



Submission for the Universal Periodic Review of Equatorial Guinea [1]

September 17, 2013

(Updated April 2014)

Introduction

Human Rights Watch notes with concern that the government of Equatorial Guinea has failed to follow through on the commitments it undertook during its first UPR review and other related pledges. This submission builds upon the outcomes of the first UPR review. It then addresses the following areas of particular concern to Human Rights Watch before offering recommendations:

- Failure to meet economic and social rights obligations
- Restrictions on freedom of expression, association and assembly
- Harassment of human rights defenders
- Repression of political opponents
- Use of torture, arbitrary detention, and unfair trials

Evaluation of the implementation of the outcome of the previous UPR

Human Rights Watch actively engaged in Equatorial Guinea's first UPR review, alongside several local human rights defenders who took the risk of traveling to Geneva in March 2010 to participate in the process. One of them stated before the Human Rights Council, "We cannot afford the luxury of letting these recommendations become window-dressing for the Equatorial Guinea government." This, unfortunately, is what has happened.

In 2010 the delegation from Equatorial Guinea accepted most of its UPR recommendations. Although it rejected some very important recommendations—those pertaining to the abolition of the death penalty, ratification of the Rome Statute, election reform, and access for the UN independent expert on torture to visit military facilities—and said others would remain under consideration, the government endorsed the vast majority of the 115 recommendations.^[1]^[2] Among those UPR commitments, it pledged to end torture, arbitrary and secret detentions; assure the independence of the judiciary; advance social and economic rights by prioritizing poverty alleviation and fighting corruption; and respect freedom of expression, assembly, and association. In June 2010 President Obiang also announced a reform plan at the Global Forum in Cape Town, South Africa, pledging that he would make his country's oil revenues fully transparent, increase social spending, institute legal reforms, protect human rights, and preserve the environment. Two years later, the United States State Department helped arrange an off-the-record meeting between President Obiang and representatives of civil society, including Human Rights Watch, who presented various recommendations for priority reforms.

The government of President Teodoro Obiang Nguema Mbasogo, in power since 1979, has not acted to fulfill the reform pledges made in these various fora. Instead, it has sought to enhance its international standing and improve its image while continuing to disregard economic and social

rights, harass civil society activists, impose severe restrictions on freedom of expression, undermine political rights, and carry out unfair trials. The government's disregard of its human rights commitments is also evident in its actions against human rights defenders from Equatorial Guinea who delivered statements to the Human Rights Council in 2010. These individuals have faced a variety of repercussions for their criticisms of the government.^[ii] ^[3]

Economic and Social Rights

Equatorial Guinea is the third-largest oil producer in sub-Saharan Africa and has a small population of approximately 700,000 people. This natural resource wealth should be directed to address dire social needs, in keeping with the government's obligations to advance the economic and social rights of its citizens. According to the UN's 2013 Human Development Report, Equatorial Guinea has a per-capita gross domestic product of \$32,026, which is the highest wealth ranking of any African country and one of the highest in the world, yet it ranks 136 out of 187 countries in the Human Development Index. As a result, Equatorial Guinea has by far the largest gap of all countries between its per-capita wealth and its human development score.

The government does not publish basic information related to its budgets and spending, and citizens and journalists lack the freedom to monitor the use of the country's natural resource wealth. The government has undertaken a massive building spree, financed by oil revenues, that reflects its misguided spending priorities. Although it has built some public infrastructure such as roads and power plants, much of the construction is for the enjoyment of the country's tiny elite and foreign guests, while the country's poor languish. Projects include a lavish \$830 million resort complex, a new city being built in a remote rainforest and a planned \$77 million presidential guesthouse.

To a considerable degree, even the government's investments in social spending are also directed to projects of limited benefit to the most vulnerable. The government financed two new, ultra-modern hospitals that primarily serve the country's elite while much of the population lacks access to quality health care, adequate sanitation, potable water, or reliable electricity. About half of the population of Equatorial Guinea lacked clean water or basic sanitation facilities in 2012, according to official statistics. The government, which for its first UPR report cited official statistics from a 2007 government study that three-fourths of the population lived in poverty, has since repudiated that figure.

Current statistics are hard to obtain for the country, which does not always produce reliable data. Available statistics often reflect government information of questionable accuracy or estimates based on statistical models. There have been some areas of relative progress in recent years, according to such estimates, such as the reduction of alarmingly high rates of maternal and child mortality, but the rates remain high and the improvements can be attributed in part to a malaria prevention program largely funded by foreign oil companies.

Equatorial Guinea is plagued by high-level corruption and mismanagement of public funds. Foreign investigations into corruption involving President Obiang and his close associates are underway in France, Spain, and the United States. US government legal filings allege extortion and embezzlement of public funds on a grand scale by President Obiang's eldest son, whom he

appointed to serve as second vice president and senator (and, previously, minister of agriculture and forestry). In France, a court indicted the son on money-laundering charges in March 2014. It lifted an arrest warrant against him after he agreed to appear in court by video-conference. French authorities also have seized numerous high-end automobiles (which were auctioned by the state), as well as his luxurious Paris mansion and its contents.

Freedom of Expression, Association and Assembly

Basic freedoms are regularly denied to the people of Equatorial Guinea. The government is notorious for its poor record on press freedom. Journalists from state-owned media outlets are unable to criticize the government or address issues the authorities disapprove of without risk of censorship or reprisal. Journalists have been suspended, sacked or detained in connection with their work, including since the 2010 UPR review. In March 2011 the host of a state radio program was suspended after mentioning Libya's pro-democracy uprising on air.^[iii] ^[4] Only a few private media outlets exist in Equatorial Guinea, and they are generally owned by persons close to President Obiang; self-censorship is common. Foreign news is available to those with access to satellite broadcasts and the Internet, which is a small minority of the population; others have access only to limited foreign radio programming.

Although a greater number of foreign journalists have been permitted to cover events in the country, as compared to the period before 2010, and President Obiang has recently granted interviews to several major foreign media outlets, his government has continued to use visa denials, surveillance, harassment, and detention to hamper independent foreign journalists and seek to discourage negative reporting. In February 2014, Equatorial Guinea authorities detained two *Financial Times* journalists for several hours in Malabo and confiscated their equipment, including laptops and notebooks, which were not returned. The journalists left the country earlier than planned, after their passports were returned to them. In 2011, the government informed Reporters Without Borders that it would not grant a visa to carry out a fact-finding visit. That same year foreign journalists reported being detained and forced to delete photographs before and during the African Union summit. Several who attended the Cup of Nations in early 2012 likewise reported being subjected to surveillance and harassment while they worked.^[iv] ^[5]

Freedom of association and assembly are severely curtailed in Equatorial Guinea, infringing on the development of civil society. The government imposes restrictive conditions on the registration and operation of local nongovernmental groups. The government is also intolerant of critical views from abroad, often characterizing those who criticize President Obiang's rule as racist, colonialist or "enemies" of the state.

Requests by political activists and opposition political parties to hold peaceful demonstrations and rallies, including May Day rallies, have been denied. Most recently, protests planned for May and June 2013 were blocked and the organizers of the May event were arrested; one of them, Clara "Lola" Nsegue Eyí, was held in custody without charge for over four months until October 2013.

The Obiang government and ruling party often cite "security reasons" in the wake of real or perceived coup attempts as a rationale to arrest real or perceived opponents. For example, Agustín Esono Nsogo, a teacher, was held from October 2012 until February 2014 without charge or trial

because the police accused him of being part of a plot to destabilize the country. According to his lawyer, Esono was held incommunicado for at least a week and tortured.

Human Rights Defenders

The country has no legally registered independent human rights groups. The few local activists who seek to address human rights related issues are vulnerable to intimidation, harassment, and reprisals.

In October 2012 Fabián Nsue Nguema, a lawyer who has handled sensitive cases involving political prisoners and those accused of coup plots, was illegally arrested and kept in secret and incommunicado detention for several days when he went to prison to visit his client, Agustín Esono Nsogo. He was released without charge after eight days, following international pressure.

In another case, Dr. Wenceslao Mansogo Alo, a human rights defender and opposition figure, was jailed in February 2012 and convicted in May 2012 for professional negligence in a trial widely regarded as unjust. Mansogo was pardoned in June 2012, following international pressure. He filed an appeal against court orders to close his private health clinic, pay \$13,000 in damages, and cease practicing medicine for five years.

In April 2012, Ponciano Mbomio Nvó, one of Mansogo's lawyers and a frequent defender of jailed political opponents, was suspended from legal practice for two years for arguing in Mansogo's trial that the case was politically motivated. The suspension was lifted in February 2014. In January 2012, government officials allegedly pressured a private company to rescind a job offer made to Alfredo Okenve, a member of the executive leadership of a local NGO who was sacked in 2010 by the National University after critiquing the government's record on transparency at a public event during a visit to the United States.

Political Parties and Opposition

Opposition members are subject to arbitrary arrest and other forms of harassment and, at times, criminal prosecution. Most political parties are aligned with the ruling party, which benefits from a virtual monopoly on power, funding, and access to national media. Additionally, not all opposition parties are legally registered.

Elections in Equatorial Guinea have been marked by serious human rights violations and denial of fundamental freedoms. In addition, biased electoral processes and restrictive conditions for international observers have undermined the credibility of election results. This was the case for the May 2013 legislative vote, which the ruling party claims to have won decisively. The country has no independent and impartial body to oversee the electoral process or consider election-related complaints. The National Election Commission is controlled by the ruling party and is headed by the interior minister, a prominent member of the governing party.

In November 2011, a national referendum was held to approve constitutional changes that had not been open to debate and were not shared with political parties until the day before the referendum campaign opened. Ahead of the vote, the police arrested and held for three days an opposition figure and civil society activist, Marcial Abaga Barril, on a dubious pretext. The referendum passed

overwhelmingly in a vote marred by reports of voting fraud, harassment of opposition supporters, and intimidation of voters.^[V] [6]

The constitutional changes place term limits on the presidency, but otherwise entrench and expand President Obiang's unchecked powers. They allow him to name 15 members of a newly created Senate and to appoint or approve the heads of "independent" institutions ostensibly charged with improving government accountability. At this writing, the "independent" oversight bodies created under the new constitution had not been established and the president declared that new presidential term limits would not apply retroactively. President Obiang named his eldest son to one of the 15 senate seats he personally selected under the new constitution. He had previously named the son to be the country's ambassador to UNESCO, based in Paris, and asserted that the appointment granted him immunity in France. President Obiang also appointed this son to the post of second vice president, a position not contemplated in the constitution, also asserting that it confers immunity.

Torture, Arbitrary Detention, and Unfair Trials

Due process rights are routinely flouted in Equatorial Guinea and prisoner mistreatment remains common. Many detainees are held indefinitely without knowing the charges against them. Lawyers and others who have visited prisons and jails indicate that serious abuses continue, including beatings in detention that amount to torture. Fabián Nsue Nguema, as noted, reported that his client, Agustín Esono Nsogo, was tortured.

President Obiang exercises inordinate control over the judiciary, which lacks independence. Lawyers have reported that judges say they need to consult with the office of the president regarding their decisions in sensitive cases. The president is designated as the country's "chief magistrate." Among other powers, he chairs the body that oversees judges and appoints the body's remaining members.

Judicial processes are used to intimidate or punish those perceived as disloyal to those in power. For example, Florentino Manguire spent over two years in prison on unsubstantiated theft charges filed by his former business associate, Obiang's eldest son and then forestry minister, known as Teodorín. He received a presidential pardon in June 2012. In August 2012, he was again arbitrarily arrested and held for 10 days, until his release without charge after receiving a stern warning not to reveal information about Teodorín.

The government also at times detains family members as a form of pressure. Following an October 2010 prison escape involving a former military officer and others, the government held numerous relatives and associates of the escaped prisoners for over a year in apparent retribution. Among those held was a child under the age of two and his mother. They were acquitted by a military court and released in November 2011.

Equatorial Guinea abducted four nationals living in exile in a neighboring country in January 2010. José Abeso Nsue, Manuel Ndong Anseme, Alipio Ndong Asumu and Jacinto Michá Obiang were held in secret detention where they were tortured and forced to confess to participating in a February 2009 attack on the presidential palace. The men were then executed in August 2010

following a military trial that violated international human rights standards and the country's own laws. The trial and execution received strong international condemnation.^[vi] ^[7]

The government had earlier accused two opposition politicians, along with foreign nationals, of involvement in the same attack on the presidential palace. In March 2010 after more than a year in detention, seven of the Nigerian citizens were prosecuted in an unfair civilian trial and each sentenced to 12 years in prison, while two Equatoguinean opposition members were first acquitted by the civilian court and then retried in August by a military court, receiving sentences of 20 years. They were pardoned and released in October 2010.

Recommendations

Establish, in consultation with civil society, a clear and transparent fiscal policy to manage revenues, combat official corruption and account for the use of public funds, including by publishing all government revenues, budgets, and spending; conducting and publishing annual audits of all government accounts, including those held abroad; and enforcing a requirement that public officials declare their assets.

Make appropriate, and transparent, budget allocations for poverty alleviation, primary education, basic health care and sanitation to meet obligations to realize fundamental economic and social rights, particularly in respect of the poor in Equatorial Guinea, and fully account for all social spending.

Uphold political freedoms by respecting the right of opposition members to travel freely, to hold meetings, to express their views, and to have access to the media without discrimination and by establishing an independent electoral body to ensure that all electoral processes are free, fair, and accountable.

Undertake a comprehensive reform to ensure judicial independence and otherwise bring the judicial system into compliance with the international human rights instruments to which Equatorial Guinea is a party.

Cease harassment of and reprisals against domestic critics and allow them to operate freely and independently and to carry on their professions.

Permit and clearly authorize foreign nongovernmental organizations, journalists, and UN human rights experts to enter Equatorial Guinea, travel freely, meet with a range of official and private persons, and carry out independent work without hindrance or risk of retaliation against those who share information.

Sign and ratify all pending human rights treaties, as well as the Rome Statute; fully align national legislation with all obligations under these instruments; and report promptly to relevant treaty bodies.^[vii] ^[8]

^[i] ^[9]United Nations, Report of the Working Group on the Universal Periodic Review of Equatorial Guinea (A/HRC/13/16), January 4, 2010, at para. 72, and Report of the Human Rights Council on its

Thirteenth Session (A/HRC/13/56), February 8, 2011, at para. 711.

^[ii] ^[10]See references further below to the cases of Dr. Wenceslao Mansogo, Fabián Nsue Nguema,

Ponciano Mbomio Nvo, Alfredo Okenve, and Marcial Abaga Barril.

[iii] ^[11]See the Equatorial Guinea entry in Human Rights Watch's *World Report 2011* for additional examples.

[iv] ^[12]See Human Rights Watch, "Equatorial Guinea: Soccer Co-Host Violates Rights," January 13, 2012.

[v] ^[13]See EG Justice and Human Rights Watch, "Equatorial Guinea: Release Opposition Member," November 3, 2011; "Equatorial Guinea: A Move to Consolidate Power," November 12, 2011; and "Equatorial Guinea: Vote Discredited by Irregularities," November 15, 2011.

[vi] ^[14]See, for example, UN Office of the High Commissioner for Human Rights (OHCHR), "UN Independent Experts express serious concern at the execution of four men after concluding their mission to Equatorial Guinea," August 27, 2010.

[vii] ^[15]As noted in recommendations issued during the first UPR review, Equatorial Guinea is not a party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the Second Optional Protocol to the International Covenant on Civil and Political Rights; the Convention for the Protection of All Persons from Enforced Disappearances and its Optional Protocol; or International Convention on the protection of the Rights of All Migrant Workers and Members of their Families. Nor is Equatorial Guinea a party to the Convention on the Rights of Persons with Disabilities and its Optional Protocol; the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women; or the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, as noted in the OHCHR compilation prepared for its first UPR review (A/HRC/WG.6/6/GNQ/2).

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