well as to underline the essential role of languages as a fundamental element of cultural identity.

In general terms, it can be stated that although the government and other stakeholders have designed policies and interventions which have a significant impact on language rights, they were not specifically intended to protect and promote language rights in particular. This omission has been the result of a number of factors, *inter alia*; the multiplicity of languages and linguistic diversity in Uganda; the fact that linguistic rights are not expressly stipulated in many legal and constitutional provisions; there are different approaches to minorities' challenges and concerns; and there is a lack of a systematic policy on the protection of linguistic rights. Hence, Uganda's legal framework (and consequently the protection of linguistic rights) continues to be insufficient.

As a matter of fact, some of the policies have hindered the development and promotion of the right to culture in general, and of linguistic rights in particular. This state of affairs has had a negative impact on the language rights of minorities in particular.

By way of policy recommendations, this paper offers a number of suggestions that need to be taken up by government and other stakeholders in the Culture sub-sector. These include the following:

- ¶ Cultural research and documentation needs to be greatly improved, through mechanisms such as the recording of traditional cultural expressions, cultural tourism, and the capacity building of cultural practitioners, especially among Uganda's minority communities;
- ¶ There is a need to initiate the review of culture specific laws, and to monitor/evaluate the interventions of others. For instance, the culture specific laws could look at the National Culture Centre which operationalises the activities of the Nommo Gallery and the National Theatre Act; the Stage Play Act, and the Witchcraft Act.

The government—in collaboration with the traditional cultural and civil society institutions— is under an obligation to undertake specific measures geared towards preserving cultural rights. Among others things, there should be a promotion and/or facilitating the holding of cultural events, rituals and cultural rights advocacy consultations/ awareness, and mobilizing the people in support of these and other cultural issues.

I INTRODUCTION AND BACKGROUND

What responses would you make to the following questions?:

- ◆ What determines a Ugandan 'culture'?
- ◆ What makes Ugandans so unique to be described in general terms as "a group"?
- ◆ What characterizes a Ugandan language?

Would the majority of Ugandans articulately describe their culture(s) to the satisfaction of a foreigner? On a recent East African Television broadcast, a Celtel advert asks an interesting question: What makes us East Africans? Is it the language we talk? The food we eat? Our dressing style? ... is it Religion? Games? Economy? or Humour?. The answers to these questions are not straight forward, but it may be possible to generate some consensus over the issues of culture and language. It ought to be pointed out from the outset that central to the debate on culture and/or language is the issue of identity, implying that there are numerous politically sensitive undertones to the debate. Indeed one can add several issues to the Celtel advert so as to tickle the readers' mind to seek a deeper understanding of the issues that characterize culture. The issues in the Celtel ad are what students of culture call the elements of culture. Another interesting riddle about culture is: Must we have the same amounts (or degrees) of these 'cultural elements' (ie; eating the same food, the same dressing; the same language; same games; etc.) so as to qualify as East Africans? Is there anything like a *Ugandan culture*?

Uganda is a multi-ethnic, multi-cultural and multi-linguistic society. It is a melting-pot of both indigenous and foreign peoples. Uganda's 65 ethnic categories and the linkage between ethnicity and linguistic groups is not denied. The Uganda government through the various programmes, including the Poverty Eradication Action Plan (PEAP) acknowledges that culture (and by implication language) are intrinsically important forms of capital with the potential to move people out of income poverty. The government has consequently ratified several international, regional and national legal instruments that guarantee the right to culture and the use of ones' language in both the public and the private spheres. The State's duty to protect, promote and respect the cultural and language rights of the various groups in society is premised on the role that these issues play in the development processes. They are also part of the inalienable rights that ought to be protected, promoted and enjoyed by all human beings. It should not be forgotten, however, that culture and/or languages are central to one's identity. As such, discussion of these issues tends to be political and carries sensitive overtones.

On the 20th of September 2006, Uganda marked International Culture Day under the theme *The Role of Ugandan Languages in Development*. The theme chosen on in light of the declaration by the United Nations that 2006 was the United Nations Year of African Languages. The theme was hailed as timely in light of the fact that approximately 50 percent of the worlds estimated 6000 languages will die by the end of the 21st Century.¹ According to Kabanukye² and Schreiner,³ the Batwa language (*Rutwa*, or *Uruyanda*) is no longer spoken by anyone, although there is consensus that it once existed and was spoken. Ascertaining the precise date when their language ceased to be spoken is yet to be established.⁴ Sabine Wiedemann (2004a) states that the Ik language, *Icietot*, is used mainly in the private domain, while Ngakaromjong is used in the public domain especially in formal education.⁵ The use of *Icietot* is equated to backwardness by the dominant ethnic groups. Hardly does one find such minority languages spoken in public places e.g. Religious centres, schools and markets.

Both the Batwa and Ik languages, among the languages of other ethnic minorities appear to be endangered, inspite of the available international, regional and national legal framework and instruments that guarantee individual as well as groups the right to use their language both in public and private. The State's duty to protect, promote and respect language rights, as well as the known contribution of the language factor in the development process, also serve to justify an inquiry into this matter. According to Mateene, "in the context of linguistic and cultural diversity, monolingualism is as bad as the principle of "one state - one party - one leader." It is rejected as undemocratic."⁶

Against the above background, this paper examines the status of the Batwa and Ik languages in light of the available legal frameworks. The paper assesses the impact of national and international law and policy on the vitality of languages in Uganda generally and on the state of minority languages in particular. The study's investigation covered an assessment of the extent to which Uganda's legal and policy framework:

- is in harmony with the international obligations to respect, protect and promote linguistic rights as an aspect of culture;
- accords recognition to the specific concerns of indigenous ethnic minorities, and
- facilitates the exercise of linguistic rights by minorities.

¹ Krauss 1992.

² Kabanukye 1998.

³ Schreiner 2004.

⁴ Kabanukye, op. cit.

⁵ Wiedemann, 2004a.

⁶ Mateene, 1996.

The external and internal factors impacting on the cultural and linguistic rights of ethnic minorities were also explored. Both desk review and field research involving systematic consultations with stakeholders, through focus group discussions, and key informant interviews were used. Our working paper is presented in five sections. Section two expounds on the understanding of ethnic minorities' culture, the status of their languages, and their importance. This is followed in Part III with some background information on linguistic and ethnic categories in Uganda. Ethnic minorities' numerical weaknesses that undermine their ability to negotiate and enjoy the legal protection of their cultural and linguistic rights, among other things are discussed in this section. The international, regional and national legal framework and institutions involved in the protection, facilitation and promotion of the culture of ethnic minorities' (and includes the issue of linguistic rights) is discussed in Part IV of the paper, while Part V examines the government challenges in the promotion and protection of ethnic minorities' culture, including linguistic rights. The study's main conclusions and recommendations are presented in the last section of the paper.

II CONTEXTUALIZING THE CASE OF ETHNIC MINORITIES

2.1 ENHANCING THE UNDERSTANDING OF ETHNIC MINORITIES

Francesco Capotorti, one time Special Rapporteur of the UN Sub-Commission for the Prevention of Discrimination and Protection of Minorities, defines ethnic minorities as a group numerically inferior to the rest of the population of the state. They are communities which are in a non-dominant position, whose members possess different ethnic-religious or linguistic characteristics differing from those of the rest of the population. They also show a sense of solidarity, directed towards preserving their culture, traditions, religion and language.⁷ Similarly De Verennes (1997) defines minorities as a group of individuals sharing common ethnic, religious or linguistic characteristics and who are numerically inferior to the rest of the population of the state.⁸

These groups need special protective and/or corrective measures to be able to attain a state of 'normalcy' in society.²² Ethnic minorities should be recognized on the basis of *suffering disempowerment, stereotyping* as well as *discrimination in the economic, social and political spheres*. These issues team up to render such communities vulnerable and predisposing them to persistent marginalization and leading them onto a downward cyclical trend of impoverishment and destitution.⁹

⁷ Amason, 1990.; Skutnabb-Kangas and Phillipson, 1981.

⁸ Stavenhagen, 1996; Fishman, 1977; Ibrahim, 1996.

⁹ Kabanankye (forthcoming).

2.2 CONTEXTUALIZING MINORITIES' CULTURE AND LANGUAGE

Uganda's Poverty Eradication Action Plan (PEAP, 2004) acknowledges that culture is intrinsically valuable and an important dimension of identity and a form of capital with the potential to move people out of income poverty. However, there is a general lack of appreciation of the significance and value of Uganda's cultural heritage towards the realization of Uganda's development goals. Hence there is a need to enhance the understanding of the importance and linkage between culture and language. In order to provide that understanding, knowledge of Uganda's diversity of cultures and languages as well as the current debate on the role of languages as a fundamental element of culture and globalization processes are critical. A rich debate on linguistic rights is premised in the role that language plays in the development process; the inalienable rights that ought to be protected, promoted and enjoyed; ones' identity and ones' constitutional rights.¹⁰ Beyond the legislative measures, the State is under a duty to take administrative, judicial, economic, social and educational measures consistent with the nature of the rights in order to fulfill the obligations contained in the ICESCR.

Language is intrinsically a part of culture which concerns itself with socially transmitted behaviour patterns, arts, beliefs, institutions and all other products of human work and thought.¹¹ Culture includes both tangible and intangible heritage, which is varied, complex, and in constant evolution. The tangible heritage includes monuments or architecture, art and crafts, sites, manuscripts, books and other objects of artistic and historical interest. The intangible heritage includes language, oral traditions, performing arts, music, festive events, rituals, social practices, traditional craftsmanship, knowledge and practices concerning nature. There are various definitions and perceptions of culture. However Uganda's national culture policy confines itself to a definition of culture as the sum total of the ways in which a given society preserves, identifies, organises, sustains and expresses itself¹².

As derived from the definition of culture, language is an element of, and basically part of the non-material aspects of culture. It is a means of communication, and an instrument whereby oral history, myths, and beliefs are shared by a means of communicating using sounds or conventional symbols. It is also used as a system of representation that provides the mechanism for social integration by facilitating interaction.¹³

¹⁰ Bloch, 1995.

¹¹ See De Verennes, 1997.

¹² Kabanukye, 2003, and 2005.

¹³ Kabanukye, 2003; Wairama, 2001; Mpuga, 2003, and Capotorti, 1979.

A number of the languages of ethnic minorities have not been readily available or spoken in the public domain—the language of the Batwa having fallen victim to this development.¹⁴ Many scholars agree that the language of the Batwa once existed and/or that it is spoken in closed circles. This study was unable to find anybody that could inform us of the specific language that the Batwa speak. Even the elderly Batwa (aged above 70 years) could not remember any Lutwa and/or Uruyanda vocabulary.¹⁵ There is nevertheless a consensus among the Batwa and their dominant neighbours that the Batwa language once existed. As Skutnabb-Kangas and Phillipson (1994) put it, linguistic genocide occurs in multilingual settings when a minority language ceases to be spoken by anyone.

It is important to point out that the social structure of ethnic minorities appears to predispose them to structural challenges that render the use of their languages irrelevant in the public domain.¹⁶ The use of their languages is often restricted to the extent that once this situation continues, their languages may sooner or later disappear. This is despite the fact that there are international, regional and national legal frameworks that ought to be used in the respect, protection, facilitation and promotion of their languages. Against this background, we need to examine the challenges and opportunities facing ethnic minorities in the exercise of their language rights. More specifically, what are the theoretical and practical modalities in place to respect, promote and facilitate the languages of ethnic minorities? This question is examined using the case of the Batwa and Ik languages.

2.3 THE LANGUAGE FACTOR: CHALLENGES AND OPPORTUNITIES

2.3.1 Understanding the Importance of Language

In order to provide a firm premise to the foregoing discussion, knowledge of Uganda's diversity of cultures and languages as well as the current debate on the role of languages as a fundamental element of culture and globalization processes are critical. A rich debate on linguistic rights is premised in the role that a language plays in the development processes; the inalienable rights that ought to be protected, promoted and enjoyed by all human beings; one's identity and one's constitutional rights.¹⁷ Beyond the legislative measures, the State is under a duty to take administrative, judicial, economic, social and educational measures consistent with the nature of the rights in order to fulfill the obligations under the Covenant.¹⁸ The importance of language in a setting such as Uganda cannot be over emphasized. Language is the systematic means of communicating through the use of sounds or conventional symbols. It is

¹⁴ Eide, 1995.

¹⁵ Kabanukye, *forthcoming*.

¹⁶ Kabanukye, 1996, and 1998.

¹⁷ Lodhi, 1993: 7; Akinmaso, 1994.

¹⁸ Cunningham, 1992; Kabanukye, 1996; Kabanukye, 1998.

essentially a system of communication as well as a system of representation. Language is at the core of the emergence of human society and plays a vital part in its functioning. During the process of societal formation, language allows society to acquire the competence to communicate through symbolic interaction. In any given society, language provides the mechanism for social integration by facilitating interaction between two individuals.

As a system of representation, language provides a shared means of perceiving reality.¹⁹ Language is also one of the most fundamental aspects in the construction of ethnicity. The relationship between language and ethnicity is not denied but the precise nature of this relationship and the weight to be attached to it is not always clear.²⁰ In general terms, language is "a constructive factor of ethnicity, in so far as it fulfills a communicative and symbolic function."²¹ Language also acts as the tool for the integration of different societies into a national and ultimately global community.²²

During the pre-colonial era, the indigenous communities that comprise present day Uganda were independent societies with their own political organizations. With the establishment of the colonial state, there was an attempt at harmonization of the distinct ethnic communities. The first effort was to centralize the state, which proved deficient as a political strategy without some degree of social cohesion. Language was seen as a tool that would assist in the reconstruction of diverse ethnic identities and their integration into a national identity.²³

In pursuance of this goal, the Colonial government therefore introduced English as the official language in Uganda. Ostensibly this was for practical reasons because there were at least 18 languages at the time, and each ethnic group was reluctant to learn a language other than its own.²⁴ Some indigenous ethnic groups were suspicious of the English language as they thought that its use was a ploy to acculturate Africans. As a consequence, English was promoted through the formal education system as well as through the medium of the Christian religion. English was the language of instruction in schools and still is the language of the public sector. Christianity promoted the English language through the Bible as well as via the mechanism of faith-based schools. Literacy in English became a prerequisite for employment in the public sector. The policy was intended to consolidate state power in the hands of the elite. In this way, only the elite could access public office and others were and still continue to be kept out of it.²⁵ In the 1970s, an effort was made to revisit the question of

¹⁹ Stuart, 1997.

²⁰ Jackson, 2002; De Alcántara, 1998.

²¹ Koenig, 1998.

²² Kabanankye, 2000; Smolicz, 1994.

²³ Koenig, *op. cit.*

²⁴ Wright, 1997; Smith, 1997; Sergji 1993.

²⁵ Wright, 1997.

the official language. This was part of the move to decolonize Africa and to remove all the vestiges of colonial rule.²⁶ There was also an effort to introduce Kiswahili as the official language but in vain.

What may be called the opposition to continued use of Colonial languages soon after independence (in the early 1960s) is reflected in Apollo Nsibambi's words: "Many politicians (*in late 1960s*) feel that continuing to use the language of a colonial power as a national or official language compromises their political and cultural independence."²⁷ However, upgrading any of the vernacular languages to a national or official status tends to be associated, rightly or wrongly, with the political and cultural hegemony of the tribes so favoured. According to Molnos problems of transcription, standardization and modernization of an upgraded tribal language are considerable."²⁸

Religious sentiments undermined the promotion of Swahili as the national language in Uganda. While Christians thought the promotion of English was in order, Moslems believed that Swahili was closer to their religion. This debate continues up to the present day. This perhaps explains why both English and Swahili are now considered Uganda's official languages. The two languages are used alongside other local languages.

The policy of retaining English as the official language has been the source of intense debate.²⁹ For instance, while the Constitution provides for the use of English and Swahili, there are limited enabling laws to operationalize the constitutional provisions. Limited practicability in enforcing the use of official languages has also led to code-switching behavior where people use their local language for personal and private matters, while English is used for public and official matters.³⁰ The experience with Kiswahili as a recognized official language has been too short to make any concrete observations of the same.

Intermarriage and integration have also produced new languages.³¹ Currently the state has formulated policies that may provide recognition and promote indigenous languages. In the age of globalization where the emphasis has been placed on globalising everything, it is important to put into perspective the cultural and especially the linguistic identities of the players, such as the consumers of globalization processes. For the sake of enabling the globalization

²⁶ Mpuga 2003; Nsibambi, 1969.

²⁷ Obote 1967. Literacy in English continues to be a requirement for accessing public office e.g. as MP or President. See also Jahr, 1993.

²⁸ See Osha, 2005.

²⁹ Nsibambi, *op.cit.* at 35.

³⁰ Molnos, 1969: 6-8.

³¹ UBOS, 2002.

process reach the grassroots, would it be easier and faster to use local languages? How would the individual linguistic groups cope with the technical capacity for translations (e.g. translations of computer manuals and/or Global Information System (GIS) manuals)? Which one would be easier, translating globalization processes into local languages or the other way round?

Technology and the development of the media (especially the electronic media) present an opportunity to share ideas. Conversely, this technology threatens the survival of those languages that have no platform in the global arena. The indigenous languages are also threatened by the emergence of English, French and German as the ostensibly "global languages".³² In light of the above, it is important to analyze and evaluate the domestic framework for the promotion and protection of linguistic rights.

2.3.2 Ethnic Minorities' Languages

More than 65 distinct societies that constitute the Ugandan nation are classified according to linguistic similarities. The majority of Ugandans speak either Nilo-Saharan or Congo-Kordofanian languages. Nilo-Saharan languages, which are spoken across the north, are further classified as Eastern Nilotic (formerly Nilo-Hamitic), Western Nilotic and Central Sudanic, and they form the languages of the bulk of Uganda's minorities. The majority Bantu languages in the south belong to the much larger Congo-Kordofanian language grouping. Since Uganda's independence, ethnic divisions between the Bantu-speaking peoples in the south and Nilotic-speakers in the north have been aggravated by conflict, purges and other gross human rights violations. It is nevertheless important to point out that many of languages of the indigenous ethnic minorities are in danger of disappearing. Some have already disappeared through the natural process of survival of the fittest.³³

History has demonstrated that over the course of time languages are born, while some may die away. For instance, 50% of the worlds' estimated 6000 languages will die by the end of the 21st Century. Of these languages, 1800 are African of which 46 are nearly extinct. The latter include the Nyang'ai and Singa formerly spoken by people on Rusinga Island in the Kenyan portion of Lake Victoria. Another 46 African languages have been recorded to have died over the last 100 years or so. Should the fact that language undergoes natural processes of birth and death make us complacent about the fate of our languages? Should we allow linguistic genocide (when a minority's language ceases to be spoken) freely continue to take its toll? Turning specifically to the case of Uganda, there is a cause for worry about the fate of our languages and particularly with respect to the languages of ethnic minorities.

³² Scotton 1997, Brock-Ute 2001.

³³ Bemsten 1998.

III MINORITIES AND UGANDA'S LINGUISTIC & ETHNIC GROUPS

Uganda has a complex pattern of uneven development, regional conflict, and minority rights concerns. Uganda was among those African states that attained their independence in the early 1960s. As is the case with many African countries, Uganda is home to a large number of diverse ethnic and linguistic groups. Around 500 BC, 23 Bantu-speaking peoples migrated to the area now called Uganda. By the fourteenth century, the area was dominated by this group, which comprises the Ankole, Baganda, Banyoro, Basoga and Batoro. Present-day Uganda was declared a protectorate in 1894 by Britain and it acquired independence on 9 October 1962. The name 'Uganda' is derived from the Kingdom of Buganda. Shortly before independence, several politicians proposed that the name of Uganda be changed to 'Nilian,' because the River Nile is common to many different ethnic communities.³⁴ The proposal was rejected.

Uganda now comprises 65 formerly-independent traditional societies or ethnic groupings, with a few groups who have their origins elsewhere, such as the Nubians and Ugandans of Asian origin. Bantu-language speakers comprise slightly over two-thirds of the population, and they include the Eastern Lacustrine and Western Lacustrine Bantu, living in the populous region of East Africa's Great Lakes. The Eastern Lacustrine Bantu-speakers include the Baganda, Basoga, and many smaller societies in Uganda, Kenya and Tanzania. Western Lacustrine Bantu-speakers include the Banyankore, Banyoro, Batoro, and several smaller groups. The second largest group is the Nilotic people, comprising the Iteso and Karamojong cluster of ethnic groups who speak Eastern Nilotic languages; and the Acholi, Alur and Langi, who speak Western Nilotic languages. A smaller group of people speaking Sudanic languages, who also arrived in Uganda from the north over a period of several centuries, includes the Kakwa, Lugbara, Ma'di, Nubians, and other small groups in the North-west of the country. Besides these, there is also a considerable migrant (and/or refugee) community from other countries.³⁵

There are also the country non-indigenous communities in Uganda. Some are the result of intermarriage between some indigenous people with foreigners, while others are foreigners who live in Uganda. These interrelationships have not only enhanced our understanding of other cultures, but they have also led to the emergence of new cultures. The non-indigenous communities are however not fully accepted by the indigenous communities and in some cases they are not recognized. In some instances, this has led to social tensions.

Demographically, some of the migrant communities are recognized as indigenous to Uganda, for example, some Asians, especially Indians and

³⁴ Oloka-Onyanggo 2005.

³⁵ Nsibambi.

Banyarwanda who originally came from India and Rwanda respectively.³⁶ Each of the diverse communities in Uganda is distinct in terms of culture, and cultural heritage, hence their recognition constitutionally as distinct cultural groups. Most of Uganda's indigenous groups possess a distinct language (although strictly speaking they are essentially dialects of the four main language groups) i.e. Bantu, Eastern Nilotic, Western Nilotic and Central Sudanic.³⁷ In these circumstances, it is problematic to speak of a unified Ugandan culture or language.

Generally, in the Ugandan and sub-Saharan African context, it is possible to endlessly argue about the meaning of the word 'minority' and whether a particular group of individuals forms a separate minority. Despite studies by experts from the UN Sub-Commission for the Prevention of Discrimination and Protection of Minorities³⁹, and lengthy debates in various fora on minority protection, no definition of the term 'minority' has proved universally acceptable. Questions such as what is a minority, who defines a minority, who are the beneficiaries of minority rights have met resistance from many governments (particularly those that strive to exclude claims for minority status and rights). There has also been concern expressed by the minority group themselves and by organizations representing minorities over the issue of definition.⁴⁰

There is lack of a universally acceptable definition for minorities. The UN Human Rights Committee states that defining a minority under the International Covenant on Civil and Political Rights should not be at the discretion of a government, but is an objective definition. Thus, any disempowered group, regardless of its numerical size, could be considered a minority. Any quantitative ceiling would, for example, have prevented the classification of disempowered black South Africans as a minority during apartheid. This situation would have been morally unjustifiable and would have lent credence to the behaviour of the white-run regime as a 'majority' regime. Similar problems with such a 'ceiling' could arise if such a concept was applied to the Hutu-Tutsi situation in Burundi and Rwanda. However in Uganda, the above ceiling is not problematic because no group has serious ethnic (in terms of numerical strength), linguistic, religious, economic or political advantage, and all that is essential is to establish whether a particular group suffers or has historically suffered disempowerment or discrimination on economic, social, cultural or political grounds. When the above is considered, the groups that can be regarded as minorities in Uganda include the following: Ba'amba, Bakenyi, Nyang'ai, Batwa, Bavuma, Ik (Teuso), Karamojong, and the Soo.

³⁶ Kamugisha, 1993.

³⁷ Uganda National Bureau of Statistics 2004; UWA, 2000.

³⁸ Ladefoged and Criper, 1972 at 33.

³⁹ Renamed the Sub-Commission on the Promotion and Protection of Human Rights.

⁴⁰ See Wairama, 2001; Kabanankye, 2004.

While this list is not exhaustive, the above-specified groups have suffered and/or continue to suffer serious discrimination. They tend to satisfy Gurr's indicators for identifying minorities such as high birth rates, high mortality rates, poor health facilities and low levels of literacy and skills ('demo-stress' factors); and a lack of resources compared to other groups and marginalization in land ownership ('eco-stress' factors), or they are excluded from Uganda's economic, political or social-cultural life. These groups need special protective and/or corrective measures in order to be able to attain a state of 'normalcy' in society.

3.1 THE CASE OF THE BATWA

The Batwa (a.k.a Pygmies and/or Abayanda) population speak the Lumbuti, Luyanda and Lutwa languages. They are believed to have been the original inhabitants (indigenous peoples) of the East and Central African forests. That explains why the Batwa are currently found in about 10 countries in east and central Africa, including Burundi, Rwanda, Uganda, Central African Republic (CAR), DR Congo, Cameroon, Tanzania, Gabon, Rwanda, among others. The Batwa constitute a very small percentage (0.0286%) of the total population of Uganda. While Uganda's population was 24,442,084 by the year 2002, the Batwa were only about 5591 people⁴¹.

Their distribution across the country varies greatly, however no district has a population of over 1,000 ethnic Batwa. Only three districts were found to have between 500 and 1,000 ethnic Batwa in the country. Kisoro had about 935 (17.11%), Bushenyi 779 (14.26%) and Kabale 613 (11.22%). Twelve districts (Kanungu, Mubende, Mpigi, Kampala, Mbarara, Masaka, Hoima, Masindi, Kasese, Tororo, Mukono and Luwero) have between 100 and 500 members of the Batwa population. Eight districts (Kiboga, Rakai, Wakiso, Nebbi, Kabarole, Bundibugyo, Kibaale and Kamwenge) have between 50 and 100. Two districts (Kaberamaido and Pader) have no Batwa population at all. The rest of the districts (31) have between 1 and 50 ethnic Batwa individuals.⁴² While they are found in almost all the districts of Uganda except Kaberamaido and Pader, their percentages are numerically nearly insignificant, when compared with their counterpart ethnic groups.

⁴¹ The PHC 2002 enumerated them as 6,738. During the Kabanankye (2006) study (head count in specific districts) show that the Batwa population are about 5591. See also Butynski, 1984, and Butynski, 1991.

⁴² The PHC, 2002; Kabanankye, 2006.

3.1.1: Batwa distribution by region and district

As already stated above, the recent UBOS 2002 census study reveals that the majority of Batwa live in western region of Uganda. A comparison of the UBOS census survey for the years 1991 and 2002 is shown in table 2.1.1.

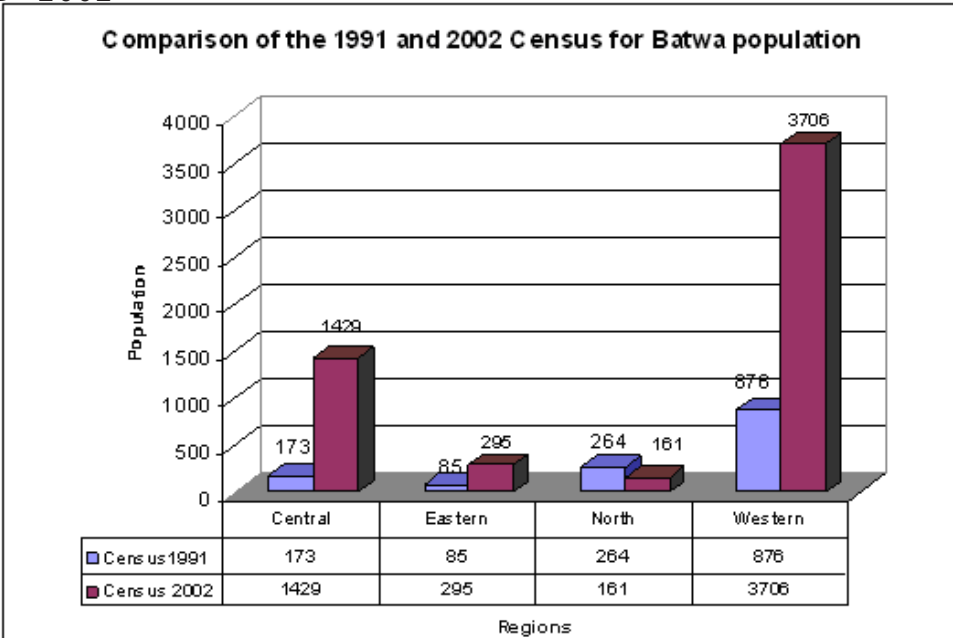
TABLE 1: BATWA DISTRIBUTION BY REGION FOR 1991 AND 2002

Regions	Census 1991		Census 2002	
	Count	%	Count	%
Central	173	12.4	1429	25.6
Eastern	85	6.1	295	5.3
North	264	18.9	161	2.9
Western	876	62.7	3706	66.3
	1398	100.0	5591	100.0

Source: UBOS census data 2002 and 1991 and Kabanankye, 2007.

Further observation is on figure 2.1.1.

FIGURE A.1: BATWA DISTRIBUTION BY REGION FOR 1991 AND 2002



Source: UBOS census data for 2002 and 1991 and Kabanankye, 2007.

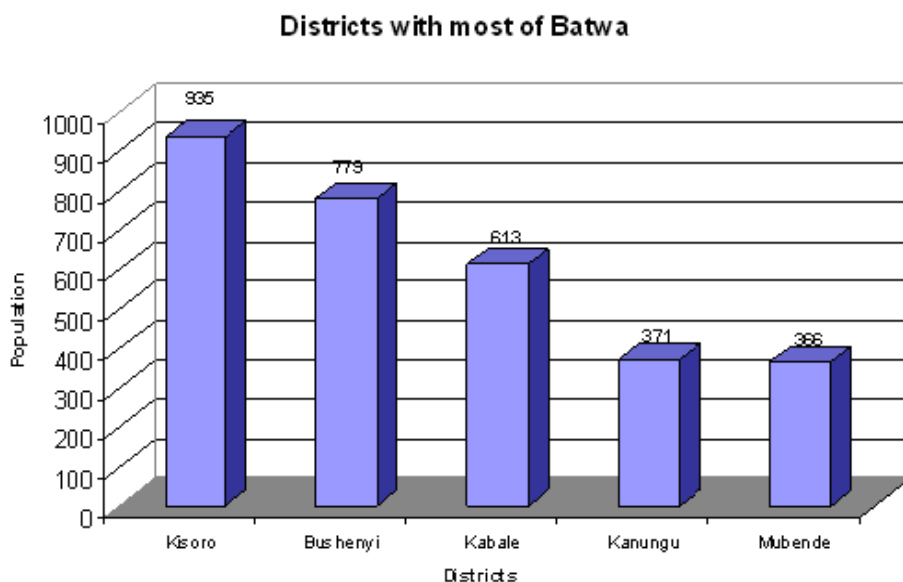
Comparing the population of Batwa in 2002 and 1991, their population in the central region of Uganda in 2002 (3706) was four times that of in 1991 (876). i.e. Also the Batwa population in eastern region increased only slightly over the two census periods, 1991 and 2002. However, there was a slight decrease in the Batwa population in northern region over the same census periods. The increase in the number of the Batwa population over the specified periods could have been the result of an increased awareness about the plight of the Batwa, and government programmes to limit the stigmatization and marginalization of such peoples. In other words, it represents the increased appreciation of peoples' culture and livelihoods.⁴³

Batwa distribution by districts

According to the recent UBOS study, the majority of the Batwa live in Western Uganda, specifically in the districts of Kisoro, Bushenyi, Kabale, Kanungu and Mubende. In each of these districts, the Batwa population ranged from 366 to 935 persons. Kisoro had the largest Batwa population of 935. The five districts with the largest total numbers of Batwa are diagrammatically presented in figure A.2.

⁴³ Kabanankye, 1996a, and 1996b.

FIGURE A.2: DISTRICTS THAT PLAY HOST TO THE MAJORITY OF BATWA (BETWEEN 300-1000) IN UGANDA



Source: UBOS census data 2002 and Kabanankye, 2007.

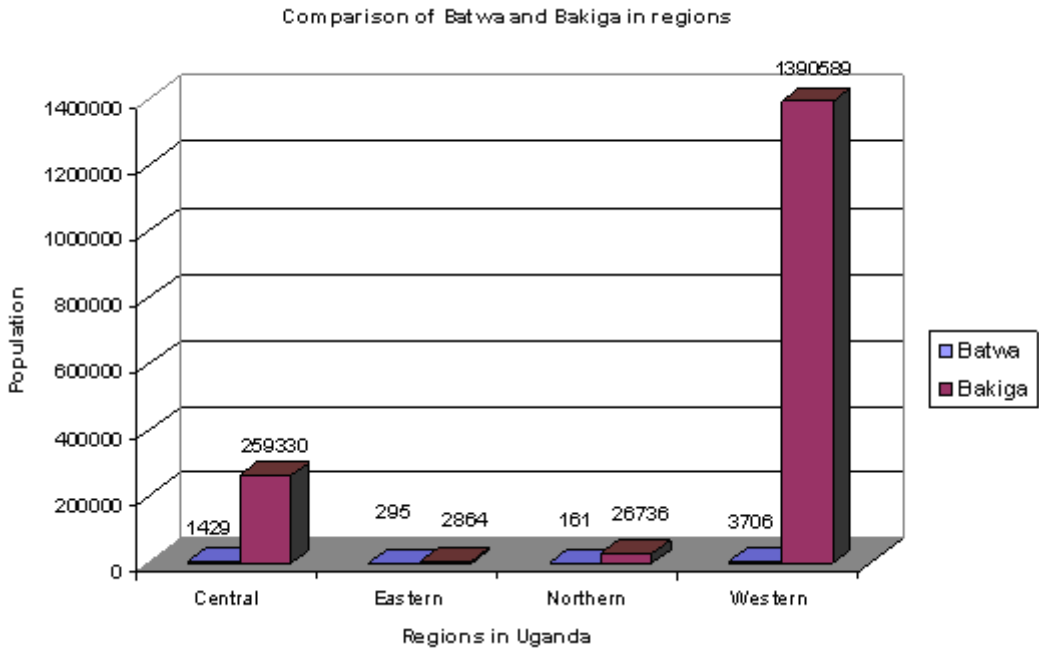
As can be observed from figure A.2, Kisoro district hosts the majority of Batwa at 16.7% (935), Bushenyi 13.9% (779), Kabale 11.0% (613), Kanungu 6.6% (371) and Mubende 6.5% (366). The rest of the Batwa population are distributed in virtually all the districts of Uganda, save for Kaberamaido and Pader.

3.1.2: Comparison of the Batwa and the Bakiga

It can be observed from figure 2.1.3, that the number of Batwa is much smaller than that of the Bakiga, (a neighbouring dominant ethnic community with whom the Batwa live) in the first five districts with the most Batwa population. For instance, the district with the highest number of Batwa had 935 people whereas the district with the highest number of Bakiga had 438,817 people. This is a clear indication that the Batwa population is numerically a minority ethnic group as compared to the Bakiga population.

The social and political implications of such a minority ethnic group living with a much bigger or more dominant ethnic group will be examined later. In terms of democratic rights, unless there is affirmative action, the concerns of the minorities' including linguistic rights are likely to be challenged and undermined by the principle of 'one person one vote.'

FIGURE A.3: DISTRIBUTION OF BATWA AND BAKIGA POPULATION BY REGIONS



Source: UBOS census data 2002 and Kabanankye, 2007.

The previous analysis showed that the majority of Batwa live in the western region,⁴⁴ but in comparison with a dominant ethnic group, Bakiga proves that Batwa is a minority ethnic group. This can be observed from figure 2.1.2 that the western region was highly inflated by Bakiga (1,390,589 people) as compared to Batwa population (3706 people).

Access and utilization of the Bwindi and Mgahinga forest ecosystem traditionally served as a source of livelihood for the Batwa prior to the 1990s. In 1991, the forests were granted a National Parks status. This development put an end to the Batwa's traditional forest-based livelihoods, including hunting. They have now moved elsewhere to establish livelihood means away from the forests. The implications of this, is that the Batwa's community structure and the social capital have been undermined. This is to the extent that their productive systems, including the promotion, facilitation, and protection of the Batwa languages have been undermined. Furthermore, this legal provision negates

⁴⁴ See figure 2.1.1., supra.

the essence and logic underlying the World Cultural and Natural Heritage (1997) to which Uganda is signatory. To date Uganda has three sites on the list of the World heritage namely, Kasubi tombs, enlisted in 2001, Bwindi Impenetrable Forest National Park and Rwenzori Mountains National Park. In 2005, UNESCO proclaimed the art of barkcloth making in Uganda, a masterpiece of the Oral and Intangible Heritage of Humanity. The Batwa's access and utilization of the Bwindi national park ceased as soon as this area attained a national park status in 1991. Protecting Batwa's livelihoods, including cultural values and linguistic rights stands in dilemma amid such legal provisions.

3.2 THE CASE OF THE IK

The population of the Ik has been increasing over the past 40 years from 1300 people in 1965 to over 10000 in 2002 (UBOS, 2002). The Ik are subsistence farmers, who live isolated from other groups due to geographical location and the differences in culture. Their language is unique, vital and has a high prestige among the Ik. Ik is the dominant and preferred language by all segments of Ik society and the Ik are convinced that the generation to come will continue to speak Ik. There are no indicators of a marked shift to the use of another language.

Socially, the Ik have relationships mainly with the Dodoth and the Turkana all of whom belong to the Karamojong language cluster and are cattle herders. The strongest relationships are between the Ik and the Dodoth because they live in the same sub-county. These relationships are based on business and intermarriage. Karamojong is the language of wider communication between all those ethnic groups. There are still questions about the number of Ik who are bilingual in Ngakaramong. There is a strong vision in the entire Ik area for the language development project in Ik even though education levels among the Ik are still very low. The low school enrollments among the Ik are attributed to the lack of food, poverty, insecurity, long distance to schools and few teachers. A few Ik have attended and finished secondary school.

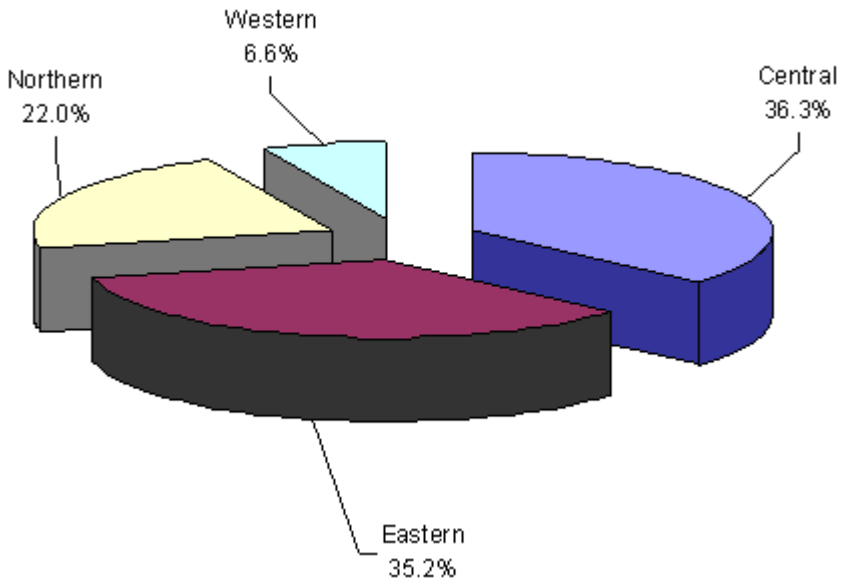
Like the Batwa, the Ik constitute a small percentage (0.0667%) of the total population of Uganda. While Uganda's population was 24,442,084 by the year 2002, the Ik were only about 16,294 individuals. The Ik population is distributed across the country and varies greatly. Like the Batwa in the available census results (UBOS, 2002), no district had over 1,000 ethnic Ik population. Only four districts were found to have between 500 and 1,000 ethnic IK in the country. These include; Wakiso,

Mukono, Kamuli and Bugiri. Ten districts (Iganga, Mayuge, Masindi, Luwero, Kayunga, Jinja, Mbale, Mubende, Lira and Gulu) have between 100 and 500 members of the Ik population. Ten districts had between 50 and 100 while twenty nine districts had less than 50 Ik people.

3.2.1: Distribution of Ik Peoples by regions in Uganda

The Ik (Teuso) are mostly confined in the Central 36.3% (2,577) and Eastern region 35.2% (2,496) followed by Northern region 22.0% (1,559) and western region had the lowest number 6.6% (466) of Ik (Teuso). This can be observed from the figure 2.2.1 below.

FIGURE: B.1: DISTRIBUTION OF IK BY REGIONS IN UGANDA

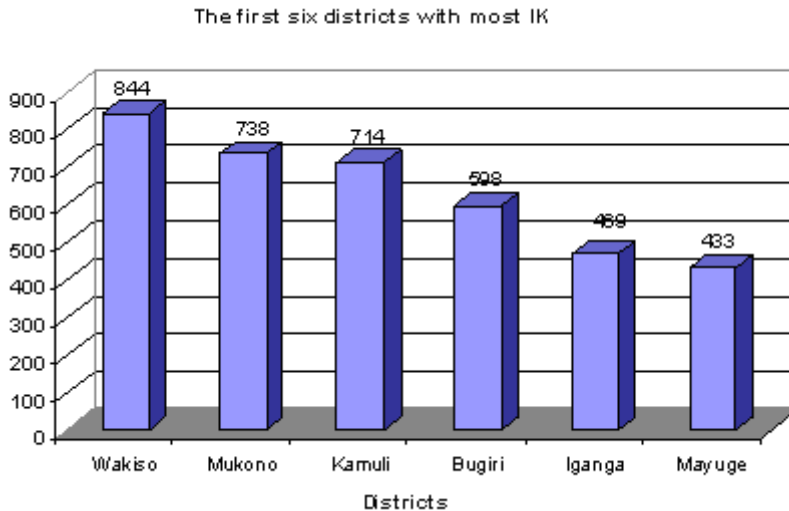


Source: UBOS census data 2002 and Kabanankye, 2007.

3.2.2: Distribution of Ik by districts in Uganda

Only four districts were found to have between 500 and 1,000 ethnic IK in the country. These include; Wakiso, Mukono, Kamuli and Bugiri. Ten districts (Iganga, Mayuge, Masindi, Luwero, Kayunga, Jinja, Mbale, Mubende, Lira and Gulu) have between 100 and 500 members of the Ik population. Ten districts had between 50 and 100 while twenty nine districts had less than 50 Ik people. Details of the distribution are illustrated in Appendix 1.

FIGURE B.2: DISTRICTS WITH THE MOST NUMBER OF IK (BETWEEN 400-1000) POPULATION



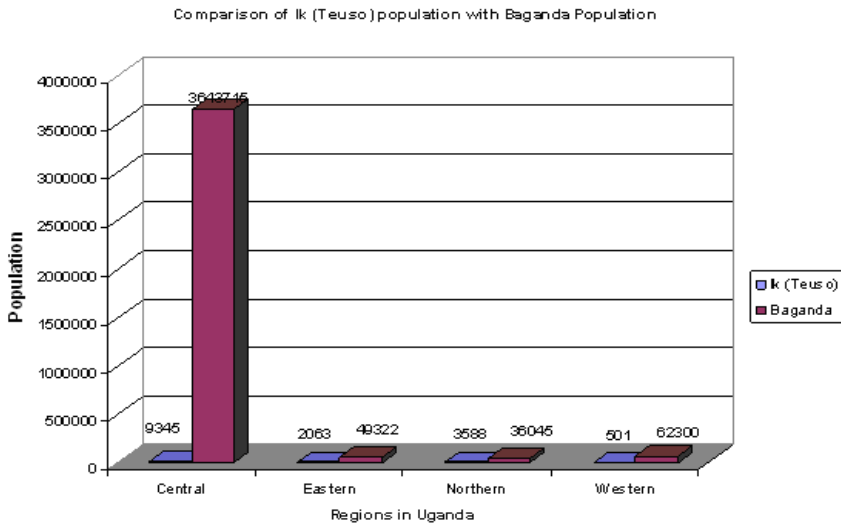
Source:UBOS census data 2002 and Kabanankye, 2007.

As can be observed from figure 2.2.2 above, Wakiso district played host to the majority of Ik (Teuso) 5.2%(844), Mukono 4.5%(738), Kamuli 4.4%(714), Bugiriri 3.7%(598), Iganga 2.9%(469), Mayuge 2.7%(433) and Masindi 2.3%(382).

3.2.3: Comparison of Ik (Teuso) and Baganda

The previous section on the distribution of Ik by regions in Uganda showed that the Ik population was highest in the central regions as compared to other regions. Comparing the Ik with Baganda as a dominant ethnic group in the central region proves that the Ik is a minority ethnic group. From figure 2.2.3, it can be observed that Baganda's population was 3,643,715 people, far greater than that of the Ik.

FIGURE B.3: COMPARISON OF THE FIRST FIVE DISTRICTS WITH MOST IK (TEUSO) AND ALUR



Source: UBOS census data 2002 and Kabanankye, 2007.

There is a wide distribution of minorities in all areas where they live. This may pose both a challenge and opportunity for the government to provide services. Specific targeting around the country (positive discrimination) of the minorities may be problematic when the targeted persons are not close together in a single community. On the other hand, the wide distribution of the minorities' among the dominant ethnic groups may facilitate their easy access to the services that are provided to the dominant ethnic communities. This kind of dilemma is an important consideration while assessing the extent to which goods and services are provided to such communities. This point is examined in greater depth while discussing the promotion and facilitation of the language and other rights of minorities.

There is nevertheless an important preliminary point to make here. Uganda is a mosaic of cultures comprising a diverse cultural heritage. The diversity contributes to a wealth of indigenous knowledge, language, folklore, customs and traditions, all of which are products that can be harnessed for development. Such diversity is an advantage in the sense that each community possesses a distinct cultural identity. The relationship resulting from interactions in educational institutions, at work places and through intermarriage, enhance the understanding of other cultures and improves social harmony and cohesion.⁴⁵

On the other hand, such diversity can also create tension between and within various indigenous groups in the country. In addition, there exist indigenous minorities in Uganda who are marginalized.⁴⁶ Some of these are faced with a loss of identity, which threatens their very existence.⁴⁷ Consequently, the great diversity of Uganda also poses serious challenges to the process of national integration, since most of the countries ethnic communities have largely developed independently of one another and jealously guard their distinct qualities and identities.

community and preserved, communicated and transmitted for posterity. It is also referred to as a vehicle for literacy and poetic expression. Through its language, a given community presents thought processes and the way community members perceive nature, their society, and expresses their shared means of perceiving reality and consolidating societal identity. Thus, the importance of language cannot be overemphasized as it serves as the systematic

IV. RECONCEPTUALIZING THE NOTION OF LINGUISTIC RIGHTS

4.1 THE INTERNATIONAL LEGAL FRAMEWORK

Various instruments in the International Human Rights regime recognize the linguistic rights of individuals and groups.⁴⁸ States parties are enjoined to put in place favourable conditions to enable persons enjoy their linguistic rights. Linguistic rights are recognized as part of cultural rights and also as part of the rights of minorities, and should be distinguished from the right to language.⁴⁹ Linguistic rights or Linguistic Human Rights (LHR) involve the right of every person to use the language of his or her choice, both in private and in public. They also involve the right not to be discriminated against on the basis of language, as well as the right to have one's language developed by the State.⁵⁰ The right to language on the other hand guarantees for the individual the right to access the State's legitimate or dominant language including the right to learn a foreign language if it is believed that knowledge of such language will bring benefits to the individual or to society at large.⁵¹

⁴⁵ Lodhi, 1993; Bourhis, 1994.

⁴⁶ Eide, 1995.

⁴⁷ GoU, 2006.

⁴⁸ Kabanankye, 2003.

⁴⁹ Akimaso, 1994.

⁵⁰ Donders (accessed on 6 January 2006.)

⁵¹ UNESCO, 1960; ICCPR, 1966; VDP, 1993.

The concept of cultural rights was first enunciated in the 1948 Universal Declaration of Human Rights (UDHR). Article 27 provides that every person has a right to freely participate in the cultural life of the community and to enjoy the arts and share in scientific advancement and its benefits. The Declaration did not define the terms 'culture' or 'cultural life of the community.' The later covenants attempted to exhaustively define and describe the right to culture. Article 15 of the ICESCR reiterates the provisions of Article 27 of the ICCPR which guarantees the right of ethnic, religious and linguistic minorities to enjoy their own culture. Article 2(1) of the UN Declaration on the Rights of Persons Belonging to Ethnic or National, Linguistic and Religious Minorities also sets out the rights to participate in cultural life. Similarly, Article 2(2) b of the Convention Concerning Indigenous and Tribal Peoples in Independent Countries aims to promote the full realization of the "... cultural rights of the peoples with respect to the social and cultural identity, their customs and traditions and their institutions."⁵²

The preamble to the 1981 African Charter on Human and People's Rights (the Banjul Charter) sets out as one of the aspirations of the OAU, the dismantling of all forms of discrimination, particularly those based on race and language. Article 2 provides that the rights guaranteed by the Charter are to be enjoyed by all without distinction based *inter alia* on race or language. Article 17 provides that every individual has the right to freely take part in the cultural life of his community. The African Commission on Human and Peoples' Rights has the mandate to promote and protect the human rights enshrined in the Charter.⁵³

States Parties to the ICESCR are enjoined under Article 2(1) to take steps to the maximum of their available resources with a view to achieving progressively the full realization of the rights recognized by the Covenant by all appropriate means that include the adoption of appropriate legislative measures. The Limburg Principles set out the guidelines on the implementation of the Covenant.⁵⁴ The State obligations outlined in the principles are threefold namely, the duty to respect, protect and fulfill. Minorities have the right to practice their own culture as well as to use their own language in the territories in which they exist.⁵⁵ One of the most important aspects in the preservation of the rights of linguistic minorities is non-discrimination in education.

The Convention against Discrimination in Education prohibits distinction, exclusion or preference based on language or other background that has the effect of nullifying or impairing equality in education.⁵⁶

⁵² General Assembly Resolution 217, AIII.

⁵³ Akinnaso, 1994 op.cit.

⁵⁴ ILO Convention No.169.

⁵⁵ Article 45.

⁵⁶ UN, E/CN.4/1987/17; HRQ, 1987: 122-135.

4.2 PUBLIC/CIVIL SOCIETY'S PARTICIPATION IN PROMOTING LINGUISTIC RIGHTS

4.2.1 Public participation in promoting linguistic rights

Uganda is signatory to all the international instruments mentioned above and is thus bound to translate these international standards into domestic law and policy. Article 37 of the 1995 Constitution of Uganda provides as follows:

Every person has a right as applicable, to belong to, enjoy, practice, profess, maintain and promote any culture, cultural institution, language, tradition, creed or religion in community with others.

The international instruments also offer protection to linguistic rights as the rights of minorities. For example, Article 2 of the UDHR stipulates that the rights set forth in the instrument are to be enjoyed by everyone without distinction based on race or language. There are other provisions in the International Human Rights regime that specifically recognize the rights of linguistic minorities. Article 27 of the ICCPR provides as follows:

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

The duty to respect requires States to refrain from doing anything that would violate the integrity of the individual or infringe upon his or her freedom. The duty to protect requires the State to take appropriate

measures to prevent other individuals or groups from violating the human rights and freedoms of the individual. The duty to fulfill requires the state to take measures to ensure that for each person within its jurisdiction accesses opportunities to obtain satisfaction of the needs recognized in the human rights instruments. The last obligation is often divided into the duty to facilitate and the duty to provide.

The State ought to take all appropriate measures subject to the availability of resources to discharge its obligation. The fact that the obligation in Article 2(1) is expressed to be subject to the availability of resources is however no excuse for developing countries to abdicate their duty under the Covenant. All States must fulfill the core content of the rights under the Covenant. States are obliged to take all appropriate measures including legislative measures to this end. Beyond the legislative measures, the State is under a duty to take administrative, judicial, economic, social and educational measures consistent with the nature of the rights in order to fulfill the obligations under the Covenant.

Uganda also has an obligation not to discriminate against persons belonging to linguistic minorities and to put in place measures designed to promote their rights.⁵⁷ Article 2 (2) of the ICCPR enjoins state parties to take legislative and other measures to give effect to the rights recognized by the Covenant. Article 4 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities requires States Parties to take measures to ensure that minorities effectively exercise their human rights without discrimination as well create favourable conditions for them to do so.

States are also required to take measures in the field of education. States parties are required to ensure non-discrimination in education and to facilitate minorities to operate their own educational facilities. The National Objectives and Directive Principles of the 1995 Constitution sets out the importance of national unity. The Constitution also provides for the integration of minorities. Uganda is signatory to the Universal Declaration of Human Rights (UDHR) and therefore has a moral obligation to advance the rights spelt out therein. In addition, Uganda is bound by the International Covenant on Economic, Social and Cultural Rights (ICESCR) which it ratified in 1987. Article 27 of UDHR and Article 15 of the ICESCR recognize everyone's right to freely participate in cultural life.

At the regional level, Uganda is a member of the African Union one of whose objectives is to promote sustainable development at the economic, social and cultural level. In the East African region, Uganda is obliged to implement the articles of the Treaty for the establishment of the East African Community, which it ratified together with other member states in 2000. In Article 119, partner states agreed to promote close co-operation in culture and sports. A number of other initiatives in the culture sub-sector include: cultural exchange, research and documentation, such as recording traditional cultural expressions, cultural tourism, capacity building of cultural practitioners, and initiation of the review of culture specific laws, monitoring and evaluation of interventions among others. Government specifically implements some of these initiatives while others are implemented by civil society, supported by the private sector. The major challenge affecting the culture sub-sector is the absence of culture statistics, which would provide evidence of the contribution of culture to social and economic development.

⁵⁷ See UNESCO, 1960: 93.

The Uganda Constitution also provides for the promotion of culture. Objective XXIV of the Constitution states that:

Cultural and customary values that are consistent with the fundamental human rights and freedoms, human dignity and democracy and with the Constitution of Uganda may be developed and incorporated in all aspects of Ugandan life. In addition, Objective XXV mandates the State and citizens to preserve and promote public property and Uganda's heritage.

It is within the above framework that the Culture Policy in the MoGLSD as well as a Minister of State in Charge of Culture were established. Apart from English and Swahili, Article 6 of the Constitution provides for the use of any other language as a medium of instruction in schools, while Article 3 of the Constitution mandates Regional Assemblies under the Regional tier system of

governance to handle cultural matters relating to the traditional or cultural leader, clan and sub clan leadership, cultural and traditional practices (traditional funeral rites) and cultural institutions by establishing specialized committees for them. Furthermore, the Uganda government has established initiatives for the preservation, promotion and development of Uganda's cultures. These include the establishment of statutory institutions such as the National Library of Uganda, and the Uganda National Cultural Centre, which are responsible for promoting cultural heritage. There are also laws that address specific aspects of culture including; the Historical Monuments Act (Cap. 46), the Uganda National Culture Centre (Cap 50), the Copyrights Act (Cap. 215), the Stage Plays and Public Entertainment Act (Cap. 49) and the Traditional Rulers Restitution of Assets and Properties Act (Cap. 247). Part two (2) of the Second Schedule of the Local Government Act (LGA) of 1997 takes into cognizance culture, and lists cultural affairs as one of the decentralized services and activities.

Uganda's Vision 2025 guides interventions that are aimed at achieving stable and harmonious co-existence within a socially, culturally and economically dynamic society. Key elements of this goal include recognition and enhancement of unity in diversity, national pride and dignity and respect for/and conservation of cultural heritage. All these elements are ingrained in the vision, mission and objectives of this Policy. Government policies and plans also take cognizance the issue of culture. Key among these are the Poverty Eradication Action Plan (PEAP) and the Social Development Sector Strategic Investment Plan (SDIP). The PEAP (2004) recognizes culture as being intrinsically valuable and an important dimension of identity and as a form of capital which, when well harnessed, can help to move people out of poverty. The PEAP sets the aims of the government as improving both the quality and access to functional adult literacy and primary education.⁵⁸ In the SDIP, culture

⁵⁸ Article 2.

contributes to social protection through the promotion of cultural industries, indigenous knowledge and also through support to actors and institutions that promote culture. With respect to the right to language as an aspect of cultural rights there is an effort to review the UPE policy to allow pupils to be taught in their mother tongue for the first four years of primary School.⁵⁹ This was aimed at

improving literacy levels in the country in line with the MDGs. The media especially Radio has to some extent promoted indigenous languages while the government is in the process of drafting a policy on broadcasting.⁶⁰ Individuals as well as cultural groups have attempted to document indigenous languages.⁶¹ Nevertheless, these efforts target the major languages and minorities have no in which forum to transmit their languages.

4.2.2 The Case of Civil Society

There are also other statutory institutions that include *inter alia*; all line government ministries, local governments, educational institutions and semi autonomous bodies such as the National Library of Uganda and the Uganda National Cultural Centre which are charged with the responsibility of promoting culture, and by implication, linguistic rights. However, the performance of these institutions in relation to culture, and linguistic rights is hampered by an inadequate capacity to manage their main functions, a lack of financing and poor coordination.⁶²

In promoting and protecting linguistic rights, several other stakeholders ought to rightly take up their responsibilities, among them, kingdoms, chiefdoms, clans and the family. Kingdoms existed in Uganda until they were abolished in 1966. However they were re-instated in 1993. Article 246 of the 1995 Constitution of Uganda provides for the revitalisation, strengthening and support of traditional/cultural institutions. Government recognises and supports some of the traditional/cultural institutions. The process of recognition of these institutions is continuous. Communities look up to the traditional/cultural institutions for their identity. The identity factor facilitates the traditional institutions' support to culture (and language) and uses it to mobilise people for development. However their performance is hampered by inadequate capacity and financial support.⁶³

⁵⁹ Article 1, Convention Against Discrimination in Education (http://www.unhchr.ch/html/menu3/b/d_c_educ.htm).

⁶⁰ See PEAP, 2004/5.

⁶¹ See draft broadcasting policy, 2006.

⁶² www.Buganda.com accessed December 2006.

⁶³ See Kabanukye and Bugembe, 2004; MoGLSD, 2003.

The family is the basic societal unit. The Constitution of Uganda seeks to protect the family through Objective XIX. The protection of family members is also provided for in the Children Act Cap 59, the PEAP, the social development Sector Strategic Investment Plan (SDIP) and the orphans and vulnerable children (OVC) Policy. In Uganda, there are nuclear families that comprise the father, mother and children. These are closely linked to extended families. However, due to changes in society over the years including political turbulence and the HIV/AIDS pandemic, other forms of families have begun to emerge. These include single parent and child headed families. These, among other factors, appear to have facilitated the disintegration of the family unit and dysfunctionality of family relationships. The emerging trends and institutions seem to be preoccupied with livelihood strategies divorced from the need to protect and uphold linguistic and cultural rights. Civil society organizations, faith based organizations and traditional cultural institutions are thus active in and benefit from the promotion of culture. They often mobilise and provide financial support for culture activities. They also undertake culture-specific advocacy activities and the holding of cultural rituals and events.

V. GOVERNMENT CHALLENGES

The Uganda government faces the challenge of respecting its international obligations in a multilingual setting. Uganda has as official languages English and Swahili and a diversity of other indigenous and foreign languages.⁶⁴ Several attempts refers to national and official languages, nominate a national language have been futile. While the 1995 Constitution is, some of the existing laws that would have helped in operationalising the linguistic rights leave a lot to be desired. For instance the Cultural Centre Act of 1964; the Stage Play and Entertainment Act of 1964, and the Witchcraft Act of 1964. It is only the Copyright Act that was recently (2006) reviewed. The others are obsolete and urgently need to be reviewed. The protection of linguistic rights would greatly benefit from the protection of the right to culture since the latter is an element of culture.

The practice in implementing some of the linguistic legal provisions becomes a challenge when minorities live in isolated locations. For instance, Uganda

also has an obligation not to discriminate against persons belonging to linguistic minorities and to put in place measures designed to promote their rights.⁶⁵ Article 2 (2) of the ICCPR enjoins states parties to take legislative and other measures to give effect to the rights recognized by the Covenant. Article 4 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic minorities also requires state Parties to take measures

⁶⁴ See the Culture Policy, 2004.

⁶⁵ Article 16, and the 1995 Constitution of the Republic of Uganda.

to ensure that minorities effectively exercise their human rights without discrimination as well as creating favourable conditions for them to do so.

In particular, States are required to take measures in the field of education. States parties are required to ensure non-discrimination in education and to facilitate minorities to operate their own educational facilities. How realistic can such provisions be implemented in districts where the Batwa and/or Ik are a minuscule minority (sometimes 10- 20 individuals) compared to the dominant ethnic groups? Linguistic diversity has posed a challenge for Uganda in terms of balancing the needs of social integration and the recognition of the individual rights of the citizens. This argument tends to support the suffocation of ethnic minorities' languages. Apollo Nsibambi captured similar sentiments in the late 1960s by saying that, "in many ways, Uganda's language problems are similar to those faced by other small and developing countries, especially in Africa. The existence of many ethnic groups (usually referred to as tribes) which speak different languages complicates communication, which in turn increases the difficulties of political and cultural integration."⁶⁶

Under the International instruments, the state may adopt legal as well as other measures in this regard. The critical areas that affect language rights are education, media and policies on political participation. The approach of successive Ugandan governments has been to minimize conflict through an attempt at the homogenization of cultures and languages. A classic example is the maintenance of English as the official language in order to avoid dealing with the claims of communities to have their languages recognized and respected. English is the language of instruction in schools as well as the language of the public sector. On the face of it, this should solve the language situation but it has produced a host of problems. The choice of English as the official language undermines

the capacity of citizens to participate in governance to say the least, the quality of education and access to information. The language question is crucial in light of globalization which threatens the capacity of the state to control its economic, social and cultural spheres.

Uganda has no systematic policy on the protection of cultural or linguistic rights. The rights are recognized in the Constitution but there is no effective policy framework for the promotion and protection of these rights. Uganda has incorporated the right to culture and the rights of minorities in the Constitution. There are various policies that have an impact on language rights, for instance, the Culture Policy in the Ministry of Gender Labor and Social Development as well as a Minister of State in Charge of Culture. But this Ministry is not sufficiently facilitated to undertake its cardinal role in promoting linguistic rights, among others. There are also no elaborate measures put in

⁶⁶ UNESCO, 1960: 93.

⁶⁷ Nsibambi, 1965 at 62.

place in Uganda to ensure the realisation of this right. The legal framework is not sufficient to safeguard the right to language and some of the policies have hindered the development and transmission of indigenous languages. The media and civil society have shied away from promoting these languages. This is especially true for the language of minorities, who are marginalised and discriminated in all socioeconomic and political spheres of livelihood.

The Draft Broadcasting Policy also proposes to impose quotas requiring broadcasters to broadcast a percentage of local content. This policy reminds us of the debate on the national or official language in the late 1960s. Swahili was taught in Ugandan schools for some time before World War II. It disappeared from Ugandan schools mainly because it was regarded as a serious rival to Luganda. Recapitulating on this point, Apollo Nsibambi had this to say: "The cultural and political rivalry among ethnic groups in Uganda has played a significant part in complicating the task of selecting at least one tribal language to cater for intertribal communication." For instance, in 1968, when the Kakwa were requesting (the then Central Government) that their language be used on Radio Uganda, one of their submissions was that they felt discriminated against whenever they had to listen

to programmes in Lugbara. Indeed, a reminder by one of the West Nile District Councillors that Kakwa know the Lugbara language was received as a political insult by many Kakwa whose cultural sensitivities were hurt by the absence of a radio program in their mother tongue.

It is within this framework and the crucial challenge of the direct and indirect high costs of broadcasting in many languages that Apollo Nsibambi argues that a sensible future language policy would retain a much more limited range of languages. The cost considerations in terms of time consumed in broadcasting in many languages for the sake of satisfying the individual ethnic and linguistic categories, as well as the availability of appropriate personnel/facilitators in the area of broadcasting provides a challenge. Although these policies have an impact on language rights they were not designed to protect and promote language rights *per se*. There is consequently a need for more innovation in policy design and to deliberately explore the extent to which linguistic rights can and are protected and promoted in Uganda.

The approach of government with regard to minorities has not been uniform. In the National Objectives and Directive Principles of the 1995 Constitution, all organs of state are enjoined to facilitate the integration of minorities. By implication, the integration means that minorities should coexist with the rest of the society and their distinct identity should be preserved. However, in practice the state has pursued a policy of modernizing the Minority groups through education programmes and other forms of outreach. An example of this is the effort to improve the lives of the Batwa through the provision of education and health services.⁶⁸ In Karamoja, the people rejected the government efforts to forcefully 'modernize' them. In response, the government devised an education programme popularly called *Alternative Basic Education for Karamoja* (ABEK) specifically for the Karimajong. It is intended to suit their needs and is modeled on their nomadic lifestyle. In practical terms, this approach of integration works against the protection and promotion of ethnic minorities' linguistic rights, in spite of the existence of the legal and institutional framework.

⁶⁸ Nsibambi, 1965, at 62.

VI. CONCLUSIONS AND RECOMMENDATIONS

In general terms, while it can be stated that the above and other policy developments have an impact on language rights in general, they were not designed to protect and promote language rights in particular. This challenge has been due to a number of factors, including multiple languages and linguistic diversity; linguistic rights not being expressly supported by relevant laws; different approaches to minorities' challenges and concerns; and the lack of a systematic policy on the protection of linguistic rights. It is within the context of consideration of these issues that the legal framework continues to be insufficient in safeguarding linguistic rights in Uganda. In fact, some of the policies have hindered the development and promotion of linguistic rights specifically and the right to culture in general. This has had a negative impact on the languages of minorities in particular. From the foregoing, it can be

stated that although it is known that the legal and policy framework have an impact on culture and language rights, they have not been specifically designed⁷⁰ to protect and promote language rights in particular. This challenge is due to a number of factors including, *inter alia*; multiple languages and linguistic diversity; linguistic rights not being expressly stipulated in many legal and constitutional provisions; different approaches to minorities' challenges and concerns; and the lack of specific and systematic policy on the protection of linguistic rights.

There is a need to promote and facilitate (especially among the elite Batwa and Ik) research into and documentation of such languages. The presence of high technology in recording and decoding should ease the process. The presence of some form of legal provisions, however remotely articulate can be used along side lessons learnt and best practices from literature review to document and promote languages. On the part of the Batwa and the Ik themselves, it needs to be noted that the development of a positive attitude towards ones languages is an important step towards its promotion and utilization. Acknowledgement of the challenges and problems facing these languages inspite of their importance is equally an important step towards searching for remedial measures.

⁶⁹ The national language question in East Africa', *East Africa Journal* (June 1967: 15).

⁷⁰ Kabanankye, 2006; PHC, 2002

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