



# U.S. DEPARTMENT OF STATE

DIPLOMACY IN ACTION

## Equatorial Guinea

Bureau of Democracy, Human Rights, and Labor

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Equatorial Guinea\*, with an estimated population of 500 thousand, is nominally a multiparty constitutional republic. In practice the party founded by President Teodoro Obiang Nguema Mbasogo (Partido Democratico de Guinea Ecuatorial) and his Fang ethnic group, which has ruled since the country's independence in 1968, dominated the government. The 2002 presidential election was marred by extensive fraud and intimidation. The international community widely criticized the 2004 parliamentary elections as seriously flawed. While civilian authorities generally maintained effective control of the security forces, there were some instances in which security forces acted independently of government authority.

The government's human rights record remained poor, and the government continued to commit or condone serious abuses. The following human rights problems were reported:

- abridgement of citizens' right to change their government
- security force torture, beating, and other physical abuse of prisoners and detainees
- harsh and life-threatening prison conditions
- impunity
- arbitrary arrest, detention, and incommunicado detention
- harassment, detention, and deportation of foreign residents
- judicial corruption and lack of due process
- restrictions on the right of privacy
- severe restrictions on freedom of speech and of the press
- restrictions on the rights of assembly, association, and movement
- government corruption
- restrictions on human rights nongovernmental organizations (NGOs)
- violence and discrimination against women
- trafficking in persons
- discrimination against ethnic minorities and HIV/AIDS victims
- restrictions on labor rights
- forced labor
- child labor

### RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

Based on available information, the government or its agents did not commit politically motivated killings; however, security forces reportedly killed several persons through abuse and excessive force.

The link between the June shooting in Spain of Manuel Moto Tomo, brother of exiled activist German Pedro Tomo Mangué (who reportedly was the target), and the shooting of the manager for a business in which the Minister of National Security is the major shareholder is being investigated by Spanish authorities. There were continuing reports of government figures hiring persons in foreign countries to intimidate, threaten, and even assassinate citizens in exile, including Severo Moto.

There were no developments, nor were any expected, in the alleged torture case of German citizen Gerhard Eugen Nershz, who was arrested in March 2004 on accusations of plotting a coup and died in Black Beach Prison in Malabo.

No action was taken, nor was any expected to be taken, against soldiers responsible for the May 2004 killings of between 12 and 16 persons suspected to be plotting a coup attempt.

There was no action taken, nor was any expected, against border guards responsible for the July 2003 killing of a Spanish aid worker in Bata.

The government did not prosecute any members of the security forces considered responsible for unlawful killings in previous years, nor was it likely to do so.

#### b. Disappearance

There were reports of politically motivated kidnappings. For example, in August two political refugees were reportedly kidnapped at night from their home in Libreville, Gabon. Their kidnappers drove them to the Equatorial Guinean Embassy, where the two refugees escaped to the UN High Commission for Refugees (UNHCR) with the help of local Gabonese. In 2004 the government had accused some of its citizens living in Gabon of attacking the island of Corisco.

In September Amnesty International (AI) reported that navy Commandant Juan Ondo Abaga, former Lieutenant Colonel Florencio Ela Bibang, Felipe Esono Ntumu "Pancho," and Antimo Edu had all disappeared. Abaga, a refugee resident in Benin, allegedly was abducted from Benin by Equatorial Guinean security personnel in January and taken to Black Beach Prison where he allegedly was tortured. Bibang and Ntumu had fled the country in October 2004 and were arrested in Lagos, Nigeria in April along with Edu and held incommunicado, first at the Nigerian Army Intelligence Authority in Lagos and subsequently in the Nigerian State Security Services in Abuja. In July security personnel from the country, with the participation of Nigerian security personnel, reportedly abducted them, transported them to Malabo, and imprisoned them at Black Beach Prison, where they were reportedly severely tortured. When asked about their status, the government claimed to have no record. Reportedly they were being held in an old section of Black Beach prison.

In a May press report, exiled opposition leader Severo Moto claimed the government attempted to kidnap and assassinate him; the government denied the charge. A UN IRIN (press agency) report confirmed that Severo Moto had accused the government of hiring hit men to kill him while in Croatia. A member of the opposition told IRIN that Moto denied earlier reports that Spanish officials were behind the plot to kill him. Spain, where he had been living in exile, rescinded his political refugee status during the year, for what they considered activities incompatible with his status as a political refugee. Others criticized this as a Spanish bid to normalize relations with Equatorial Guinea. Severo Moto had been convicted by the country's courts three times in *absentia* of attempting to overthrow the government. He was most recently sentenced to 63 years in prison in November 2004.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law does not specifically prohibit such practices, and although the law mandates respect for the liberty and dignity of persons and adherence to the Universal Declaration on Human Rights, members of the security forces tortured, beat, and otherwise abused suspects, prisoners, and opposition politicians. In September AI reported that torture was widespread in the country's places of detention and during the course of trials. In 2004 senior government officials told foreign diplomats that human rights did not apply to criminals and that torture of known criminals was not a human rights abuse. No action has been taken, or is expected to be taken against security forces responsible for torture.

Unlike in the previous year, there were no reports that prisoners died from torture; however, there were reports that officials tortured political opposition activists and other persons during the year. For example, on May 8, a group of 15 members of the opposition party Convergence for Social Democracy (CPDS) were violently attacked at the Malabo airport. When the group was passing through the police checkpoint to enter the departure hall, policemen asked the group for interior ministry authorization as a condition of travel. Policemen then violently attacked the young people and

those accompanying them, hitting them with the butts of their handguns, causing substantial injury to several of them, and leaving some girls in the group undressed in public. At least 10 were detained on police premises, including one who suffered serious injuries and was given no medical treatment. They were released one week later.

About 70 people charged with offenses related to an alleged coup attempt in October 2004 reportedly were tortured before and during their questionable secret military trial in September. The group consisted of former military officers and relatives of the alleged leader of the attempted coup. Most of the defendants were held incommunicado in Bata Prison since their arrests in October and November 2004. All but two of the defendants reportedly stated in court that they had been tortured in detention and some reportedly still bore visible marks. One man apparently had to be carried in and out of court as he was still unable to walk. One woman reportedly suffered from vaginal bleeding as a result of torture. AI reported that statements were extracted by torture during incommunicado detention at Bata Prison and used as evidence (see section 1.d.).

No action was taken, nor is any expected to be taken, against the responsible authorities for the following 2004 cases: the torture of five persons arrested on Corisco Island; the shooting of Popular Party (PP) leader, Marcelino Manuel Nguema Esono; the torture of Weja Chicampo; and the torture of Lieutenant Colonel Maximiliano Owono Nguema. Weja Chicampo, Marcelino Esono, and Maximiliano Nguema apparently remained in jail at year's end.

No action was taken against members of the security forces responsible for the 2003 torture of opposition leader Felipe Ondo Obiang.

During the year local authorities singled out foreigners from neighboring countries for harassment, such as verbal intimidation and arbitrary arrest. Police routinely extorted money from citizens of Cameroon, Nigeria, Ghana, Togo, and Benin. In March 2004 following a coup attempt led by foreigners, the government increasingly and arbitrarily harassed, arrested, and deported foreigners of African nationalities. Police in Bata and Malabo often used excessive force, including beatings, and looted property during the arrests and deportations; in addition, some deportees said that police raped them. Reports of police harassment continued during the year. Foreigners from neighboring countries, South Americans, Asians, and Eastern Europeans traveling or working in the country were often stopped and asked to present their papers. This was reportedly done because the government believed there were many clandestine and illegal arrivals of potential terrorists and mercenaries. Many were asked to pay bribes (fines) while they waited for their residence documents. In some cases local authorities were relieved of their duties when these events came to international attention.

During the year security personnel continued to periodically harass oil company employees, primarily by delaying them at checkpoints and demanding small bribes.

#### Prison and Detention Center Conditions

The conditions of jails and prisons in the country remained harsh and life threatening; inmates frequently were not provided with sufficient and consistent food, medical care, working toilets, drinkable water, or clean and healthful living space. Medical attention was often denied or unavailable to prisoners with gangrene, broken bones, infections, and potentially fatal but curable illnesses. There were credible reports that conditions at Black Beach Prison continued to improve, and some prisoners occupied a new building there with better facilities; however, there were also credible reports that prison authorities tortured prisoners (see section 1.c.). In March members of the opposition National Popular Union (NPU) reported that prison authorities of Black Beach Prison had toughened conditions by denying prisoners access to food brought to them by relatives. In April AI charged that Black Beach officials had stopped providing at least 70 prisoners with meals and blocked all contact with their families, lawyers, and consular officials, and were in danger of death due to starvation and torture. AI also reported that all prisoners were kept in their cells for 24 hours a day and that foreign detainees were held with their hands and legs cuffed at all times. President Obiang denied the allegations on national radio, claiming that the facility's prisoners were well treated, and invited AI to visit the prison. In June AI reported that the food situation had improved since the press release was issued. According to AI the prisoners' diet remained inadequate, but prison authorities had resumed daily rations of rice. AI did not state whether its representatives visited the prison to make this determination, but almost certainly they did not. Later reports indicated that food rations ran short during each month to the extent that the prison management again had to permit family members to bring food.

Some prisoners received some medical treatment, but this was irregular and undependable. Prisoners needing daily medication, such as diabetics, almost never received it. Only in those cases where family members had connections and provided the medication, or there was international attention regarding the case, did prisoners receive medications. Not even aspirin was stocked at the prisons, and there was no treatment for common but potentially fatal illnesses such as malaria.

Prison authorities and male prisoners sexually assaulted female prisoners. There were credible reports that police gang-raped female prisoners in Malabo. Prisoners were used habitually as labor and as workers on construction projects for certain officials, without pay or other compensation. There were unconfirmed reports that judges used prisoners as domestic workers.

Male and female prisoners were not held in separate facilities, nor were juveniles held separately from adult prisoners. Pretrial detainees were not held separately from convicted prisoners.

The International Committee of the Red Cross (ICRC) and some foreign diplomats visited detainees and prisoners at prisons and police stations multiple times during the year. The ICRC was allowed visits in accordance with its standard modalities--meetings with prisoners without third parties and regular, repeated visits. The ICRC made recommendations to the government but did not release them publicly.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but the government did not enforce it. There were nominal legal procedural safeguards regarding the protection of citizens' rights, including provisions concerning detention and the requirement for search warrants; however, security forces systematically ignored these safeguards and continued to arrest and detain persons arbitrarily and with impunity. Security forces often detained individuals "on orders from superiors" without any further formality.

#### Role of the Police and Security Apparatus

Responsibility for public security is divided between the police, who are primarily responsible for security in urban centers, and the gendarmes, who have responsibility for the areas outside the cities and for special events within cities. Both are under the control of the Ministry of National Security. Corruption was endemic within the security forces. Citizens who were not police officers were allowed to arrest persons suspected of being illegal residents, increasing the frequency of arbitrary arrests based on xenophobia. Members of the security forces were rarely held accountable for abuses; impunity for police officers and gendarmes was a serious problem. There are no mechanisms to investigate allegations of police abuse. The police are misused by other ministries to harass and threaten persons and to confiscate property, instead of those ministries pursuing proper legal recourse for supposed infractions.

The government frequently requested assistance for the retraining and to professionalize the police forces. One western country has reportedly been involved in that to a very limited extent. The government began limited workshops on human rights specifically for security personnel.

#### Arrest and Detention

Arrests do not require warrants. Police can detain persons whom they arrest for up to five days before a judicial hearing. In practice the length of such detentions was usually much longer, even years. The law provides a person in detention with the right to a prompt judicial determination of the legality of the detention, but the authorities did not respect this right in practice. Defense lawyers did not receive full indictments against their clients. A request by the attorney Fabian Nsue to visit the eight South African mercenaries sentenced in November 2004 for conspiracy against the government was rejected in April by the Supreme Court. Detainees were not promptly informed of the charges against them. Four Nigerians connected with the coup attempt were held at Black Beach prison for several months without charges or trial and without their embassy being notified. There was no official bail system. Legal access depended on the nature of the crime and bribes, and there was no system to provide lawyers for the indigent. The South African prisoners from the 2004 coup attempt were not allowed to meet with their attorney until three days before the trial. Some limited visitation by family members was permitted at Black Beach prison, though it was periodically cut off during the year for unexplained reasons.

The lack of a published penal code allows for frequent abuses by security forces. Police routinely detained prisoners and held them incommunicado (see section 1.c.). Reliable files, including medical records, were not kept on those imprisoned.

The government did provide responses on the status of 39 persons previously detained for crimes against the state. Several of the persons had been detained for months or years without judicial proceedings. They were brought before a judge during the year for brief hearings and remanded back to prison for unspecified crimes against the state, rebellion, or terrorism, to be held in "preventive detention" until trial. In at least three cases, a previous judgment of completion of sentence was overruled by the government's Fiscal (attorney general) for unexplained reasons. For 20 persons the government said there was no information, although many sources have reported their detention.

The government used arrest, beatings, and other forms of harassment to intimidate opposition party officials and members.

Arbitrary arrest was a serious problem. Local authorities singled out foreigners from neighboring countries for arbitrary arrest, harassment, and deportation (see section 1.c.). On February 7, security officials detained 12 Cameroonian forestry workers, including 1 woman, as they were carrying out a routine operation to identify timber species in the forest bordering the two countries. The forestry workers were reportedly paraded nude through the town of Ebibiyin before being taken to Bata Prison, where they were molested and held in unsanitary conditions until May 10 (two of the hostages

had escaped two weeks earlier.) Upon their release, the Cameroonian detainees were reported to be visibly emaciated and weak. In May the governor of the Littoral Province had a Cameroonian auto mechanic arrested and beaten in Bata over a petty commercial dispute involving the governor's automobile.

Security forces detained relatives of prisoners and criminal suspects in an attempt to force the prisoners or suspects to cooperate (see section 1.f.).

There were reports of political detainees. During the year authorities reportedly detained members of political opposition parties (see section 1.c.). Prominent members of the "illegal" opposition Republican Democratic Forces (FDR), the PP, and the NPU remain detained at Black Beach Prison for their political activities. It remained difficult to estimate the number of political detainees, although it was believed to be fewer than 100 persons. FDR leader Felipe Ondo Obiang, arrested in March 2002 in connection with an alleged coup plot, was reportedly tortured and remained in Evanyong Prison at year's end. He was chained to the wall by his left leg, which became swollen, and was held in solitary confinement for several months. It was believed that the 30 other prisoners arrested along with Ondo Obiang, including FDR leader Guillermo Nguema Ela, remained in prison, despite having been granted partial amnesty. Access to political detainees was highly restricted. If international organizations were willing to apply for permission, the government would consider their requests on a case by case basis.

In 2004 police arrested Air Force Captain Felipe Obama. There were no reports that charges had been filed against him or that he had been released. Also in 2004 CPDS party member Pio Miguel Obama was arrested and held at the central Malabo police station. At year's end no charges had been filed, and according to opposition reports, he had not been released. According to the CPDS, in connection with the November 2004 arrest of 50 military officers, 100 additional persons were arrested in January. The government did not explain the reasons for the arrests. Although not clear, it appeared that these were the same individuals that were tried in a secret military court in September. All received long sentences and had no access to a defense attorney.

Pretrial detention was a problem. The majority of political detainees had not been charged, and their cases had not been heard in court. They may be held "pending completion of investigation" for an undefined amount of time. Persons often remained in detention at police stations awaiting hearings for longer than the five days prescribed by law because judges were absent from their posts.

#### Amnesty

In June President Obiang pardoned the six Armenians convicted in the March 2004 attempted coup after intense lobbying by the Armenian government and others.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary; however, the government did not respect this provision in practice. Judges served at the pleasure of the president, and they were appointed, transferred, and dismissed for political reasons. Judicial corruption was widespread. The president criticized corruption at the end of the year, and indicated that an overhauling of the judicial system was imminent.

The court system is composed of lower provincial courts, two appeals courts, a military tribunal, and the Supreme Court. The president appoints members of the Supreme Court, who report to him and take their orders from him in practice. At least two military generals, neither of whom was a lawyer, served on the Supreme Court. The president was the most powerful influence on the judicial branch. The law provides for the Ministry of Justice to undertake periodic inspections and name judges. There were approximately 60 judges in the country, about 20 percent of whom were trained lawyers. Some judges were regularly absent from their posts, resulting in delays in judicial proceedings.

In December 2004 upon the recommendation of the president of the Supreme Court, President Obiang fired a Malabo court of first instance judge and two of his clerks for incompetence and inaction in cases on his docket. The parliament's complaints commission was a virtual judicial authority, although it had no formal legal jurisdiction. According to local media, the parliament's president acted as a court of last resort.

Tribal elders adjudicated civil claims and minor criminal matters in traditional courts in the countryside.

#### Trial Procedures

Some trials are public, if the defendant is accused of a minor crime, but juries are not used. Defendants have the right to be present, but they rarely were able to consult with an attorney in a timely manner. An attorney was not provided at public expense if defendants face serious criminal charges. By law defendants could confront or question witnesses against them or present witnesses and evidence on their behalf, but in practice this was rarely

done. Defendants and their attorneys have limited access to government-held evidence relevant to their cases. By law defendants enjoy a presumption of innocence; and they have a right of appeal. Civil cases rarely came to public trial.

The code of military justice permits persons who disobey a military authority to be tried in a military tribunal even if they are not military personnel. Cases involving national security were tried by a military tribunal. Cases that essentially were political in nature frequently were referred to military courts, even when the defendants were civilians and the charges were not related to the military. Some defendants were tried without being present. The defense attorneys sometimes did not receive full indictments and only received their client's statements. The defense did not always have the right to cross-examine the accusers. Military courts did not provide due process or other procedural safeguards, and the proceedings were not public.

In July the Bar Association of Equatorial Guinea suspended the lawyer Fabian Nsue Nguema from practice for one year, along with a colleague from his law firm, after he defended South African mercenaries involved in a March 2004 coup attempt. Nsue Nguema received no prior notice of any allegations against him, nor was he given the opportunity to defend himself against any allegations. The International Bar Association (IBA) reported that the decision to disbar the attorneys was made in collaboration with the government. The IBA sent an observer to the November 2004 trials of alleged coup plotters and mercenaries. Their assessment was that the trial "fell far short of international fair trial standards." According to the IBA, the court refused to take into consideration allegations of torture by the defendants and their lawyers. The government failed to notify defendants of the charges against them during the pretrial period, and then denied them access to legal counsel until three days before the trial began. The prosecution did not present any evidence to substantiate the charges other than statements made by the defendants, later said to have been obtained under duress.

#### Political Prisoners

The government continued to hold political prisoners, and it was estimated that there were fewer than 100 by year's end. These prisoners were all members of opposition parties or persons the government accused of involvement in coup attempts. During the year the ICRC and some foreign diplomats were permitted to visit them.

AI reported that the secret September trial of about 70 military officers, former military officers, and relatives of the alleged leader of the October 2004 attempted coup did not conform to international law standards of fair trials. A military court in Bata sentenced 22 men and a woman to lengthy prison terms. At least six persons were tried without being present, in contravention of national law. In all cases the defense lawyers did not have access to government-held evidence and only had their clients' statements. Defense attorneys' requests to cross-examine accusers were denied. Those convicted had no right of appeal. Allegations of torture in the course of the trial were ignored and no investigation into the allegations was conducted (see section 1.c.). Nine persons, including those tried without being present, were sentenced to 30 years in prison on the charges of undermining the security of the state and attempting to overthrow the government. Eleven others, including Florencia Nchama Mba, were convicted of the same offenses as accessories and sentenced to 21 years' imprisonment. Francisco Mba Mendama (who was also convicted of undermining the security of the state and received a 30-year prison sentence) and two others were convicted of treason and received 25-year prison sentences. One person received a 12-year prison sentence. Statements obtained under torture during incommunicado detention were used as evidence.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions; however, the government did not respect these prohibitions in practice. There continued to be reports that security forces regularly searched homes and arrested occupants without warrants, generally with impunity. After making arrests, security personnel regularly looted homes, confiscated cars, and had family members evicted. After their release, arrested persons had no recourse for recovery of property and were often blacklisted from employment opportunities, reportedly under orders from members of the president's family.

There continued to be reports of government monitoring of members of the opposition parties, NGOs, and of foreign diplomats. During the year journalists and citizens continued to report that they strongly suspected monitoring of their telephone calls and e-mails by the government.

Authorities harassed, arrested, deported, and robbed foreign nationals, particularly West Africans (see section 1.c.).

The one Internet service provider was affiliated with the government telephone monopoly, and there were unconfirmed reports that the government monitored citizens using the Internet.

Security forces detained relatives of prisoners and criminal suspects to force the prisoners or suspects to cooperate (see section 1.c.).

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and the Press

The law provides for freedom of speech and of the press; however, the government severely restricted these rights in practice. During the year the government monitored journalists, the media remained firmly under government control, and journalists practiced self-censorship.

The government did not tolerate criticism of public institutions and public sector mismanagement and permitted no criticism of the president or the security forces. Opposition figures were warned that they should limit their criticisms to the floor of the parliament, where they were severely outnumbered and easily overruled. Expatriates dependent on the government did not voice complaints about the frequent abuses against them, ranging from the police demanding bribes for imaginary offenses to extortion of money by city, provincial, and federal officials for "licenses" for which there was no statutory basis. Private complaints about official conduct continued to be accompanied by requests not to be identified to avoid reprisals.

An independent or privately owned press was nearly nonexistent. There were three general-interest periodicals operating under nominal government control that published irregularly: *La Gaceta*, a Malabo-based monthly magazine printed in Spain and published by an employee of the Ministry of Information, Tourism, and Culture; *El Correo Guineo Ecuatoriano*, a bimonthly newspaper that was discontinued by the Gaceta group; and *Ebano*, a publication of the Ministry of Information, which appeared approximately twice a month. Foreign celebrity and sports publications were available for sale at foreign-owned grocery stores, but no newspapers; there were no bookstores or newsstands in the country.

Journalists were subject to harassment; however, unlike in the previous year, there were no reports that journalists were deported. For example on April 11, Pablo Gracia Saez, the editor of the Spanish-language service of the pan-African news agency AFROL News, received a threatening phone call from presidential spokesman Miguel Oyono. Oyono accused the Norway-based news agency of "waging a campaign against Equatorial Guinea" and warned Gracia of the "consequences" of what he reported. No known action was taken by the government at year's end.

The law authorizes government censorship of all publications. During the year the Ministry of Information sometimes required publishers to submit a copy for approval prior to publication. In addition all local publications exercised self-censorship and were subject to prior restraint.

On June 9, airport police in Bata seized 200 copies of *La Verdad*, a small CPDS newspaper and the country's sole opposition publication, which were destined for distribution on the mainland.

Radio was the most important and influential medium of mass communication. During the year the government continued to dominate domestic radio broadcasting. It owned and operated the station Radio Malabo, officially known as National Radio of Equatorial Guinea. The president's son, Teodoro Nguema Obiang Mangue, owned the only private radio station, Radio Asonga. The government had not approved other applications for private radio stations that have reportedly been pending for several years.

The government generally withheld access to domestic broadcasting from opposition parties and rarely referred to the opposition in anything but negative terms when broadcasting the news.

The government-controlled national television station broadcast some government activities live, such as some sessions of parliament and national conferences. In some cases, voices of dissent were broadcast. Television Asonga, also operated by the president's son, is broadcast by cable only in Bata. Foreign cable television was available and provided news in French, Spanish, and English, as well as entertainment programming. Satellite reception increasingly was available. The station broadcast foreign channels that reported news, which were not censored. The Spanish channel has occasionally reported stories about the country, which prompted complaints from the government but not censorship. Satellite or cable programming was well beyond the means of the average citizen.

International electronic media was available and included Radio France International, which broadcast in Malabo, and Radio Exterior, the international short-wave service from Spain. Radio Exterior often broadcast news about the country and interviews with opposition politicians and was virtually the only means for the opposition to disseminate its views and positions widely. Its editorials frequently were highly critical of the government. The government regularly accused Radio Exterior, sometimes with justification, of misrepresenting the situation in the country.

The government may monitor citizens Internet access (see section 1.f.).

During the year the government did not overtly restrict academic freedom; however, professors practiced self-censorship regarding political matters.

## b. Freedom of Peaceful Assembly and Association

### Freedom of Assembly

The law provides for the right of assembly; however, the government restricted this right in practice. Government authorization must be obtained for private home meetings of more than 10 persons for discussions that the government considers political in nature. Although the government formally has abolished permit requirements for party meetings within party buildings, in practice opposition parties must inform the authorities if they wish to hold gatherings of any kind, regardless of location. Security forces generally monitored gatherings in public places, even small gatherings. The government required notification for public events; however, it usually granted permission for such events.

Unlike in the previous year, the government did not deny the CPDS permission to hold a convention. In July the CPDS was allowed to hold a convention in Bata, attended by foreign diplomats, with relatively little harassment. CPDS was not permitted to publicize the conference dealing with human rights laws passed by the government and by international bodies, nor was it allowed to invite the general public or members of other parties to participate in panel discussions.

### Freedom of Association

The law provides for the right of association; however, the government restricted this right in practice. The law prohibits the formation of political parties along ethnic lines. The law prohibits coalitions between political parties; however, six opposition groups continued to be part of a coalition, which allied itself with the ruling party during the year. Opposition party members complained of disruption of meetings. In addition the political opposition was often monitored during meetings.

## c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

The law includes a stated official preference for the Catholic Church and the Reform Church of Equatorial Guinea due to their traditional roots and historic influence in the social and cultural life. A Roman Catholic Mass normally was part of any major ceremonial function, such as the October 12 national day.

Unlike in the previous year, the government did not arrest and detain foreign missionaries, although one pastor received such serious threats that he returned to his West African country voluntarily.

A religious organization must be formally registered with the ministries of justice, religion, and penal institutions before its religious activities are allowed. There were no reports during the year that the government refused to register any group, although one group that believed it was registered was told that the process was not completed correctly and was temporarily shutdown. The approval process usually took several years, due primarily to general bureaucratic slowness and not generally as the result of any apparent policy designed to impede the operation of any religious group. However, in the previously mentioned case, it seemed that the lack of clearly written registration procedures can be used against a church when a political figure has a problem with its pastor or one of its influential members. In another case a major US evangelical figure had been brought to the country to conduct a crusade, and the church was blocked by a squad of armed police to embarrass a church officer and try to force him to conform to the wishes of a high government figure.

The government continued to restrict the clergy, particularly regarding open criticism of the government. During the year church representatives reported that they practiced self-censorship on these issues. The church requires government permission for any religious activity outside the church building, but in practice this requirement did not appear to hinder organized religious groups.

Religious study was required in schools and was usually, but not exclusively, Catholic.

### Societal Abuses and Discrimination

Protestants sometimes faced discrimination in schooling. For example, in 2004 a Protestant church official cited difficulties when enrolling his children at school. At the school each child was required to lead a daily Catholic-based devotional. When the child's father requested that a teacher of the child's own faith be made available, the school official claimed there was a lack of funds and stated that the school could provide the teacher only if the child's church was willing to pay the teacher's salary.



The Jewish community is extremely small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2005 *International Religious Freedom Report*.

#### d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights; however, the government limited them in practice. The police routinely stopped citizens at roadblocks, subjected them to searches, harassed travelers, and extorted money from them. Police and soldiers continued to harass foreigners, mainly because they were perceived to be wealthier than most citizens (see section 1.c.). The government justified the roadblocks as internal controls to compensate for its inability to control the country's borders effectively. These checkpoints effectively restricted the freedom of movement by members of the opposition.

In June Catholic Relief Services (CRS) reported worse than usual delays, bribery, and harassment at checkpoints during one of its regular trips to the country's mainland.

Officials of the government, including members of parliament, are supposed to receive permission from their ministers or heads before traveling abroad--supposedly so that they can be notified in case an emergency session of parliament or interministerial meeting must be held. Those prominent figures that did travel abroad without express permission were usually interrogated upon their return. For example on June 8 airport police searched luggage for two hours and confiscated documents in the possession of a CPDS leader as he returned to Malabo from a trip abroad. The police told him they were acting on orders from a superior.

The law does not permit forced exile; however, the government used forced internal exile but not forced external exile. Some persons have fled the country for political reasons. The leaders of the National Resistance of Equatorial Guinea Group reported that their attempts to return to the country were unsuccessful, and there were no reports of returnees during the year. In February Juan Ondo Abaga's refugee rights were abrogated, he was kidnapped, brought back to Malabo, and detained in Black Beach Prison (see section 1.b.). The government said it had no information regarding his circumstances. In August and September political refugees living in Gabon accused the government of two different attempts to kidnap them in Libreville (see section 1.b.).

#### Protection of Refugees

The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the forced return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

The police reportedly continued to harass individual asylum seekers, often for bribes.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

The law provides citizens with the right to change their government peacefully; however, in practice citizens could not freely choose and change the laws and officials that govern them.

#### Elections and Political Participation

There have been no free, fair, and transparent elections since independence in 1968.

The international community criticized the 2004 parliamentary elections as seriously flawed. Prior to elections the government harassed opposition party members and subjected them to arbitrary arrest. PDGE members went door-to-door, seeking out and threatening opposition supporters. PDGE party posters appeared in public places, including churches. On election day there were widespread reports of irregularities, including intimidation at the polls. Voters were discouraged from voting in secret, ballots were opened, and ruling party representatives reportedly cast their own votes as well as those of children and the deceased. There also were reports that security forces intimidated voters with their presence in polling booths. There was a

lack of observers in rural areas. Although international observers claimed that the opposition CPDS party received about 12 percent of the vote, the ruling party offered the CPDS only 2 seats in the 100-seat parliament.

The president exercised strong powers as head of state, commander of the armed forces, and founder and head of the government party, the PDGE. Impeachment of the head of state is forbidden by the constitution. Leadership positions within the government in general were restricted to the president's party or the coalition (loyal opposition). The ruling party completely dominated the elected chamber of deputies, and the minister of the interior also acted as president of the national electoral board.

Membership in the ruling party generally was a great advantage for hiring and promotion, both in the public and private sectors. Membership in a rival political organization was reportedly grounds for dismissal from any position, public or private. Opposition politicians who were not participating in the government often claimed to have been dismissed from their jobs after joining alternate political groups, but had no legal redress.

There were 12 political parties that the government called "opposition parties;" 11 have allied themselves with the PDGE. The government pointed to these opposition parties as examples of the country's multiparty democracy. Government officials routinely referred to any politicians from opposition parties deemed illegal as "terrorists." The law regarding registration of opposition parties was developed before there was a real opposition, and it prevents many groups from having a legal, peaceful means of expression. The government generally withheld access to domestic broadcasting from opposition parties and referred to the opposition negatively when broadcasting the news. The government reportedly applied pressure to persuade opposition members or officials from most, but not all, opposition parties to join the PDGE party; opposition members joining the PDGE during the year suggested that such practices persisted. Reportedly, the government bribed members of the opposition to join PDGE; if they did not, they found themselves out of work, disbarred, and their family members denied opportunities.

There were 20 women in the 100-member parliament and 5 women in the 50-member cabinet.

The prime minister is a member of the minority Bubi ethnic group. There is a very small number of minority members in parliament as well as in the cabinet (approximately 5 to 10 percent), but other than the prime minister no numbers were available.

### **Government Corruption and Transparency**

Official corruption in all branches of the government remained a significant problem.

In 2004 an extensive investigation by the legislature of a foreign country revealed the misappropriation of at least \$35 million (1.75 billion CFA francs) of oil revenues from foreign oil companies by President Obiang, his family, and other senior government officials through foreign bank accounts since the country started exporting oil in the mid-1990s. The report found that, in many cases, the money went directly into accounts controlled by the president and his close associates. In response to the report, the government released a report refuting the allegations of oil revenue misappropriation. The government said that the accounts were maintained to meet needs in the country, despite the name on the account, and were established so that the government would earn interest, which their funds deposited in the Central African Bank did not.

The law does not provide for access to government information, and citizens and noncitizens, including foreign media, were denied access to government information by the government, as well as by a lack of organized recordkeeping and archiving.

### **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

There were no domestic human rights NGOs. The law restricts NGOs and identifies specific areas in which they may operate; human rights were not among these areas.

No international human rights NGOs were resident in the country; however, there were signs of improvement in the relations between some international organizations and the government during the year. For example the government continued to allow UN International Children's Emergency Fund (UNICEF) and the UN Development Program to be active in the areas of trafficking in persons, child protection, human rights workshops, and economic development. There continued to be allegations from CRS, Reporters Without Borders, and the Center for Rural Development that NGO representatives visiting Malabo had their movements, calls, e-mails, and faxes monitored.

The government-controlled National Commission for Human Rights (CNDH) operated without adequate funding and staff. The president appointed the members of the CNDH, and the CNDH refrained from criticizing the government during the year. The Center for Human Rights, organized by the

government as a quasi-independent body, received minimal support and at the end of the year lost its office space. Its role was primarily advocacy and public sensitization, not investigation or reporting of violations.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the government did not enforce these provisions effectively. Violence and discrimination against women, trafficking in persons, discrimination against ethnic minorities, and discrimination against HIV/AIDS victims were problems.

#### Women

Violence against women, including spousal abuse, is illegal, but, the government did not enforce the law effectively. The police and the judiciary were reluctant to prosecute domestic violence cases. The number of prosecutions during the year was not available. Domestic and other societal violence against women, particularly wife beating, was common. The public beating of wives is forbidden by government decree; however, violence in the home generally was tolerated. The government generally did not prosecute perpetrators of domestic violence. The government did not have a hot line, shelter, or other services for domestic violence victims.

The government did sponsor a three day national conference on women's issues, inviting women from all over the country and all ethnic groups. The topic of domestic violence and women's rights dominated the public discussions, and criticism of lack of government protection and punishment of abusers was strongly voiced. The first lady pledged to ensure that this would change, and legislation was introduced but not enacted by year's end.

Rape is illegal, but spousal rape is not specified in the law; the government did not enforce the law effectively.

Prostitution is illegal; however, the massive influx of unaccompanied foreign men in the petroleum sector contributed to increasing prostitution. During periodic crime sweeps police arrested prostitutes but released their clients--generally expatriates. Prostitutes were almost never prosecuted and were usually held only a few hours or days. Prostitutes were abused and subjected to police extortion. The bars or restaurants where they met clients were occasionally closed, but allowed to reopen after some type of fine was paid and a pledge made not to permit soliciting on the premises, which was not enforced.

Sexual harassment was not illegal; its extent was unknown.

Under the law women enjoy the same rights as men, including rights under family law, property law, and in the judicial system; however, in the Fang, Ndowne, and Bisio cultures, primogeniture was practiced. Because women become members of their husband's family upon marriage, they usually were not accorded inheritance rights. For an estimated 90 percent of women, including virtually all ethnic groups except the Bubi, tradition dictates that if a marriage is dissolved, the wife (or her father or brother) must return the dowry given to her family by the bridegroom at the time of marriage. Tradition also dictates that if a girl's family accepts a dowry from a man, she must then marry him, regardless of her wishes. If the marriage does not take place, the family is required by tradition to return the dowry, and failure to pay the debt can result in the imprisonment of the bride or a family member. The law protects women from imprisonment for not repaying the dowry following divorce; however, in practice many divorced women faced intense family pressure to repay the dowry. If a marriage dissolved, the husband also automatically received custody of all children born during the marriage, while the wife maintained custody of the children born prior to the marriage.

Polygamy, which was widespread, contributed to women's secondary status, as did limited educational opportunities. The Ministry of Women's Affairs is responsible for women's issues.

Women largely were confined by custom to traditional roles, particularly in agriculture. Women experienced economic discrimination in access to employment or credit, pay for substantially similar work, or owning or managing businesses. During the year the Ministry of Women's Affairs administered some economic empowerment programs with assistance from bilateral and international partners.

#### Children

The government devoted little attention to children's rights or their welfare and had few policies in this area, although it sponsored a few seminars, media programs, and announcements on the Convention on the Rights of the Child. In 2004 the parliament passed a trafficking in persons law, focused almost exclusively on trafficked children (see section 5, Trafficking); however, no other provisions for the welfare of children were legislated.

Education is compulsory through primary school, but the law was not enforced. Public schooling is provided until university level. Education is compulsory until age 14. In practice boys were expected either to complete an additional seven years of secondary school or to finish a program of vocational study following primary education. For girls pregnancy and the requirement to assist in agricultural or other work made attainment of even a primary level of education less likely. Many rural families were unable to afford school fees and book expenses for children more than 10 years of age. A UNICEF report noted that net primary school attendance from 1992 to 2002 was 60 percent for boys and 61 percent for girls; however, from 1997 to 2000, the secondary school enrollment ratio was 43 percent for boys and 19 percent for girls. Women generally had only one-fifth of the educational level of men. The government cooperated with a foreign government to provide textbooks to all schools. Teachers could be political appointees and often received no training. The national budget, passed by the parliament in September 2004, allocated increased expenditures to education, but flow of funds to projects was restricted.

Children suffered poor health and had a high mortality rate. The government provided very little health care, but boys and girls have equal access to what was offered.

Child abuse is illegal, but the government did not enforce the law effectively. Child abuse occurred.

Child prostitution existed but was rare.

Trafficking of children was a problem (see section 5, Trafficking).

Child labor occurred (see section 6.d.)

There are instances of street children living in the country. The average age was 10. They have been the targets of police sweeps in an effort to reduce trafficking in persons.

#### Trafficking in Persons

The law prohibits trafficking in persons; however, there were reports that persons were trafficked to and from the country. The penalties for trafficking in persons for sexual exploitation or labor exploitation are imprisonment of 10 to 15 years' imprisonment and a fine of approximately \$100 thousand (at least 50 million CFA francs). The government was not active in identification and investigation of trafficking cases. The Ministry of Justice is responsible for combating trafficking in persons and the minister of justice is president of the interinstitutional commission on illegal trafficking of migrants and trafficking of persons. The government did not cooperate with other governments in the investigation and prosecution of trafficking cases.

Reliable figures on the current number of trafficking victims were not available, but anecdotal evidence indicated the numbers were small. The country was a transit point and destination for trafficked persons. Although less prevalent than external trafficking, internal trafficking was a problem. Children, mostly from Benin and Nigeria, primarily were trafficked into the agricultural and commercial sectors in Malabo and Bata. Nigerian boys worked in market stalls in Bata, often without pay or personal freedom. The country was both a destination and a transit point for trafficked girls and boys, mostly from Cameroon, Benin, and Nigeria. Women were trafficked for sexual exploitation, especially to Malabo. In June a mother of three children was arrested in Malabo while she tried to sell her three-month old infant. At year's end she had not been prosecuted.

Trafficking victims had no access to health care; they generally worked on the streets or in agriculture.

In Benin organized criminal networks were reportedly involved in trafficking of children to the country, where fishing boats were commonly employed to transport children to avoid formal entry procedures. Increasing numbers of foreign and local women were attracted to prostitution in Malabo, generally independently, because of the number of unaccompanied expatriate men working in the energy sector who tended to patronize such services.

Traffickers took advantage of the African tradition of placing children with relatives or friends in other regions or countries to advance the children's and the family's academic and economic prospects. Many parents throughout West and Central Africa were overwhelmed by the conditions of poverty and looked to the country with its new oil wealth as a good place for their children to earn money. Traffickers also preyed upon the cultural view of

work as socialization and preparation for adulthood. Children usually started working in their own families' households by the age of six. Traffickers gained the confidence of parents in countries of origin by presenting themselves as successful people with the promise of improving the family's plight through apprenticeships and schooling. The traffickers were often well known and respected in the community, and they offered families the opportunity for supplementary income.

There were no reports of senior government officials involved in trafficking activities. However, there were reports that lower-level law enforcement officials, such as border guards and immigration officers, facilitated trafficking in exchange for bribes. No known action was taken against them.

The government did not provide protection to victims and witnesses, nor were there any NGOs in the country to assist victims. There is no victim restitution program. The only identified victims thus far were repatriated, but without assurance of adequate care back in their home countries.

A government interministerial working group and UNICEF developed a national action plan early in the year that was adopted by the official Commission Against Trafficking in Persons and Illegal Immigration in the fall, but the government had not approved the national action plan by year's end. During the year the government conducted a radio campaign and workshops to raise awareness of the new law against trafficking.

#### Persons with Disabilities

The law does not provide protection for persons with disabilities from discrimination in employment, education, or the provision of other state services, and while there was no formal evidence of discrimination against persons with disabilities, educational services for the mentally and/or physically handicapped are minimal. They were usually provided by churches or NGOs when available. The law does not mandate access for persons with disabilities to buildings, and there was societal discrimination against persons with disabilities.

#### National/Racial/Ethnic Minorities

Discrimination against ethnic or racial minorities was not legal, and the government did not overtly limit the participation of minorities in politics; however, the near monopolization of political and economic power by the Fang ethnic group persisted (see section 3). Differences among subclans of the Fang, especially resentment of the political dominance of the Mongomo subclan, were also sources of political tensions. In practice some members of ethnic minorities, particularly the Bubi ethnic group, faced discrimination, especially when they were not members of the dominant party. Tensions also arose because the dominant group controlled most property, which afforded it greater access to economic prosperity and prevented competition from minorities from developing. Minorities felt discriminated against in regard to appropriation of property for public works, ability to obtain loans, compete for scholarships, and obtain and keep jobs, although they attributed this condition as much to assumed party affiliation as to ethnic background.

Several thousand citizens of Nigeria, Ghana, and Francophone Africa continued to reside in the country, even after the deportations of numerous foreigners in March 2004 (see section 1.c.). Most were small traders and business persons. The police reportedly continued to harass and extort money from them.

Citizens arbitrarily detained foreigners during the year, reportedly as a result of xenophobia (see section 1.d.).

#### Other Societal Abuses and Discrimination

Societal discrimination against homosexuals occurred.

Persons with HIV/AIDS continued to be victims of societal discrimination and often kept their illnesses hidden. However, during the latter part of the year, the government and the World Health Organization cosponsored public awareness and sensitization campaigns on HIV/AIDS.

#### Section 6 Worker Rights

##### a. The Right of Association

The law allows workers to form and to join unions of their choice without previous authorization or excessive requirements; however, the Small Farmers Syndicate was the country's only legally recognized labor union. According to the International Confederation of Free Trade Unions, authorities have consistently refused to register the Equatorial Guinea Trade Union, which has been forced to carry out its activities in secret. The law stipulates that a union must have at least 50 members who are from a specific workplace and located in the same geographic area to register; this rule

effectively blocked union formation. Authorities refused to legalize the public sector union, the Independent Syndicated Services, despite it having met the requirements of the law.

During the year, the country's major private employer, the oil industry, which was dominated by foreign firms, continued to take steps to reduce government control of hiring in the industry. To eliminate political bias in the hiring process, companies employed methods ranging from public advertising of jobs and objective testing to screening of applicants by noncitizens only. According to regional representatives of the International Labor Organization, these efforts largely have been ineffective, and the government continued to influence employment in all sectors. Requirements to utilize employment and security agencies controlled largely by presidential relatives continued.

There was no law prohibiting antiunion discrimination, and during the year there were reports that when workers tried to form unions, the police visited their homes and threatened them.

#### b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, but the government did not protect this right in practice. The government placed practical obstacles before groups wishing to organize. The government and employers set wages with little or no participation by workers. There was no evidence of collective bargaining by any group; however, the labor ministry sometimes mediated labor disputes. It met with oil companies to reconcile a language dispute over minimum wages and facilitated an agreement.

The law provides for the right to strike; however, workers were effectively prohibited from striking. On rare occasions workers engaged in temporary protests or "go slows" (work slowdowns and planned absences). The law contains provisions to uphold worker rights, but the government generally did not enforce them. Apart from the labor ministry, workers had few other places to seek redress. Members of parliament reportedly tried to mediate employer-worker disputes over wages or dismissals; however, they had no legal authority to do so.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The law forbids forced or compulsory labor and slavery; however, detainees and convicted felons reportedly performed extensive labor outside prison, including for prison officials, without compensation (see section 1.c.).

In 2004 the government enforced for the first time existing laws on forced labor and convicted a Beninois woman for holding a Beninois girl of 14 as an indentured servant. The woman was ordered to pay back wages and fined; she was sentenced to serve a prison term.

The law prohibits forced or compulsory labor by children; however, there were reports that such practices occurred (see section 5).

#### d. Prohibition of Child Labor and Minimum Age for Employment

There are no comprehensive laws or policies to protect children from exploitation in the workplace, and the government did not effectively implement the few that there are. The legal minimum age for employment is 14 years, but the Ministry of Labor did not enforce this law, and child labor was common particularly on family farms and businesses. In June the government issued a decree relating to child labor, forbidding the employment of children in street vending, car-washing, and selling or attending in bars and restaurants, but this law was rarely and only periodically enforced. According to a 2001 child labor study by UNICEF, the most recent information available, child labor existed primarily in the form of children working as farmhands and market vendors in family businesses. In addition during the year there were unconfirmed reports that foreign children were used as market vendors by nonrelatives and had no access to schooling. While the Ministry of Labor was responsible for the enforcement of labor legislation, it did not enforce the legislation effectively.

#### e. Acceptable Conditions of Work

Employers must pay the minimum wages set by the government, and most companies paid more than the government-established minimum wage. The national minimum wage did not provide a decent standard of living for a worker and family. By law hydrocarbon industry workers received salaries many times higher than those in other sectors, which fueled inflation and disadvantaged those who could not fairly compete for those jobs. The Ministry of Labor is responsible for enforcing the minimum wage.

The law prescribes a standard 35-hour workweek and a 48-hour rest period, which generally were observed in practice in the formal economy. Exceptions were made for particular jobs, such as those concerning offshore oil industry work. Premium pay for overtime is required, but the requirement was not effectively enforced.

The law provides for comprehensive protection for workers from occupational hazards; however, the government did not enforce this in practice. The government had an insufficient number of labor inspectors to oversee local industry. The government continued training more inspectors during the year. The law does not provide workers with the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment.

Although payment into the social security system is mandatory, it is rare to hear of workers who received health care, worker's compensation, or retirement benefits from this system after contributing. Employment agencies that were supposed to pass on payments for social security benefits of workers were notorious for going out of business without meeting their obligations.

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\*The American Embassy in Malabo was reopened in October 2003 and was staffed during the year by one officer; this officer was assisted by other Embassy officials who were resident in Cameroon, which limited the ability to gather information. An increase in international media coverage of Equatorial Guinea during the year facilitated the preparation of this report.