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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 1990/57, paragraph 9, of the Commission
on Human Rights

1. At its forty-sixth session, the Commission on Human Rights examined the report by the Expert, Mr. Fernando Volio Jiménez, on Equatorial Guinea (E/CN.4/1990/42 and Add.1) in which a number of practical recommendations were made for the implementation of the Plan of Action proposed by the United Nations and accepted by the Government.
2. In the 1990 report, the Expert stressed the political will of the Government in supporting the objectives of the Plan, and in particular its determination to complete the codification, already initiated in previous years, of modern civil and criminal legislation, together with the relevant codes of procedure, in keeping with the country's customs, and the emphasis placed by the Government on improving the legal system.
3. As the Commission will recall, the Expert prepared a Plan of Action (E/CN.4/1495 for the restoration of human rights and fundamental freedoms which was proposed by the Secretary-General to the Government of Equatorial Guinea and was accepted. In resolution 1982/36, the Economic and Social Council took note of the plan. In 1982, in order to assist the Government of Equatorial Guinea with the implementation of the Plan of Action,

the Secretary-General provided the services of two consultant jurists, who were chosen by the Expert, to help the Government of Equatorial Guinea in preparing a new Constitution. In 1986, the Secretary-General provided an additional team of consultant jurists to help with the implementation of the Plan of Action, and in 1989 a Consultant visited Equatorial Guinea. All these consultants were also chosen by the Expert. Following the mission carried out by the Consultant, an assessment was made of the implementation of the Plan of Action. In addition to drawing up the Constitution, the Government of Equatorial Guinea has ratified the two International Covenants on Human Rights and has declared its intention of ratifying 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.

4. On 7 March 1990, pursuant to the recommendations made by the Expert in his report, the Commission adopted, without a vote, resolution 1990/57 entitled "Situation in Equatorial Guinea" in which it urged the Government to establish as soon as possible a Special Review Commission to monitor the implementation of the Plan of Action, to adopt other measures suggested for the purpose of promoting and protecting human rights; and to draw up a General Associations Act to facilitate the implementation of the human rights recognized in the International Covenants on Human Rights ratified by that Government. In the same resolution, the Commission encouraged the Government of Equatorial Guinea to endeavour to facilitate the repatriation of all refugees and exiles, *inter alia* by adopting measures permitting the full participation of all citizens in the country's political, economic, social and cultural affairs, thus helping to resolve the shortage of specialized personnel.

5. In its resolution, the Commission also requested the Secretary-General to provide such advisory services and other forms of appropriate assistance in the field of human rights as may be requested by the Government of Equatorial Guinea, especially for the purpose of codifying the basic civil and criminal laws and preparing the initial reports which Equatorial Guinea, as a party to the International Covenants on Human Rights, is required to submit to the Committees established by those treaties; it also requested the Secretary-General to extend the mandate of the Expert responsible for co-operating with the Government of Equatorial Guinea in the full implementation of the Plan of Action proposed by the United Nations and accepted by that Government.

6. The Secretary-General visited Equatorial Guinea on 18 and 19 March 1990. During that visit, the President of Equatorial Guinea referred to the recommendations contained in the report by the Expert to the Commission and indicated that the Government required technical assistance and advisory services to review legislation, draw up the civil and criminal codes and train judges and magistrates. The Secretary-General assured the President of Equatorial Guinea that the Centre was prepared to provide the country's authorities with any advisory services and other forms of appropriate assistance in the field of human rights that the Government might request.

7. To this end, the Expert and the Centre for Human Rights have remained in contact with several Governments in order to obtain broad international support. As a result of those contacts, the Government of Spain offered to assist the Centre for Human Rights with the technical assistance project and

to finance, in part, the advisory services of two Spanish experts, Mr. J.M. Sanz Bayón, a Spanish Supreme Court judge and Mr. J. Corbí, a lawyer, for six and four weeks respectively, to assist the authorities of Equatorial Guinea in codifying the basic civil and criminal laws, as well as the procedural laws necessary for the operation of the courts. The Government of Spain simultaneously offered to extend Spanish co-operation with Equatorial Guinea, as recommended by the Expert in his report to the Commission, by awarding 15 further fellowships to the Universidad Estatal a Distancia in Madrid, which has an office in Malabo, to train personnel to strengthen the administration of justice.

8. The two Spanish consultant jurists began their mission on 5 November 1990 and were still in Equatorial Guinea when this report was written.

9. In accordance with Commission resolution 1990/57, in January 1991 the Centre for Human Rights will, for three weeks, provide the Government of Equatorial Guinea with the advisory services of Mr. J. Alvarez Vita (Peru), a member of the Committee on Economic, Social and Cultural Rights, to assist the authorities with preparing the initial reports that Equatorial Guinea is to submit to the Committees established by the two International Covenants on Human Rights.

10. The Expert will keep the Commission informed of the results of the assistance provided by the Secretary-General and by the Government of Spain in implementing the Plan of Action.

11. However, the expert has received no information whatsoever from the authorities of Equatorial Guinea on the implementation of the other recommendations made by the Commission on Human Rights in its resolution 1990/57, which were that the Government should:

(a) Establish as soon as possible a Special Review Commission to monitor the Plan of Action and to adopt other measures suggested for the purpose of promoting and protecting human rights;

(b) Draw up a General Associations Act to facilitate the implementation of the human rights recognized in the International Covenants on Human Rights ratified by Equatorial Guinea;

(c) Endeavour to facilitate the repatriation of all refugees and exiles, inter alia by adopting measures permitting the full participation of all citizens in the country's political, economic, social and cultural affairs, thus helping to resolve the shortage of specialized personnel.

12. The Expert also feels it necessary to point out that, as of 15 November 1990, Equatorial Guinea had not ratified either the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or the International Convention on the Elimination of All Forms of Racial Discrimination, despite having announced its intention to do so to the Consultant of the Centre for Human Rights who visited the country in 1989.

13. The Expert is deeply concerned that since his first visit to Equatorial Guinea in 1979, representative democracy has still not been established in the country and that consequently there is no adequate institutional framework for the protection of human rights. The Expert

recommends therefore that the Government of Equatorial Guinea should be urged to implement, without delay, the measures recommended by the Commission, including those contained in this report. In the same context, the Expert also recommends that the Commission should request the international community, in close co-operation with the Centre for Human Rights, to co-operate more fully with the Government of Equatorial Guinea, within the Plan of Action. It should also be borne in mind that the intelligent people of Equatorial Guinea are extremely poor and lack the necessary human resources to promote economic and social development and the basic institutions for the administration of justice, although this is no excuse for failing to establish the basic and indispensable machinery for the operation of representative democracy, enriched by the country's own cultural values.
