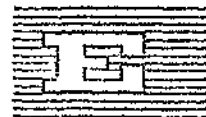


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COMMISSION ON HUMAN RIGHTS

Thirty-ninth session

31 January - 11 March 1983

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 it may 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 Jiménez of Costa Rica as expert in his individual capacity to carry out the above mandate.
3. The report prepared by Professor Volio Jiménez 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 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 Jiménez suggested practical measures, such as the setting of a timetable for the adoption of a constitution, the creation of a review commission reporting to the President, the inclusion of the provisions of the Universal Declaration of Human Rights in 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.
4. 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.
5. 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.

6. At the thirty-eighth session of the Commission on Human Rights, the Secretary-General submitted a draft plan of action 1/ 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 2/ to the Commission at its thirty-seventh session.

7. The Commission on Human Rights adopted resolution 1982/34 by which it took note of the report of the Secretary-General and recommended a draft resolution on this question to the Economic and Social Council for adoption.

8. At its first regular session of 1982 the Council adopted on the recommendation of the Commission on Human Rights, resolution E/RES/1982/36 concerning the provision of expert services in the field of human rights to Equatorial Guinea. In the resolution the Council took note of the plan of action proposed by the Secretary-General 1/ on the basis of recommendations submitted by the expert appointed pursuant to Commission on Human Rights resolution 33 (XXXVI) 3/ and expressed regret at the delay in the implementation of the measures envisaged in the plan of action. The Council requested the Secretary-General, with expert assistance, if necessary, to discuss with the Government of Equatorial Guinea the role that the United Nations could play in the implementation of the plan of action and invited the Government of Equatorial Guinea to co-operate with the Secretary-General in this respect. The Council also requested the Secretary-General to inform the Council at its summer session of 1982 of the steps taken to implement this resolution.

9. In pursuance of the request of the Council at its second regular session, the Secretary-General informed the Council about the steps taken in implementing the resolution. 4/

II. IMPLEMENTATION OF ECONOMIC AND SOCIAL COUNCIL RESOLUTION E/RES/1982/36

10. In order to implement the above-mentioned resolution meetings were held in New York with the Permanent Representative of Equatorial Guinea to the United Nations and with the officials of the United Nations Development Programme.

11. By letter dated 4 May 1982 addressed to the Secretary-General, the President of Equatorial Guinea, Colonel Obiang Nguema Mbasogo, informed the Secretary-General that the Equatorial Guinea National Commission was engaged in the drafting of a new constitution and requested the United Nations to provide the Government with two qualified constitutional experts to assist the National Commission in pursuing its task. The Secretary-General welcomed the request which he considered as being within the mandate entrusted to him by the Economic and Social Council with regard to the implementation of the proposed plan of action for the restoration of human rights and fundamental freedoms in Equatorial Guinea.

1/ E/CN.4/1495.

2/ E/CN.4/1439.

3/ E/CN.4/1439 and Add.1

4/ E/1982/SR.48

12. With the co-operation and assistance of Professor Fernando Volio Jiménez, the expert who had prepared the report on Equatorial Guinea, submitted to the Commission on Human Rights at its thirty-seventh session, the Secretary-General recruited two constitutional experts: Dr. Rubén Hernández-Valle (Costa Rica) and Dr. Jorge Mario Laguardia (Guatemala) to assist the Equatorial Guinea National Commission to draft a constitution for that country.

13. On 30 July 1982 the experts submitted their final report on their activities in Equatorial Guinea.

14. Both experts stayed in Equatorial Guinea from 14-28 July 1982. During this period they had meetings with the government officials concerned. Since the draft of the constitution had already been prepared by the National Commission before their arrival the experts spent their time reviewing it making such suggestions, changes or additions as they considered necessary for further improving the draft constitution. By a letter of 21 July 1982 addressed to His Excellency Mr. Obiang Nguema Mbasogo, the experts submitted their comments on the draft constitution.

15. According to them, most of their suggestions were incorporated in the final text. Among their proposals accepted by the Government were:

- the abolition of the death penalty;
- various new human rights;
- principle of no retroactivity of the law;
- chapter regarding the existence of Habeas Corpus, Amparo and legal review of legislation;
- new mechanism regarding the control of the Government from the parliament;
- elimination of the power of the president to dissolve parliament at any moment.

16. Professor Volio Jiménez who co-operated in recruiting the two experts also co-ordinated their activities for the completion of their mission to Equatorial Guinea. By a letter of 6 September 1982, forwarding the report of the experts to the Secretary-General, Professor Volio expressed the opinion that the mission was well accomplished.

17. It may be mentioned that the final text of the constitution was promulgated on 3 August 1982. Subsequently, a referendum was held and the constitution was approved.