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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Report on Equatorial Guinea prepared by the Expert,
Mr. Fernando Volio Jiménez, in accordance with
resolution 1989/70, paragraph 3, of the Commission
on Human Rights

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I. INTRODUCTION

1. In accordance with Commission on Human Rights resolution 33 (XXXVI) of 11 March 1980 and Economic and Social Council decision 1980/137, the Secretary-General appointed Mr. Fernando Volio Jiménez as Expert on the situation in Equatorial Guinea. After studying the relevant aspects of the situation, Mr. Volio Jiménez, who was Special Rapporteur of the Commission on Human Rights for Equatorial Guinea and who has visited the country on three occasions, formulated a Plan of Action for the restoration of human rights and fundamental freedoms in Equatorial Guinea which was proposed by the Secretary-General to the Government of Equatorial Guinea and accepted by it. In resolution 1982/36, the Economic and Social Council took note of the Plan.
2. In 1982, the authorities of Equatorial Guinea drew up a new Constitution with the assistance of two consultant jurists, Mr. Jorge Mario García Laguardia and Rubén Hernández Valle, appointed by the Secretary-General on the Expert's recommendation. Since then, the Expert has continued to lend advisory assistance in connection with the subsequent implementation of the Plan of Action. At its forty-second session, the Commission on Human Rights had before it a report on the progress achieved in that regard, including information on the work that had been carried out by another team of two consultant jurists, also appointed on the Expert's recommendation, with a view to the implementation of the Plan of Action (E/CN.4/1986/34/Add.2).
3. At its forty-third session, in resolution 1987/36 the Commission on Human Rights requested the Secretary-General to continue his contacts with the Government of Equatorial Guinea, with the assistance and advice of the Expert. The Commission also requested the Secretary-General, bearing in mind the need for early implementation of the Plan of Action, to explore ways and means of giving appropriate assistance to the Government in the framework of the implementation of the Plan.
4. In 1987, the Government of Equatorial Guinea communicated its observations on the consultant jurists' report. In his capacity as Expert, Mr. Volio examined the observations and made a report to the Secretary-General. In his report to the Commission at its forty-fourth session (E/CN.4/1988/6), the Secretary-General supported the Expert's recommendation that, in order to accelerate the implementation of the Plan of Action with a view to ensuring the protection of human rights in Equatorial Guinea through an appropriate legal system, such implementation could be entrusted to the National Codification Commission whose establishment had been announced by the Government, with the assistance of expertise that might be provided in the framework of the Advisory Services Programme in consultation with Mr. Volio.
5. At its forty-fourth session, the Commission on Human Rights adopted resolution 1988/52, in which it requested the Expert to submit to the Commission a report on the manner in which the Government of Equatorial Guinea intended fully to implement the Plan of Action and on the progress achieved to date.
6. The Expert had planned a mission to the country in order to prepare his report to the Commission. The Government of Equatorial Guinea had given its agreement in principle to the Expert's mission, which had been planned for the last week of January 1989. Unfortunately, Mr. Volio had to be hospitalized in

an emergency in December 1988 to undergo a delicate operation. Consequently, he was unable to carry out the mandate with which he had been entrusted by the Commission on Human Rights.

7. The Government of Equatorial Guinea for its part, addressed a letter on 24 November 1988 to the Resident Representative of the United Nations Development Programme in Malabo reiterating the country's need for the following: (a) qualified staff at all levels of the administration of justice; (b) wider publication of the legal provisions adopted in the country; (c) revision of certain provisions of the Constitution; (d) assistance to the National Codification Commission; (e) renovation of a centre; (f) support to the Ministry of Justice for improving its services and assistance in organizing the land registry and notary services.

8. At its forty-fifth session, the Commission on Human Rights adopted resolution 1989/70 requesting the Government of Equatorial Guinea "to give appropriate consideration to the implementation of the plan of action proposed by the United Nations, taking particular account of the recommendations and proposals submitted by the Expert" and reiterating the request that the Expert should submit "a report on the manner in which the Government of Equatorial Guinea intends fully to implement the plan of action and on the progress achieved to date" for consideration at its forty-sixth session.

9. Mr. Volio Jiménez was unable personally to carry out the mission to Equatorial Guinea in order to make direct contact with the country's authorities and report to the Commission in accordance with resolution 1989/70, as he was still recovering from a serious operation. Consequently, he informed the Under-Secretary-General for Human Rights, in a letter dated 17 July 1989, that, in view of the urgency of the matter, he suggested that Mr. Arnaldo Ortiz López, a jurist and former Costa Rican Ambassador to Austria and Uruguay, could establish contacts with the authorities of Equatorial Guinea and assist him in preparing the report to the Commission.

10. After having been informed by the Centre for Human Rights, the authorities of Equatorial Guinea replied by telegram on 28 September 1989 and said that they accepted the mission by Mr. Arnaldo Ortiz López, the Centre's Consultant on Equatorial Guinea, to establish the direct contacts. Mr. Arnaldo Ortiz López's mission to Equatorial Guinea took place from 20 to 26 November 1989.

11. This report has been prepared pursuant to Commission on Human Rights resolution 1989/70.

II. VISIT TO EQUATORIAL GUINEA AND IMPLEMENTATION OF THE PLAN OF ACTION

12. In accordance with Commission resolution 1989/70 and in view of the other considerations set out in the introduction to this report, the Consultant carried out his mission to Equatorial Guinea from 20 to 26 November 1989 inclusive. He had previously prepared his mission in conversations with Mr. Volio Jiménez, in Costa Rica, and with Advisory Services officials of the Centre for Human Rights in Geneva.

13. A complete and detailed report of the Consultant's work in Equatorial Guinea was given to Mr. Volio Jiménez and to the Centre both orally and in writing. The Consultant's activities are summarized below.

14. On arrival at Malabo Airport, the Consultant was welcomed by the following Government representatives: Mr. José Luis Nvumba Mañana, the Director-General of Justice, Penal Establishments and Worship; Mr. Adolfo Ndongo Micha Mia, Director-General of Registries and Notary Services; and Mr. Mariano Nsue Nguema, Secretary-General of the Ministry of Foreign Affairs and Co-operation.

15. During his stay in Malabo, the Consultant held working conversations with the following dignitaries and senior officials of the Government of Equatorial Guinea, the Supreme Court of Justice and the Bar Association: Mr. Obiang Nguema Mbasogo, President of the Republic; Mr. Marcelino Nguema, Minister of State, Secretary-General of the Office of the President; Mr. Alejandro Evuna Owono Asangono, Minister responsible for missions (in his capacity as Chargé d'affaires of the Office of the Ministry of Foreign Affairs and Co-operation); Mr. Silvestre Siale Bileka, Minister of Justice and Worship (who acted as co-ordinator between the Government and the Consultant during his mission); Mr. Antonio Pascual Oko Ebobo, Minister of Labour and Social Advancement; Mrs. Purificación Angue Ondo, Minister-Delegate for the Advancement of Women; Mr. Alfredo Tomas King Tomas, Attorney-General of the Republic; Mr. Ricardo Mangue Obama Nfube, Judge and President of the Court of Appeal; Mrs. Evangelina Oyo Ebule, Judge of the Supreme Court; and members of the Bar Association.

16. The Consultant also visited the courthouse and courts of the Republic, the land and trade registry and the civil registry. As a result of the above-mentioned meetings, the Consultant made the following observations.

A. Human rights treaties and conventions

17. In December 1989 the Government decided to issue a decree based on the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The decree was to indicate the fundamental rights and freedoms of citizens. Equatorial Guinea is a party to the two International Covenants on Human Rights, as well as to the Optional Protocol to the International Covenant on Civil and Political Rights. The Government intends to ratify the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination. It is confident that it will be possible to adopt and ratify both international instruments in early 1990.

B. Codification of fundamental laws

18. The Government accepted the recommendation made in the Plan of Action (E/CN.4/1439) and undertook immediately to establish a drafting committee, which would be assisted from the very beginning and at all its meetings by a specialist in order to prepare a flexible and up-to-date codification, which, because it will have been drafted in situ, can be adapted to the ethnic and cultural composition of the people of Equatorial Guinea.

19. Pursuant to the recommendation made by the Expert, the Government also requested assistance in establishing official contacts with the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), whose headquarters are in San José, Costa Rica. With

regard to the Expert's recommendation that the Government should pay attention to declarations and conventions concerning marriage, the family and children in order better to meet the needs of Equatorial Guinea in those areas, the Government stated that it was ready to initiate the relevant study, in connection with which it requests assistance from the Centre for Human Rights.

C. Establishment of an appropriate legal system

20. The Government is prepared to co-operate in the following areas in order to implement the recommendations contained in the Plan of Action: (a) the training of lawyers by the Universidad Estatal a Distancia, in Madrid, which operates in Malabo; for this purpose, it is hoped that the Government of Spain will be able to co-operate by providing approximately 15 scholarships; (b) the establishment of codification commissions composed of personnel from the Government and the Bar Association assisted by foreign specialists who may be sent to the country by the Centre for Human Rights advisory services, in consultation with the Expert; such commissions would draft the Penal and Civil Code, the Codes of Civil and Criminal Procedure and a judicial power organization act; and (c) the preparation and training of court staff, with assistance from the Centre.

D. Instruction in law for the people

21. The Government of Equatorial Guinea is currently carrying out a radio and television campaign to increase the population's awareness of the importance of the law and the courts. The campaign also makes use of written material, as well as oral public trials which are held in the capital's theatre and broadcast later at night by the single television channel. The Consultant attended the trials held in the theatre and watched the television programmes and is consequently able to confirm the information contained in this report. He attended without giving notice of his intention to do so, without assistance from any Government office or agency and at different times.

22. The Consultant observes that the Government of Equatorial Guinea is complying with the Plan of Action as far as instruction in law for the people is concerned.

E. Public administration

23. It should be stressed that it is imperative not only to introduce a genuine and uniform programme of public administration, as recommended in the Plan of Action, but also to provide it with technical support by training experts in public administration through scholarships for courses at the Central American Public Administration Institute (San José, Costa Rica).

24. It should also be mentioned that the School of Public Administration, under the responsibility of the Ministry of State, Secretary-General of the Office of the President, is now in operation. It offers a programme of courses in public administration, with assistance from resident experts of the United Nations Department of Technical Co-operation for Development, which is part of the Secretariat in New York. It is vital to obtain from that Department syllabuses for the courses taught, as well as an up-to-date assessment of the programme's achievements. The Consultant draws attention to the interest of the Government of Equatorial Guinea in this regard.

F. Education

25. The Consultant was informed that the Government is carrying out a programme in schools and colleges, through the Office of the Minister-Delegate for the Advancement of Women, to educate citizens about the values and advantages of a democratic government and about the reconstruction plan which is being implemented and which clearly sets out the advantages of harmonization with the indigenous cultural heritage.

26. By means of a new General Education Act to be promulgated by the Popular Assembly, the Government is seeking to improve the initial and in-service training of future and practising teachers; to strengthen the educational system; to improve educational programmes and the training provided for students; and to enhance private lay and religious education in co-operation with associations and orders capable of ensuring the unity of the Equatorial Guinean family.

G. Labour

27. A general labour bill is being considered by the Inter-Ministerial Division and the Council of Ministers, as a preliminary step prior to submission to Parliament. The bill embodies the following basic precepts: (a) collective bargaining; (b) employment contracts for piece-work; (c) payment of entitlements in respect of notice of dismissal and unemployment; (d) workers' profit sharing; (e) job security; (f) the General Act on Agricultural Co-operatives, which contains regulations on agricultural labour, is also being considered with a view to implementation and promulgation.

H. Electoral processes

28. In this connection, the Consultant observed that the Government is currently initiating a process of preparation and training to encourage the population to take part in solving its problems and appointing persons to represent it on the so-called "neighbourhood committees". This process will begin with the election by the inhabitants of their representatives for each block in their district as a means of bringing their needs to the attention of the municipal and village authorities, as well as to that of the central Government.

29. This is the start of a system of grass-roots participation in the solution of community problems, but it is not yet comparable to the system of the popular election of members of town councils. It is intended to encourage the development of political tendencies differing from those of the central Government.

30. Political pluralism does not exist. At present, the Democratic Party of Equatorial Guinea is the sole active party.

31. With regard to electoral processes and political participation, the Consultant made a formal proposal, pursuant to the Plan of Action, concerning the need to promulgate a General Associations Act, which might also constitute specific legislation on the establishment and registration at the national level of political parties other than the official party.

32. The Consultant stated that, although the "Education for Democracy" programme was under way, genuine political pluralism did not yet exist in Equatorial Guinea and there were no safeguards covering the participation, either within or outside the country, of political leaders and intellectuals who are opposed to the Government's policies.

I. Development of a free press

33. The Consultant expressed the view that it was essential for a printing press to be installed in Malabo. The Government of Equatorial Guinea is requesting assistance with the installation of a printing press in the country, as no such facility now exists. The Government agrees with the suggestion made in the Plan of Action, as well as by the Consultant, that the press should publish both legislative decrees issued by the Legislative and Executive branches and notices and rulings by the Judiciary, as well as publications issued by citizens in the exercise of their right to freedom of expression.

J. Compliance with United Nations human rights conventions

34. The Consultant emphasized that the Government of Equatorial Guinea should comply with the requirement punctually to submit its periodic reports on conventions and covenants it has ratified to the United Nations Secretariat. However, as the Government lacks trained staff to draw up and prepare such reports, the authorities have requested the necessary technical assistance to provide training for such staff.

K. Establishment of a Special Review Commission

35. In accordance with the Plan of Action, the Consultant stressed the need to set up a Special Review Commission to monitor the implementation of the Plan of Action. In this connection, the Consultant noted that the Government of Equatorial Guinea had expressly agreed to comply with and implement the provisions of the Plan of Action.

III. MEETING OF THE CONSULTANT WITH THE PRESIDENT OF EQUATORIAL GUINEA

36. On 24 November 1989, the Consultant met with the President of the Republic in Malabo for 1 hour and 35 minutes. The Consultant discussed issues relating to the observance of human rights, in accordance with the Plan of Action and the Expert's recommendations.

37. The Consultant described the dialogue as specific and objective. The attitude of the President of the Republic was one of openness and understanding and he agreed on the need to speed up the implementation of the Plan.

38. The following issues were discussed: (a) a decree to be promulgated immediately setting out the fundamental freedoms of citizens in accordance with the Constitution; (b) the codification of civil and criminal law, both in positive and procedural law, and technical assistance from an expert for that purpose; (c) the General Associations Act; (d) training and instruction of lawyers and judicial officials; (e) instruction in law for the people; (f) installation of a printing press and technical assistance in operating it;

(g) labour legislation; (h) ratification of conventions; (i) technical assistance in training personnel to draft and present annual reports on the implementation of and compliance with conventions; (j) reorganization of the Land and Civil Registers and technical assistance in procuring equipment, preparing the necessary installations and training personnel; (k) equal rights and opportunities for women; (l) the death penalty; (m) the dissemination of human rights by public schools and religious orders; (n) political liberalization throughout the country.

39. The Consultant drew attention to the issues dealt with and to the willingness of the President to speed up their consideration in the short term and the medium term. It should be noted that the only two issues with which the President did not agree were (c) and (n) above.

40. The Consultant also drew particular attention to the clear willingness of the President to consider and analyse the relevant constitutional amendments. In that connection, he noted that the current Constitution was to remain in force for several years, so that a study may be carried out in order to update it. He requested that an expert should be sent for a reasonable amount of time to enable him to work with the committee appointed for the purpose to analyse and draft the necessary amendments. It is understood that the constitutional amendments would be those indicated in the Plan of Action, as well as any others which might be drafted by the committee and which the Expert might also consider necessary.

IV. CONCLUSIONS

41. The work carried out in Equatorial Guinea by Mr. Arnaldo Ortiz López of Costa Rica in his capacity as Consultant was of the highest order. He made an orderly and detailed assessment of the Plan of Action proposed by the Expert at the thirty-seventh session of the Commission on Human Rights (E/CN.4/1439). The objective of the Plan was to develop a system for the protection of human rights that would be linked to the advisory services programmes of the Centre for Human Rights and to bilateral and multilateral technical and financial co-operation programmes for the development of the country in all spheres.

42. Although some of the measures provided for in the Plan of Action had already been implemented, such as the drafting and adoption of a Constitution, it was necessary to evaluate the process as a whole and to identify a new starting point in order to give the required impetus to the policy of human rights protection in Equatorial Guinea.

43. The work done by the Consultant clearly shows that the Government continues to support the Plan of Action and is prepared to adopt the necessary measures to speed up its implementation. This confirmation of political support for the objectives of the Plan is the most positive result of the Consultant's visit to Equatorial Guinea.

44. Mention should also be made of the following achievements made so far: (a) adoption and ratification of the International Covenants on Civil and Political and Economic, Social and Cultural Rights and of the Optional Protocol to the International Covenant on Civil and Political Rights; (b) the decision to issue a decree based on those Covenants and on the Universal Declaration of Human Rights; such a Decree would disseminate information on

the fundamental rights of citizens, thereby enabling them to invoke those rights; (c) the decision to initiate the process of the approval and ratification of the Convention against Torture, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, as well as to start considering the conventions on the rights of women and the family; (d) reassertion of political determination to complete the codification of modern civil and criminal legislation, together with the relevant codes of procedure, in keeping with the country's customs; the codification was discussed in the past, in accordance with the wishes of the Government and the Plan of Action, but it was delayed for a number of reasons, what is now required is fresh impetus to bring the initiative to completion; (e) the emphasis placed by the Government on improving the legal system, as provided for in the Plan of Action; in the Expert's opinion, this is one of the most important and pressing objectives for the achievement of effective human rights protection; (f) instruction in law for the people is being properly carried out in accordance with the Plan of Action; (g) a School of Public Administration already exists and the programme proposed in the Plan of Action is thus being implemented, although the main ideas require further development; (h) the development of education programmes, as provided for in the Plan of Action, although the main ideas require further development; (i) the development of education programmes, as provided for in the Plan of Action, appears to have received adequate attention; (j) the same observation may be made in respect of labour relations; (k) the Government decision to develop an education programme to prepare citizens to consider and solve their communities' problems. Under the programme, local leaders are elected directly by the citizens. In the Expert's view, this would be a very positive step towards electoral processes for the democratic appointment of Government authorities, provided that it applies throughout the country.

45. The Associations Act proposed by the Plan of Action has not yet been adopted and there is no political pluralism. These two shortcomings are serious obstacles preventing citizens from fully defending their fundamental rights and living under a democratic régime.

46. The exile of Equatorial Guinean citizens jeopardizes the cause of human rights and hampers the country's economic and social development, as it is in dire need of human resources for its modernization, including in the political sphere.

47. Apart from a State television station and State radio station, which broadcast over a small area of the country, there are no media. This factor naturally jeopardizes the cause of human rights. The Government's willingness to comply with the proposals to this effect contained in the Plan of Action is a positive element, but improvements in the situation have to be made without delay. In this connection, it should be noted that the Government has emphasized the need for assistance with the installation of a printing press to enable it, *inter alia*, to publish a newspaper.

48. The Special Review Commission to ensure compliance with all aspects of the Plan of Action, which was one of the main recommendations made by the Expert in the Plan, has not yet been established. However, the Government has reaffirmed its intention to set up the Commission without further delay. The Commission would greatly stimulate the introduction of legal and political measures to protect fundamental rights.

49. The Government of Equatorial Guinea urgently requires international assistance in order to improve the living conditions of its citizens in all areas. Such assistance and the resulting improvements would greatly facilitate the programme for the promotion and protection of fundamental rights.

50. For the purposes of international assistance, it should be borne in mind that Equatorial Guinea was devastated by the long, cruel dictatorship of Francisco Macías, as a result of which it was plunged into a catastrophic economic and social crisis that worsened the circumstances of a noble and intelligent people, as Equatorial Guinea is sparsely populated and has few natural resources.

51. The efforts made by the Government and citizens of Equatorial Guinea, together with multilateral and bilateral international co-operation, are still not adequate to tackle the extremely grave problems weighing down this small country that is admirable in so many respects. Further efforts to provide Equatorial Guinea with assistance therefore have to be made on the basis of the Plan of Action which was agreed on with the Government and which needs to be enriched by new initiatives that have emerged or may emerge from the country's most recent experience.

52. It is above all essential that international co-operation should be aimed at affirming Equatorial Guinea's right to self-determination and its right to defend its sovereignty against any form of bilateral assistance that might undermine its values.

V. RECOMMENDATIONS

53. The Special Review Commission proposed in the Plan of Action should be established without further delay and the other measures suggested should be adopted for the purpose of promoting and protecting human rights.

54. The dissemination of the main human rights instruments should be continued with the support of information material provided by the Centre for Human Rights in Geneva. A batch of this material was sent to the Government in 1989 by the Advisory Services Section of the Centre for Human Rights, as ascertained by the Consultant, Mr. Ortiz López, during his visit to the country in November 1989.

55. The task of codifying the basic civil and criminal laws, as well as the procedural laws necessary for the operation of the courts, should be performed without delay in order to ensure the protection of citizens. The Advisory Services Section of the Centre for Human Rights could make a valuable contribution if it assigned at least two experts to co-operate with the Government in carrying out that task.

56. The Government should be given assistance in establishing working relations with the Central American Public Administration Institute in San José, Costa Rica. These links could be arranged by the Centre with the assistance of the Expert. It might also be possible to obtain scholarships from the Institute. This measure would enhance the praiseworthy efforts now being made by the School of Public Administration in Equatorial Guinea, with the assistance of UNDP.

57. It is essential to train lawyers in order to strengthen the administration of justice. To this end, the Centre should arrange for expanded Spanish co-operation to Equatorial Guinea through the Universidad Estatal a Distancia, which has an office in Malabo. A total of 15 scholarships has been suggested for this purpose. The Centre should also consider the possibility of other means of achieving this objective. The huge and pressing need for trained court personnel is a matter of great concern.

58. The consideration of amendments to the Constitution should begin as soon as possible. The Government requires the assistance of at least one expert and the recommendations made in 1982 by two experts sent by the Secretary-General pursuant to the Plan of Action and on the recommendation of the Expert should be borne in mind. During the Consultant's visit, the President of Equatorial Guinea confirmed the political resolve to undertake these reforms.

59. A printing press should be set up in the country so that a newspaper may be published once again and publications may be issued by citizens in the exercise of their freedom of expression. The press would also be used to disseminate Government decrees and other important information, as well as human rights material.

60. The exile of the régime's opponents should come to an end. They should be allowed to return to their country without delay and to resume their personal and public activities without reprisals. The Government should grant a broad amnesty to make this possible.

61. An Associations Act should be adopted to enable citizens to carry out their personal and civic activities, and to lay down the foundations for a system of political parties as a contribution to the establishment of representative democracy in all spheres. This important question is referred to in the Plan of Action.

62. The death penalty should be abolished in order to guarantee respect for the right to life and as a means of safeguarding fundamental rights, above all at the present time, when it is proving difficult to ensure that due process forms the basis for procedural rules. Reference has already been made to this important issue (see E/CN.4/1985/9, p. 20).

63. These recommendations are made without prejudice to any others included in this report or to those contained in previous reports by the Expert and in the Plan of Action.

64. The Expert wishes to stress the need for the international community to provide the noble and intelligent people of Equatorial Guinea with generous and timely co-operation to allow it to tackle the serious challenges arising from oppressing economic and social circumstances and to improve its political system in a framework of representative democracy within which freedom may blossom and take root.
