

DRC: Provincial Decree may legitimize violence against the Batwa Indigenous Peoples

We write to express our concern regarding the Provincial Decree issued on November 13th, 2024, by the Government of South Kivu. This decree, while addressing important environmental threats, risks facilitating a resurgence of violence towards the Batwa Indigenous Peoples in and around the Kahuzi-Biega National Park (PNKB), in the Democratic Republic of the Congo.

We fear that this order's indiscriminate prohibition of all individuals including the Batwa Indigenous Peoples, will be used to legitimate violence against their communities in and around the PNKB.

The Provincial Decree N°24/279/GP/SK orders the protection and prohibition of occupation, invasion, exploitation, commercialization and transport of forest and mining resources from the PNKB. While the decree rightly names the presence of armed groups in the PNKB as posing serious environmental threats through their engagement in illicit resource extraction, the decree's unnuanced targeting of local communities has potentially serious implications for indigenous Batwa communities.

We have been informed that the Provincial authorities, the PNKB authorities and the national army have been mobilized for the execution of the order on November 18th, 2024, causing fear that the Batwa will again face repression, violence and evictions.¹

It should be noted that the recent decision by the African Commission on Human and Peoples' Rights (ACHPR) from July 2024 has recognised the Batwa's right to their ancestral territories in Kahuzi-Biega. The Provincial Decree does not take into consideration this decision, the 2022 Law for the protection and promotion of the rights of Indigenous Pygmy Peoples (Law No. 22/030), nor any international human rights standards protecting Indigenous Peoples. The ACHPR has indeed declared that the Kahuzi-Biega Forest has been the ancestral home of the Batwa and has requested that the DRC swiftly adopt measures in consultation with the Batwa to reintegrate them into their ancestral territory. In particular, it requests the DRC to 'rescind all laws, ordinances or other measures that prohibit the presence of the Batwa on their ancestral lands and their traditional use and enjoyment.'²

The decision furthermore acknowledges that Batwa occupation of Kahuzi-Biega forest is not the cause of biodiversity loss, and that 'fortress conservation' - a conservation model based

¹ Flummerfelt, Robert. "To Purge the Forest by Force: Organized Violence against Batwa in Kahuzi-Biega National Park." Minority Rights Group, April 5, 2022. <https://minorityrights.org/resources/to-purge-the-forest-by-force-organized-violence-against-batwa-in-kahuzi-biega-national-park/>.

Luoma, Colin. "Fortress Conservation and International Accountability for Human Rights Violations against Batwa in Kahuzi-Biega National Park." Minority Rights Group, May 5, 2022. <https://minorityrights.org/resources/fortress-conservation-and-international-accountability-for-human-rights-violations-against-batwa-in-kahuzi-biega-national-park/>.

² African Commission of Human and Peoples Rights (ACHPR), Communication 588/15 - Minority Rights Group & Environnement, Ressources Naturelles et Développement (on behalf of the Batwa of Kahuzi-Biega National Park, DRC) v. Democratic Republic of Congo, 58.

on creating strict protected areas that exclude people – has failed to achieve environmental objectives in the PNKB. The ACHPR decision³ specifies that ‘measures to exclude the Batwa from their land’ – for which, it must be noted, the Provincial Decree may be used – ‘may be harmful to the environment given the positive historical record of conservation of the Kahuzi-Biega forest by the Batwa.’⁴

Although we support the local authorities’ sense of urgency concerning the need to halt resource extraction in the PNKB, we want to stress the need to attend to the root drivers of the environmental destruction in the Kahuzi-Biega and target its main powerful actors rather than the Batwa communities. The commodity chain of resource extraction from the PNKB consists of extended extractivist networks involving armed groups, entrepreneurs and other powerful players.⁵ The killing of Mr. Gloire Willy Maroba and the wounding of three other Batwa on May 11, 2024 by a Wazalendo militia member is one of the recent cases exemplifying Batwa community members’ vulnerability and environmental stewardship in the face of these powerful players. There are indications that Mr. Maroba was being targeted for his work as a Batwa leader actively speaking out for his community. It is believed that this incident was a response to attempts by the Batwa to try to stop the Wazalendo from passing through their villages with resources extracted from the forest.⁶

What is needed is a participatory process that responds to the ACHPR recommendations to support the Batwa’s return to their ancestral lands in a way that enables them to become partners in the conservation of their lands, including through enabling the protection of their rights in accordance with international and national law. In the absence of this, the Batwa of Kahuzi-Biega continue to live in precarious and insecure conditions.

In light of the above, we urge the Government of South Kivu to adopt a more inclusive and participatory approach to addressing environmental and security challenges in the PNKB. We call for the immediate suspension of actions under Provincial Decree N°24/279/GP/SK that undermines the African Commission’s Decision and targets the communities of Indigenous Batwa Peoples. A collaborative strategy must prioritize dismantling exploitative networks driving resource extraction and involve the Batwa people in decision making to develop sustainable solutions. International bodies and civil society organizations must also step in to monitor the situation and safeguard the fundamental rights of the Batwa people.

³ Forest Peoples Programme (FPP). “The African Commission Sets a Significant Precedent for Indigenous Peoples’ Land Rights in the Context of Conservation,” August 5, 2024. <https://www.forestpeoples.org/en/08-2024/joint-statement-african-commission-decision-kahuzi-biega>.

⁴ African Commission of Human and Peoples Rights (ACHPR), Communication 588/15 - Minority Rights Group & Environnement, Ressources Naturelles et Développement (on behalf of the Batwa of Kahuzi-Biega National Park, DRC) v. Democratic Republic of Congo, 58.

⁵ Oakland Institute. “From Abuse to Power: Ending Fortress Conservation in the Democratic Republic of Congo,” August 27, 2024. <https://www.oaklandinstitute.org/abuse-power-ending-fortress-conservation-democratic-republic-congo>.

⁶ Forest Peoples Programme. “Batwa Man Killed in Escalating Violence against Indigenous Community in Kahuzi-Biega National Park, DRC,” May 28, 2024. <https://www.forestpeoples.org/en/2024/article/batwa-man-killed-escalating-violence-kahuzi-biega-drc>.

Signatories:

