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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Provision of expert services in the field of human rights

Equatorial Guinea

Introductory note to the report by the Expert, Mr. F. Volio Jiménez,
appointed in accordance with Economic and Social Council
resolution 1989/151

I wish to introduce the report contained in document E/CN.4/1990/42, relating to advisory services for Equatorial Guinea. The report covers the year 1989.

In preparing the report, I took into account the fact that, in this specific case, the advisory assistance is provided by the United Nations Centre for Human Rights, on the recommendation of this Commission. I likewise bore in mind that, in my capacity as Expert, appointed by the Secretary-General, I must try to ensure that the advisory assistance is put into effect within the framework of a Plan of Action in order to promote the gradual introduction of measures to protect the fundamental rights of the people of Equatorial Guinea. The Plan of Action was formulated by me in 1980, accepted by the Government and adopted by this Commission in 1981. The Plan listed the measures to be implemented by the Government to establish the basic institutions of a representative democracy, with the assistance of United Nations expertise. The raison d'être of the Plan of Action was - and is - the serious harm caused to human rights during the appalling dictatorship of Francisco Macías and, consequently, the urgent need to establish appropriate mechanisms for the protection of fundamental rights after the dictator's fall in 1979.

That year, I went to Equatorial Guinea for the first time, as Special Rapporteur. In 1980, the situation in the country was such as to be beyond the confines of the mandate of a Special Rapporteur and it began to be seen as something for which advisory services were required. For that purpose I assumed the duties of Expert, and I am now working in that capacity.

Little by little, with ups and downs, the Plan of Action is being implemented. The first significant achievement was the adoption in 1982 of a new Constitution, now in force. This was followed by other achievements, such as the ratification of human rights treaties and conventions, especially the two International Covenants and the Optional Protocol to the International Covenant on Civil and Political Rights.

The country has not, however, been able to emerge from the state of prostration in which it was left by the dictatorship. After my first visit in 1979 as Special Rapporteur, I returned to Equatorial Guinea in 1980 and in 1984 as Expert. During those three visits, I found the economic and social situation was unchanged. It was one of acute poverty and a critical shortage of trained human resources to carry out the essential tasks that were - and are - required for development, which was and is particularly handicapped by the country's limited economic resources and extremely small population.

My own observations were borne out by the persons sent to the country under the human rights advisory services programme to which I referred above. Despite the obstacles encountered, particularly the lack of the necessary suitably qualified administrative personnel in the Government of Equatorial Guinea, the Plan of Action is still operative and should be given a new boost.

At the end of 1989, on the basis of the Commission's resolution of March of that year, it was decided to evaluate the progress made in Equatorial Guinea in the field of human rights. A visit by the Expert was prepared for that purpose. However, I fell ill and, with the approval of the Under-Secretary-General for Human Rights, Mr. Jan Martenson, and the agreement of the Government, Mr. Arnaldo Ortiz López, from Costa Rica, was sent to Equatorial Guinea at my suggestion.

Mr. Ortiz visited the country as Consultant from 20 to 26 November 1989. The work he did was highly positive. A thorough assessment was made of the Plan of Action and the foundations were laid for a new period of co-operation between the Government and the Centre, within the framework of the Plan.

In my report, which includes an account of the mission by Mr. Ortiz López, reference is drawn to the advisory assistance measures which I believe are still required and must be put into effect as soon as possible. They may be summed up as follows: (1) amendments to the Constitution, for which there are documents, contained in previous reports I have submitted to the Commission; (2) a renewed effort at codification, in criminal law, criminal procedural law and civil law; (3) training, as a matter of urgency, of personnel working in the courts; (4) training of staff to prepare the reports on the implementation of the International Covenants on Civil and Political and on Economic, Social and Cultural Rights; (5) advisory services for the promulgation of an Associations Act; and (6) donation of printing equipment to publish a newspaper, accessible to citizens, as a means of communicating decisions by courts and government institutions. It is also

necessary, under the same advisory services programme, to provide for some kind of co-operation or assistance so that the Special Review Commission to monitor the implementation of the Plan of Action which is proposed in the Plan itself - and the importance of which was reiterated by the Government during the visit by Mr. Ortiz López - can be established and start work without further delay.

These advisory services would be more likely to yield results, within the bounds of their inevitably limited scope, if other constructive activities for bilateral or multilateral co-operation were undertaken along the same lines as the Plan we are promoting.

In any event, the international community must not forget that Equatorial Guinea was devastated by the long, cruel, Macías dictatorship, as a result of which - and this I think must be emphasized - the country was plunged into a catastrophic social and economic crisis that left a noble and intelligent people in a situation of even more dire poverty.

In the report I am submitting to you, reference is also made to situations that place further stumbling blocks on the path to democracy and, especially, on the path to implementation of the Plan of Action. I am referring to the possibility of the return of exiles and of incorporating them in the life of the country, in an atmosphere of full freedom and democratic pluralism, especially now that the Government has authorized only one political party; the party takes the official line and this does not appear to me to be satisfactory, since it is anti-democratic. Until such time as the executive-level figures now in exile, who are generally well equipped for the tasks of political, economic and social development, return to the country, the shortage of qualified human resources will continue to be the main obstacle to development and the primary cause of Equatorial Guinea's present problems. For this reason, I recommend that action be taken along these lines and that the Government allow the exiles to return.

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