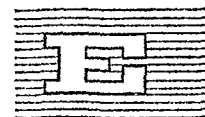


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COMMISSION ON HUMAN RIGHTS

Thirty-eighth session
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Item 12 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL
AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Provision of expert services in the field of
human rights

EQUATORIAL GUINEA

Report of the Secretary-General

I. INTRODUCTION

1. As will be recalled, at its thirty-sixth session the Commission on Human Rights, following its consideration of the report on Equatorial Guinea, prepared by the Special Rapporteur, adopted resolution 33 (XXXVI) by which it decided, in response to the request of the Government of Equatorial Guinea, to request the Secretary-General to appoint, as an expert in his individual capacity, a person with wide experience of the situation in Equatorial Guinea, in particular with a view to assisting the Government of that country in taking the action necessary for the full restoration of human rights and fundamental freedoms, keeping in mind the recommendations of the Special Rapporteur and the economic, political and social realities of that country. It requested the Secretary-General, in consultation with the expert, to provide the assistance necessary for the full restoration of human rights and fundamental freedoms in that country. It has also requested the expert to submit a report on the implementation of the resolution to the Commission for consideration at its thirty-seventh session.
2. The Economic and Social Council by its decision 1980/137 approved the decision of the Commission on Human Rights on Equatorial Guinea as contained in resolution 33 (XXXVI). In this context, the Secretary-General appointed Professor Fernando Volio Jimenez of Costa Rica as expert in his individual capacity to carry out the above mandate.
3. In carrying out the mandate Professor Volio Jimenez visited Equatorial Guinea in November 1980 where he held consultations with the authorities concerned in Equatorial Guinea, including the President and the First Vice-President. Prior to his visit, the Government of Equatorial Guinea had accepted a three-stage plan for assistance to that country in the full restoration of human rights which had been suggested by the expert.
4. The report prepared by Professor Volio Jimenez in compliance with resolution 33 (XXXVI) was considered by the Commission at its thirty-seventh session. The report (E/CN.4/1439) was based on the three-stage plan referred to in the preceding paragraph and contained conclusions and recommendations made as a result of his visit to Equatorial Guinea. Taking into account the economic, political and social circumstances prevailing in Equatorial Guinea, Professor Volio Jimenez suggested practical measures, such as the setting of a time-table for the adoption of a constitution, the creation of a review commission reporting to the President, the adoption of the Universal Declaration of Human Rights as a national law and the ratification of the International Covenants on Human Rights. With a view to enabling the Commission to continue its constructive efforts in assisting Equatorial Guinea, the expert suggested that the Commission periodically review the situation in that country.
5. Following its consideration of the report submitted by the expert, the Commission adopted resolution 31 (XXXVII) in which it recommended a draft resolution for adoption by the Economic and Social Council concerning assistance to be provided by the United Nations for the restoration of human rights and fundamental freedoms in Equatorial Guinea. The draft resolution recommended by the Commission was subsequently approved by the Economic and Social Council at its 1981 first regular session as resolution 1981/38.

6. In its resolution the Economic and Social Council reiterated its readiness to assist the Government of Equatorial Guinea, at its request, in the task of restoring human rights in Equatorial Guinea and to this end requested the Secretary-General to invite the expert to continue to place his advice and assistance at the disposal of the Government of Equatorial Guinea. In paragraph 4 of the resolution the Secretary-General was also requested, bearing in mind the need for co-ordination with other assistance activities, to draw up, in consultation with the expert and the Government, and to submit to the Economic and Social Council for consideration at its second regular session of 1981, a draft plan of action for implementing those recommendations of the expert which he deems feasible.

II. IMPLEMENTATION OF RESOLUTION 1981/38

1. In view of the very limited time at his disposal it was not possible for the Secretary-General to submit to the Economic and Social Council for consideration at its second session of 1981, a draft plan of action for the restoration of human rights in Equatorial Guinea as requested in Council resolution 1981/38. The Secretary-General informed the Economic and Social Council about this situation in his note (E/1981/79). The Council was also informed that consultations with those concerned, as requested in paragraph 5 of the resolution, were still in progress and that the draft plan of action would be submitted to the Council as soon as it had been completed.

2. On 16 July 1981, the Council, following its consideration of the item on the provision of expert services in the field of human rights to Equatorial Guinea, adopted decision 1981/167 by which it: (a) took note of the note by the Secretary-General on the implementation of Council resolution 1981/38 of 8 May 1981 regarding the provision of expert services in the field of human rights to Equatorial Guinea; (b) decided to invite the Commission on Human Rights to study at its thirty-eighth session the draft plan of action to be prepared by the Secretary-General in pursuance of Council resolution 1981/38 and to request the Commission to report to the Council, making any recommendations that it may consider to be appropriate; and (c) decided to consider the draft plan of action and the report of the Commission on Human Rights requested in paragraph (b) above at its first regular session of 1982.

3. In the light of the developments described above the Secretary-General continued his contacts with the Government of Equatorial Guinea on the implementation of the Council's resolution. On 19 August 1981 a copy of a draft plan of action for the restoration of human rights and fundamental freedoms in Equatorial Guinea, prepared on the basis of the recommendations proposed by the expert in his report to the Commission at its thirty-seventh session (E/CN.4/1439) and other relevant documents were submitted by the Secretary-General to the Government of Equatorial Guinea for its consideration and reaction. A copy of the draft plan of action is reproduced in the annex to the present report.

4. The Secretary-General wishes to inform the Commission that up to the present time the Government of Equatorial Guinea has not as yet made known its reaction to the draft plan of action.

ANNEX

DRAFT PLAN OF ACTION FOR THE RESTORATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN
EQUATORIAL GUINEA DRAWN UP ON THE BASIS OF THE RECOMMENDATIONS OF THE EXPERT CONTAINED
IN HIS REPORT TO THE COMMISSION ON HUMAN RIGHTS AT ITS THIRTY-SEVENTH SESSION
(E/CN.4/1439)

NO.	FIELD OF ACTIVITY AND ACTIONS RECOMMENDED	PROPOSED TECHNICAL ASSISTANCE FOR IMPLEMENTATION OF RECOMMENDATIONS
I.	<p><u>Preparation of the basic legislation and the drafting and adoption of a new democratic national constitution</u></p> <p>It is recommended that the preparation of the basic legislation and the drafting and adoption of a new democratic national constitution should be executed in stages and if possible in accordance with the following schedule:</p> <p style="text-align: center;"><u>1981</u></p> <ul style="list-style-type: none"> (i) A drafting committee should be established with a view to drafting Civil, Penal, Commercial, Labour Civil Procedure and Criminal Procedure codes; (ii) The provisions of the Universal Declaration of Human Rights and of the United Nations Covenants on Civil and Political Rights, and on Economic, Social and Cultural Rights could be used as a basis for the drafting of an appropriate Decree-law which may serve as a national law in the area of the fundamental freedoms of the citizens of the country pending the adoption of a new constitution; (iii) It is recommended that Equatorial Guinea should accede to the United Nations Covenant on Civil and Political Rights, and on Economic, Social and Cultural Rights and should ratify them in due course; (iv) Attention of the Government should also be drawn to the international Declarations and Conventions concerning marriage, family and child, so that they may serve as a guide for the improvement of the conditions prevailing in these areas in the country. 	<p>The United Nations may provide the Government with a team of experts to assist the drafting committee in the preparation of the basic legislations. It is suggested that the team should consist of one lawyer specializing in public law and another lawyer specializing in private law. In selecting the experts the United Nations may consult various relevant institutions, among them the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), Headquarters, San José, Costa Rica.</p>

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NO.	FIELD OF ACTIVITY AND ACTIONS RECOMMENDED	PROPOSED TECHNICAL ASSISTANCE FOR IMPLEMENTATION OF RECOMMENDATIONS
	<p style="text-align: center;"><u>1982</u></p> <ul style="list-style-type: none"> (i) Continuation and completion of the tasks envisaged for 1981; (ii) The enactment of an <u>Association ACT</u> which would enable the country duly to promote and organize activities aimed at the association of the citizens to defend common interests and at the same time to participate intelligently and responsibly in political matters; and the enactment of an <u>Electoral Code</u>; (iii) The establishment of a drafting committee to work on a new constitution with the participation of lawyers, other qualified persons, and persons with political and administrative experience; (iv) Submission of the draft constitution to the Government for its consideration. <p style="text-align: center;"><u>1983</u></p> <ul style="list-style-type: none"> (i) The establishment of the Constitutional Assembly, Conference or other similar body; (ii) Submission by the Government of the approved draft constitution to the Constituent Assembly for consideration. <p style="text-align: center;"><u>1984</u></p> <ul style="list-style-type: none"> (i) The holding of popular referendum on the draft constitution as adopted by the Constitutional Assembly or other body; (ii) Promulgation and implementation of the constitutional provisions including those concerning the establishment of fundamental state bodies and power. 	<p>The United Nations may provide the Government with experts specializing in constitutional law to assist the work of the drafting committee of the constitution. The team could hold an initial meeting with members of the drafting committee to study the procedure and plan of work for the preparation of an outline of the constitution. The drafting committee would then continue its work until it has produced the first draft which it would discuss with the United Nations experts at successive meetings (until a final draft has been approved by the drafting committee and the Government).</p>

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NO.	FIELD OF ACTIVITY AND ACTIONS RECOMMENDED	PROPOSED TECHNICAL ASSISTANCE FOR IMPLEMENTATION OF RECOMMENDATIONS
II	<p><u>Establishment of appropriate legal system</u></p> <p>(i) The Judicial Power Organization Bill should be discussed and approved and the corresponding regulations for its application should be prepared as soon as possible (early 1981). The enactment of this legislation would establish an appropriate legal system to assert the rule of law and thus provide guarantees of respect for human rights;</p> <p>(ii) The number of lawyers in Equatorial Guinea should be increased. It is suggested that as soon as possible a law school should be established, and a system should be prepared for the further training of practising lawyers;</p> <p>(iii) Courses and seminars must be organized for court officials to enable them properly to apply the Judicial Power Organization Bill when it becomes law;</p> <p>(iv) An intensive course should be arranged for persons with secondary education and persons with judicial skills in order to provide better trained staff to fill judicial offices and to equip such persons to assume certain functions that are indispensable in safeguarding the rights of accused persons.</p> <p>(v) The programme of instruction of law for the people now being studied by the Ministry of Justice should be implemented via radio and other media. It is suggested that simple booklets be prepared for use in educational centres, religious communities and work centres. The booklet should include provisions relating to prison procedures.</p>	<p>The United Nations may provide the Government with an expert to assist in the establishment of a law school in the country and in the preparation of training projects for court officials and other government officials of the judicial office.</p> <p>The United Nations Department of Public Information or UNESCO may be requested to assist the Government in the preparation of the booklet and other information material.</p>

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NO.	FIELD OF ACTIVITY AND ACTIONS RECOMMENDED	PROPOSED TECHNICAL ASSISTANCE FOR IMPLEMENTATION OF RECOMMENDATIONS
III	<p><u>Public Administration</u></p> <p>(i) The draft Civil Service Statute should be put into practice as soon as possible (during the early part of 1961) in order to regulate matters concerning the duties and rights of members of the administration and to set a standard of efficiency that is essential for every Government, and specially one dedicated to the task of national reconstruction.</p> <p>(ii) There is urgent need for the establishment of a school for public activities, as envisaged by the Government, so as to provide civil servants with the necessary knowledge. This would facilitate the implementation of the Act relating to the legal régime of the central administration of the State which requires professional training and preparation.</p> <p>(iii) Courses and seminars should be organized to improve the efficiency of the present body of civil servants.</p> <p>(iv) The Government's plan to establish a Ministry for the advancement of women should be put into practice during the early part of 1961.</p>	<p>The United Nations may provide the Government with an expert to assist in implementing the various projects in this field.</p>
IV	<p><u>Education</u></p> <p>(i) The Education Bill should focus its attention on the training of citizens in the values of representative democracy, linking these values to the indigenous cultural heritage that can enrich them and promote the adoption of a democratic régime peculiar to Equatorial Guinea which permits the full exercise of human rights;</p> <p>(ii) The professional and working conditions of teachers should be improved;</p> <p>(iii) High priority should not only be given to the training of future teachers, but also to the further training of existing teachers. Hence, refresher courses should be introduced;</p>	<p>The United Nations/UNESCO may provide the Government with an expert to assist in the drawing up of fellowship schemes on the basis of broad criteria adopted to the needs of Equatorial Guinea for the training of professional staff. It may seek the assistance and co-operation of the World Confederation of Organizations of the Teaching Profession (WCOTP) with its headquarters at Morges, Switzerland</p>

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NO.	FIELD OF ACTIVITY AND ACTIONS RECOMMENDED	PROPOSED TECHNICAL ASSISTANCE FOR IMPLEMENTATION OF RECOMMENDATIONS
V	<p>(iv) Private education, especially education provided by religious orders should be encouraged;</p> <p><u>Labour</u></p> <p>(i) The Bill concerning the Statutes of Farmers' Associations and the Bill that declares such associations to be "agrarian bodies of priority interest" should be approved;</p> <p>(ii) The number of labour inspectors must be increased in order to ensure better monitoring of compliance with labour contracts, particularly in the labour plantation;</p> <p>(iii) The formation of associations or genuine co-operatives for the marketing of agricultural products, in order to compliment the efforts of the producers' groups, should be encouraged;</p> <p>(iv) The working conditions in the plantations should be modified since they do not appear to be such as to ensure an essential minimum level of well being.</p> <p>(v) Greater incentives should be provided for agricultural workers, especially cacao plantation workers, in order that the national level of employment may be increased. The current system, which the Ministry of Labour is introducing on an experimental basis should be implemented on a sufficiently wide scale to lead to a real system, which will be the forerunner of enterprises managed by the workers themselves.</p>	<p>The ILO may be asked to provide an expert to assist the Government in implementing these recommendations.</p>
VI	<p><u>Electoral Processes</u></p> <p>On this subject it is considered desirable to return to the system of popular election of the members of the town council since not only would this represent the valuable restoration of a good system, but it would be useful to increase exercise for the greater task entailed in electing a Government.</p>	

NO.	FIELD OF ACTIVITY AND ACTIONS RECOMMENDED	PROPOSED TECHNICAL ASSISTANCE FOR IMPLEMENTATION OF RECOMMENDATIONS
VII	<p><u>Development of a Free Press</u></p> <p>For the discussion of the draft constitution it would be indispensable that there should be complete freedom of expression in the country. To achieve this, one of the requirements is that organs of mass communication be free from any kind of censorship. The State organs would also have to contribute to the discussion not only by disseminating information and comments on the new constitution, but also by providing opportunities for ordinary citizens to express their points of view.</p>	<p>The United Nations/UNESCO could provide the necessary technical and financial assistance in promoting the development of a free press in the country.</p>
VIII	<p><u>Establishment of a Special Review Commission</u></p> <p>In order to supervise the legislative process referred to above, together with any other equally basic legislation that may be required, it is recommended that the Government should establish a Special Review Commission which would report directly to the President of the Government and Head of State. The Commission would not only deal with matters relating to laws and bills, but it would also have responsibility for supervising other plans for the full realization of human rights. It would be responsible for establishing an order of priorities and would make monthly reports to the President and a bi-annual evaluation. The Commission would be a standing body and would remain in existence until the promulgation of the constitution.</p> <p><u>Note:</u> The technical assistance to be provided by the United Nations and the Specialized Agencies to the Government should be arranged without prejudice to any other aid the Government may now be receiving from other sources under bilateral agreements for the purpose of assisting similar projects as recommended by this plan of action.</p>	