



126th Session Human Rights Committee

Review of Equatorial Guinea

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Submission by: EG Justice

Introduction

About the organization: EG Justice is a nonprofit, non-governmental organization that promotes human rights, the rule of law, transparency and civic engagement to build a just Equatorial Guinea. <https://www.egjustice.org/>. It was founded in 2007, and it's headquartered in Washington DC.

Methodology: This report was prepared by EG Justice through a process of consultation and meetings with local partners, civil society activists, lawyers and anti-corruption advocates, between January and July, 2018. Some of the violations and issues documented here have been presented in the NGO shadow reports at the recent Universal Periodic Review process of Equatorial Guinea. EG Justice conducted additional follow up research in April and May 2019, focusing specifically on the list of issues raised by the Human Rights Committee.

Summary: The government of Equatorial Guinea continues to systematically violate human rights with complete disregard for the rule of law and with absolute impunity. A dire situation of deeply entrenched corruption and lack of legal and procedural guarantees has characterized Equatorial Guinea over the years. And, most recently, all reports from local and international organizations concerning the respect for individual and collective rights point to a drastically worsened situation. The government has failed to abide by its international commitments to improve the protection and promotion of human rights. Space for civil society, human rights defenders, or independent journalists has been further curtailed, as arbitrary detentions, illegal imprisonments, torture, crackdown on freedom of expression, assembly, and association as proliferated. Particularly troublesome is the increasing number of trials against human rights defenders and opposition members on fabricated charges. For all these reasons we welcome this timely review of Equatorial Guinea by the Human Rights Committee.

Responses to the List of Issues Submitted by the Human Rights Committee

Non-discrimination (arts. 2, 7, 13, 26 and 27)

Although the constitution purports to protect against discrimination toward ethnic minorities, in practice, there are no effective mechanisms to protect against ethnic discrimination. The Ombudsman did not report any resolutions of ethnic discrimination during the period of review. Apart from the ombudsman, there are no other mechanisms that have the potential to protect ethnic minority groups. However, according to people consulted on the ground, the government refuses to give certain governmental positions to individuals who are not members of the Fang ethnic group. Similarly, for example, ethnic minorities do not have ready access to grants or scholarships to study or work abroad.

The data provided in the Summary of Stakeholders' submissions for the 2019 Universal Periodic Review on Equatorial Guinea, shows that the Bubi people are being "subjected to the expropriation of their land, including agricultural land, without any compensation" which results in multiple cases of death from starvation. It is also underlined that the Bubi women, have low life expectancy due to the extreme poverty conditions, and die leaving minor children alone, and the latter are out of the protection of the State.

The Summary also rises concerns about the freedom of movement for the Bubi people on the island, since, according to the information the EPIBIB possesses, the Bubi people need special government authorization to move from one town or village to another, with military checkpoints outside the villages. These exaggerated controlling mechanisms clearly restrict the contact of the Bubi people with their relatives living in other villages. Apart from that, no consent from The Bubi people was either received, nor pursued in the first place, on the construction of the petrochemical complex that has converted the island into an unbearable place to live because of the pollution the oil and gas industry generates.

The National report defines the State of Equatorial Guinea as a democracy, yet gives no information on the ethnical minorities representation in the Government. The EPIBIB stresses out the fact that the Government didn't permit the Bubi indigenous people elect their representative in congress¹.

There is no governmental office focused on resolving issues of discrimination against LGBT, and the Ombudsman, did not provide reports or resolutions about LGBT discrimination during the period under review. In addition, same-sex sexual acts in Equatorial Guinea are legal, and same-sex relationships are "not criminalized", there is no penalization for any homophobic behavior either. This incoherence not only leads to a legislative vacuum in the field of the protection of the LGBTIQ+ community rights, but also, together with the homophobic social tendencies, encourages grave violations of human rights by security forces and abuses by the people. .

The government does not protect against the daily harassment or establish norms or educational parameters related to the LGBT community and their needs. One of the NGO UPR reports underlines that the absence of effective legal measures destined to combat discrimination on the basis of sexual orientation results in general homophobic attitude in the society, and thus in violations against the dignity and freedom of gender identity of persons within the LGBTIQ+ community. Same violations can be detected in schools and at the national university (expressed in the form of professorial pressure or bullying generated by the classmates).

Societal norms do not allow for a public discussion of homosexuality, and there is a lack of protection for these communities. There is repression within families, and sexual status remains hidden. According to sources that have requested anonymity, members

¹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/053/49/PDF/G1905349.pdf?OpenElement>
https://www.upr-info.org/sites/default/files/document/guinea_ecuatorial/sesion_33_-_mayo_2019/a_hrc_wg.6_33_gnq_3_e.pdf

of the LGBT community are routinely harassed and attacked by other citizens, particularly by members of the security forces. Rape and other forms of violence are also commonly used to punish members of the LGBT community. These violations are rarely denounced. There is stigmatization of sexual orientation or gender identity issues in Equatorial Guinea, and rare cases of denouncement are attributed to white expatriates' or nationals who have been perverted by them. The law guarantees access of all the Guinean people to education, but LGBT people between 10 and 22 years old lose this right because they have to be "cured" before accessing education. In view of the lack of governmental mechanisms to protect the LGBT community, some members recently created an association named "We are part of the world," a collective which since 2016 works to improve the social integration of LGBTI people. The organization collaborated in the preparation of a report, and as a result of the work, two members of the organization were arrested on Sept. 3, 2018².

Persons living with HIV/AIDS do not access testing, counselling, and antiretroviral treatment due to the high risk of stigmatization and marginalization. Fear of discrimination increases risk behaviors, and poses challenges to efforts to eradicate HIV/AIDS that could be addressed and overcome if the government implements preventative measures such as nationwide sexual health education, the inclusion and effective monitoring and evaluation of protective laws and protocols, and the participation of multi-sectoral frameworks, such as the school of medicine, health care practitioners, and the public administration³.

There are allegations concerning over two dozen cases of forced pregnancy among lesbian, gay, transgender, bisexual or intersex women documented in the cities of Malabo and Bata. In such circumstances, young mothers suffer from heavy depressions and as a result tend to develop alcohol and drug dependencies.

The National report states that "Equatorial Guinea has not enacted laws that discriminate against women, and gender discrimination is a relic of outdated practices and customs". However, there is no data on the legal instruments to be effectively implemented against forced pregnancies used to allegedly "cure" lesbian or transgender individuals⁴.

Gender equality and discrimination, violence and harmful practices against women (arts. 2, 3, 6, 7, 11, 23, 24, 25 and 26)

² https://uploads-ssl.webflow.com/5c5b3d21055de3235de4f742/5ca5ddb841698e4a49fc1eba_Informe%20EPU%20Mujeres%20y%20LGBTI%20rv%20EPR%202018.10.02.pdf

³ https://uploads-ssl.webflow.com/5c5b3d21055de3235de4f742/5ca5df07ff3c03a3d9ccff1e_UPR%20Report%20HIV%20AIDS%20C%20Mental%20Health%202018.10.02.pdf

⁴ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/053/49/PDF/G1905349.pdf?OpenElement>
https://www.upr-info.org/sites/default/files/document/guinea_ecuatorial/sesion_33_-_mayo_2019/a_hrc_wg.6_33_gnq_3_e.pdf

In recent years, inequality and discrimination against women have deepened drastically. Today, more than ever, some of the minimum rights and achievements by women are seriously under threat. The state of legal insecurity and political and labour instability negatively and disproportionately affect women. Economic dependence in most cases increases physical aggressions and violations against women. The government has neglected to adopt specific legislation, policies and public awareness programmes to address all forms of violence against women. It has also neglected to ensure and punish, in accordance with national legislation, rape and sexual harassment against women either within or outside marriage. There are no records that provide information on the number of cases investigated, prosecutions, and sanctions for perpetrators of such rape-domestic and/or sexual-against women.

Despite the numerous commitments made at UPR 2014 to carry out awareness-raising campaigns as well as programs to combat discrimination and violence against women, and despite the ratification of the Convention on the Elimination of All Forms of Discrimination against Women, and despite the categorical claims by the government during UPR 2019 that there is no domestic violence and no discrimination against women in Equatorial Guinea, no measures have been taken to promote equality between men and women in accordance with the recommendations made and accepted, nor have any legal or legislative action been taken to eradicate discrimination against women or to condemn perpetrators of domestic violence.

The National report states that there has been an increase in school enrollment among girls in the past two years, yet it seems to be still quite low, with only 22,883 girls enrolled in 2016/17. The National report also notes that the Office of the Ombudsman made a recommendation on the adoption of measures for the protection and education of pregnant girls, however, there is no information in the National report on any of such measures to have been taken and implemented. The Summary of stakeholders' submissions indicates that in Decree No. 1 of 18 July 2016 adopted by the Ministry of Education on early pregnancy that strictly prohibits access to classrooms for pregnant students. Higher education rates within women are significantly lower, then those of men. 4.1 percent to 9.9 per cent.

The discrimination in the area of education leads to limitations imposed against women in the employment and their wages rate. Although, according to the National report, there is some legal infrastructure to protect employment equality standards (failure to comply with labor equality standards is sanctioned as an employer's offence; the establishment of controlling bodies for equal policies; the adoption of a minimum wage, Decree No. 167/2013 on the classification of civil servants ensure the principle of equality and the prohibition of gender based wage discrimination), yet the Summary states that women suffer from limited access to employment due to the "little effort the Government has made to eliminate discrimination against women", thus leaving the women in the perpetuity of not being able to get education, therefore not having the opportunity to find a job⁵.

⁵ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/053/49/PDF/G1905349.pdf?OpenElement>
https://www.upr-info.org/sites/default/files/document/guinea_ecuatorial/sesion_33_-_mayo_2019/a_hrc_wg.6_33_gnq_3_e.pdf

People do not know, lack any information about treaties and conventions ratified by the government that protect the rights of women, and/or condemn gender violence. Not even women themselves are aware of their rights under conventions, the Constitution, the complaints procedure, or the optional protocol. Therefore, women lack the information necessary to denounce the abuses they suffer and claim their rights, even when there are no procedures for such a claim. The Government has not assumed its obligations in practice. There are great inequities throughout the country, and in all areas, between men and women. This clearly impedes progress in achieving substantive equality between women and men in all spheres. The government has not taken measures to combat socially created stereotypes.

It should be noted that the information on the legal coverage of the gender violence given by the National report and the one in the Summary of Stakeholders' submissions dated 20 February 2019 differs substantially. While the National report ascertains that "gender-based violence, <...> like the crime of sexual transgression, is defined in the Criminal Code, and the courts apply the law to punish such violence. The family and juvenile courts have jurisdiction over cases of gender-based violence; it is an aggravating factor if the perpetrator is a member of the victim's family", the Summary indicates that physical abuse "against women within marriage continues to go unpunished, as that practice is considered to be in accordance with traditional norms". Besides, it is reported that those women who tried to use legal remedies to report against their husbands for the violence committed against them, found that "domestic violence was not classified as a specific crime, it was not treated with the necessary urgency and was dealt with as a common offence like bodily harm or assault" and "there were no legal mechanisms to bring complaints before the courts or ensure that perpetrators were punished".

Equatorial Guinea pledged at the 2014 UPR, to increase the participation of women in political life, public life and in all fields of life, State institutions, a commitment that is also reflected in the Convention on the Elimination of All Forms of Discrimination against Women. Article 13.2, the Constitution of Equatorial Guinea alludes to the principle of equality of women before the law, and provides that the powers of the State to adopt legal initiatives and mechanisms to encourage the appropriate use of the representation and participation of women in the performance of positions and other functions in all State institutions. However, the representation of women in politics and in relevant positions in the public and private spheres remain scarce. By way of illustration, there are 18 women in the Chamber of Deputies, out of a total of 100 deputies. In the Senate 13% of the 75 Senators are women. While in the executive branch cabinet out of a total of 76 high-ranking state officials, 13% are women. And finally, the Supreme Court, the highest court in the country does not have a single woman judge⁶.

⁶ https://uploads-ssl.webflow.com/5c5b3d21055de3235de4f742/5ca5ddb841698e4a49fc1eba_Informe%20EPU%20Mujeres%20y%20LGBTI%20rv%20EPR%202018.10.02.pdf

The National report stresses out that married women have the same irreducible property rights over the assets acquired during the marriage as men, regardless of the formalization of the proper marriage (religious, civil or customary). However, the Summary specifies that in cases of divorce women are still more than vulnerable in the framework of their economic state, since the courts tend to continue giving preference to customary traditions over women's rights. Apart from that, the general situation in cases of divorce and separation for women trying to achieve their rights satisfaction through legal remedies is quite limited, due to high costs, low level of education and lack of information among women, together with "the persistent discrimination against women when it came to the division of assets acquired during marriage and the custody of the children of the marriage". The Summary also states that "women have fewer rights as widows, when they are subjected to physical abuse, and in relation to issues such as dowries and polygamy".

The Civil Code is restrictive of women's rights. Equatorial Guinea has a dual legal system based on the coexistence of civil and customary law. The main body of legislation regulating land ownership dates to 1960 and has been interpreted in detrimental ways toward women's rights.

The constitution, 2012, does not explicitly state that women have equal land ownership rights to men. In its fundamental principles, Article 5 (c) states that Equatorial Guinean society rests on the principle of equality between man and woman. Article 13 (c) states that women shall enjoy the same rights and opportunities as men in all civil, political, economic, social and cultural matters. However, Equatorial Guinea still applies the Código Civil (Civil Code) inherited from Spain at independence in 1968. The Código Civil is a modified text that took effect in Spain and its overseas provinces on July 23, 1960. It is based on a royal decree from July 24, 1889. The main body of law regulating property in Equatorial Guinea is thus outdated.

Book 2 ("On goods, property and their modifications"), Title 1 ("On the categories of goods"), Articles 333-391, lists the types of ownership regulated by law. Title 2 ("On property"), Articles 348-391, defines land ownership. Title 3 ("On jointly owned property"), Articles 392-406, addresses the co-ownership of property. Title 4 ("On special property"), Articles 407-429, regulates rivers, streams and water rights.

The treatment of women's rights in the 1960 Código Civil has been interpreted restrictively; it provides greater rights to men. For example, Article 19 gives men precedence in terms of naturalization. Article 22 does not allow a woman to become naturalized on her own, unless she is legally separated. Article 57 states that women must obey their husbands. This has been used in practice to solve disputes between husbands and wives over property, to rule in favor of men. None of the articles regulating property specifically state women's land rights.

Furthermore, Chapter IV ("On partition of goods") gives precedence to men in terms of inheritance rights. However, the law does not state equal rights between women and

men, either. So the discrimination comes from the interpretation of the whole body of the law.

Customary law ("derecho consuetudinario"), which is not codified, also regulates land ownership. The outcome of a community decision on land ownership can differ from that of a civil court of law. Customary law usually takes precedence in certain property rights disputes, particularly at the community level. As for the land rights of women, usually the property belongs to the husband. Furthermore, there is a large legal gap regarding women's property rights.

Customary law is based on the traditions of ethnic groups living on the islands of Bioko, Annobon and Corisco, as well as those on the mainland of Mbini (Río Muni). It is applied by the Bubi ethnic group, indigenous to the island of Bioko, or by the Fang group, which constitutes a majority in Mbini. Both are governed by a patriarchal social structure that limits the ownership, control and inheritance of property by women. Also, in the Fang tradition, men have all property rights, as it is expected that women will marry and will belong to someone else's family and thus cannot take land with them⁷.

The government has not taken any steps to identify gaps in national legislation to protect women's rights and ensure gender equality. Traditional customs continue to apply in matters of marriage, which are discriminatory towards women. Physical assault on women in marriage continues to be carried out without punishment on the assailant because the practice is considered in accordance with traditional norms.

The few women who dare to denounce the violence that their husbands exert on them, find that domestic violence is not specifically typified as a special crime, which means that it is not treated with the urgency that cases of gender violence or domestic violence need, but as common crimes such as assault and battery. Domestic violence does not have a specific crime under the criminal code.

In Equatorial Guinea, there are no effective legal mechanisms for complaints. The Ministry of Social Affairs and Women's Integration offers legal advice and mediation services to women victims of discrimination and domestic violence; however, there are no legal mechanisms for reporting related facts before the courts, or for punishing aggressors⁸.

Voluntary termination of pregnancy and maternal health (arts. 3, 6 & 7)

The most severe violation against children's' rights came in the form of a government education policy. On July 18, 2016 the Ministry of Education issued a Ministerial Order

⁷ https://aai.globalintegrity.org/indicator-details?country=equatorial_guinea&num=77&year=2018

⁸ https://uploads-ssl.webflow.com/5c5b3d21055de3235de4f742/5ca5ddb841698e4a49fc1eba_Informe%20EPU%20Mujeres%20y%20LGBTI%20rv%20EPR%202018.10.02.pdf

forbidding “access to classrooms to pregnant students.” According to the government order, schoolgirls were to show the results of a pregnancy test before enrollment. A positive test result would lead to the student being turned away by school administrators. The order claimed to be aimed at combating crime and bad habits among students. During a TV interview, the Deputy Minister of Education Ms. Maria-Jesús Nkara argued that the measure “encourages schoolgirls to take precautions and prevent unwanted pregnancies”. At the time of drafting this report, schools continue to enforce the Ministerial Order⁹.

Death penalty (art. 6)

On 13 February 2014, President Obiang signed Decree No. 426/2014 of 13 February establishing a "temporary moratorium on the application of the death penalty in Equatorial Guinea. However, there are indications that four weeks before this announcement, the government clandestinely executed all prisoners sentenced to death in the country. Indeed, on 31/01/2014, the Equatoguineans Tadeo Mitogo Alo, Mariano Nguema Ela and Abraham Ndong, and the Maliense Amadou Tamboura, were executed by firing squad in Evinayong. They had all been convicted of manslaughter by ordinary courts between 2003 and 2013. Also, on 30/01/2014, four people sentenced to death were secretly executed at kilometre 15 of the road to Basilé mountain, and another in Mbiní, on the west coast of the mainland region. Nine people were possibly executed at the time. The corpses were not returned to their families, but buried by the soldiers.

Despite the decreed moratorium on the death penalty, the prosecutor of the Ebibeyin Provincial Court, Pedro Abaga, requested capital punishment on 14/09/2017 for two of the defendants in the murder of Damián Motuhu Alogo. On 16/09/2017 the sentences of Raimundo Nfube Onva and Fausto Luis Nve Adugu, both sentenced to capital punishment and a fine of 7.5 million CFA Francs for each of them, were broadcast on national television. Both are in Evinayong prison.

In the 2018 Mongomo trial against members of the political party Citizens for Innovation (CI), the Public Prosecutor's Office maintained the charge of "sedition" against 34 of the 146 militants indicted. For them, it did not ask for the death penalty, but rather life imprisonment¹⁰.

⁹https://uploadsssl.webflow.com/5c5b3d21055de3235de4f742/5ca5dbe541698e91defc1b85_EG%20Justice%20HR%20Report%20ENG%202016_2017.pdf

¹⁰https://uploads-ssl.webflow.com/5c5b3d21055de3235de4f742/5ca5dafa41698e1018fc1978_Informe%20EPU%20Derechos%20Civiles%20y%20Politicos%20Guinea%20Ecuatorial%202018.10.02.pdf

Despite promising to abolish the death penalty, which was a condition to join the Community of Portuguese-Speaking Countries (CPLP), Equatorial Guinea continues to request and impose death sentences in criminal procedures¹¹.

Unlawful and arbitrary killings and behaviour of security forces (arts. 2, 6, 7 & 9)

Santiago Ebee Ela, member of the political party *Ciudadanos por la inovacion* (CI), was detained on January 2, 2018 and died on January 14 that same year, following several intense torture sessions at the Central Police Station in Malabo. Asked by journalists about that death, President Obiang calmly stated that Mr. Ebee died because he was ill¹².

Magistrate Judge José Esono Ndong Bindang died while in police custody on July 21, 2018. He had been arrested three days before, and died as a result of the treatment received while in custody¹³.

Several deaths take place and go unreported in the prisons of Equatorial Guinea. The lack of access to prisons makes it challenging to document those deaths with any degree of accuracy. Activist and political cartoonist Nze Ramon Esono Ebale reports that while he was imprisoned in Black Beach prison, he witnessed the death of 3 prisoners, including that of Mr. Bolopo, which he has depicted in a comic¹⁴.

Prohibition of torture and cruel, inhuman and degrading treatment and treatment of persons deprived of their liberty (arts. 6, 7, 10 & 17)

No measures have been taken to combat torture in Equatorial Guinea. Police and security forces continue to use physical, psychological and all forms of torture and inhumane treatment on a daily basis, despite being forbidden by law.51 EG Justice, along with national and international human rights groups has documented numerous cases of detainees who reported being beaten and tortured during interrogation. Judges disregard and outright refuse to hear victims' testimony of torture, despite admitting and using inculpatory evidence obtained under torture by security forces to convict those same victims.

¹¹ https://uploads-ssl.webflow.com/5c5b3d21055de3235de4f742/5ca5dbe541698e91defc1b85_EG%20Justice%20HR%20Report%20ENG%202016_2017.pdf

<https://www.amnesty.org/en/countries/africa/equatorial-guinea/report-equatorial-guinea/>

¹² https://uploads-ssl.webflow.com/5c5b3d21055de3235de4f742/5ca5dafa41698e1018fc1978_Informe%20EPU%20Derechos%20Civiles%20y%20Politicos%20Guinea%20Ecuatorial%202018.10.02.pdf

¹³ <https://www.lavanguardia.com/vida/20180722/451031391326/muere-un-magistrado-bajo-custodia-policia-en-guinea-ecuatorial.html>

¹⁴ <https://www.radiomacuto.cl/2017/11/29/muere-en-black-beach-el-joven-bolopo/>

Since 2016, there has been a steady increase of violent torture, degrading and ill-treatment by police officers while exercising their duties in the streets and at police stations. Several videos have circulated on social media depicting many cases of police abuse, including manhandling, beatings, and stripping detainees of their clothing, among other violations. For example, on January 14, 2017 a man was brutally beaten and stripped naked before he was thrown into a police car to be transferred to a police station 54 . On April 2017, another web-based news outlet documented the beating of a detainee who had his hands and feet tied¹⁵.

Four members of the security forces kidnapped and severely tortured human rights defender Alfredo Okenve in October of 2018. In 2016 and 2017 police officers severely beat activists Joaquin Elo Ayeto. Then, at the end of February police officers arrested him and tortured him once at the Central Police Station, and another time at Black Beach prison. There are additional cases of torture documented here¹⁶

The conditions of detention in Equatorial Guinea's prisons are difficult to document with precision. Visits to prisoners by family members are restricted and lawyers are often not even allowed access to interview their clients. Many prisoners die in detention, as a result of torture or lack of medical care. A former prisoner explains how in a period of one and a half months he witnessed the death of six prisoners whose bodies the judge later ordered returned to their relatives for burial.

Remigio Owono Afugu, 61, imprisoned for voluntary manslaughter died in Nkoantoma prison in Bata in June 2018, was entrusted to his family and buried in Kogo, his hometown. Epifanio Mokumbue Oko, originally from Yengüe, Bata, was imprisoned for attempted murder of his partner on the night of 21 August 2017. He was taken to the Bata Public Prison on 26/09/2017. Two days later, on 28/09/2017, people learned of his mysterious death, which the guards declared as suicide. José Esono Ndong Bindang, magistrate, interim president of Labor Magistracy No. 1 of Malabo, aged 65, detained without warrant together with four other magistrates and imprisoned between 16 and 17/07/2018. It was explained that they were involved in an alleged corruption case. José Esono died on 21/07/2018 in police custody. The true causes of his death were not clarified. Santiago Ebee Ela, leader of the 41-year-old political party CI, arrested on 2 January, died on 14/01/2018 as a result of torture at the Malabo central police station. Juan Obama Edu, member of the political party CI, unjustly condemned in the

¹⁵ https://uploads-ssl.webflow.com/5c5b3d21055de3235de4f742/5ca5dbe541698e91defc1b85_EG%20Justice%20HR%20Report%20ENG%202016_2017.pdf

¹⁶ https://uploads-ssl.webflow.com/5c5b3d21055de3235de4f742/5ca5dafa41698e1018fc1978_Informe%20EPU%20Derechos%20Civiles%20y%20Politicos%20Guinea%20Ecuatorial%202018.10.02.pdf

Mongomo macro trial, died in Evinayong prison on 02/07/2018, two days before the publication of the Amnesty Decree¹⁷.

The State lacks training about and avenues to social reintegration for prisoners, which leads to some prisoners becoming more violent, and repeat offenders who become habitual prison residents.

Liberty and security of person (arts. 6, 9, 12 & 14)

Arbitrary detention is a weapon frequently used by the regime with absolute impunity. Any uniformed individual, leader of the ruling party, or relatives of any authority may arbitrarily decide to detain any ordinary citizen. Arbitrary detention is combined with threat, intimidation and harassment when it comes to dissidents, activists or politicians. In addition, such detentions are usually accompanied by illegal imprisonments of varying lengths and may occur for any reason: personal problems, common-order conflicts, political intolerance, and so on¹⁸.

Prisoners' right to be promptly brought before a judge, or their right to a speedy trial are not respected, except in high profile cases that the government realizes that the international community is following. Many prisoners locked up at the request of high-ranking government officials languish in prison for many years, unless they are able to bribe their way out of prison. It is hard to estimate the average pretrial detention duration, because most people languish in jail forever, unless their case is of high-profile, in which case it could still take between several month and a year. Bail, access to counsel-paid-by-the-state for indigent defendants, and other due process guarantees are rarely granted to prisoners in Equatorial Guinea.

If a central registry of all persons abducted, imprisoned or detained exists, the state has not made it public. The government, nonetheless continues to abduct Equatoguineans abroad, as it did in the cases of Cipriano Nguema, Fulgencio Obiang, and Francisco Eko¹⁹.

Joaquin Elo Ayeto's case illustrates how the government continues to hold prisoners incommunicado. He was detained in February and sent to prison, after having been tortured twice. Since arriving at the Black Beach prison, Mr. Elo Ayeto's family and lawyers have not been allowed to see him. He is being held in a 2 meter by 2 meter punishment cell, along with 7 other prisoners.

¹⁷ https://uploads-ssl.webflow.com/5c5b3d21055de3235de4f742/5ca5dafa41698e1018fc1978_Informe%20EPU%20Derechos%20Civiles%20y%20Politicos%20Guinea%20Ecuatorial%202018.10.02.pdf

¹⁸ https://uploads-ssl.webflow.com/5c5b3d21055de3235de4f742/5ca5dafa41698e1018fc1978_Informe%20EPU%20Derechos%20Civiles%20y%20Politicos%20Guinea%20Ecuatorial%202018.10.02.pdf

¹⁹ <http://www.asodequese segunda etapa.org/dos-ciudadanos-de-guinea-ecuatorial-secuestrados-en-togo-y-detenidos-en-malabo-agencia-lusa/>

Freedom of movement (art. 12)

Police and military roadblocks remained a major impediment for free movement. While the regime claims the roadblocks are needed to fight illegal immigration and terrorist threats, in reality military and police officers often put up random roadblocks to extort and demand bribes from travelers — particularly targeting foreigners.

In 2016 there was a sharp spike in the restriction of movement and in the harassment of opposition leaders during the electoral process. Anselmo Santos Eko Anvom and Urbano Elo Ntutum, leading members of Convergencia para la Democracia Social (CPDS), were arbitrarily arrested in Bata on January 16, 2016. They were driving around the city in a car, distributing leaflets and using a megaphone to announce a campaign meeting scheduled for the next day. CPDS had a duly-signed permit authorizing the meeting. The police accused the two men of causing public disturbances by mentioning issues that went beyond announcing the meeting and the electoral census. The police also impounded the car the two men were driving, as well as another car from CPDS local headquarters. The police forced them out of their car and threw them into a police car. Once in Bata Police Central Station, the deputy director-general got angry and hit Anselmo Santos on the head with his hand. Both men were held incommunicado for two days and were finally released without charges 9 days later²⁰.

Independence of the judiciary, administration of justice and the right to a fair trial (arts. 9 & 14)

In practice, the independence of the judiciary is not guaranteed. The Constitution (Ley Fundamental) establishes the right of autonomy for the judiciary, and particularly, defines the Higher Judiciary Council (Consejo Superior) as the eminent body of the judiciary system. However, President Obiang is both, the head of state and head of the government; and as such, his executive powers grants his control of both the legislative and judicial branches. The head of the state can review juridical decisions of the Supreme Court of Justice and “offer recommendations”.

Members of the judiciary are civil servants appointed by the President. They are arbitrarily hired and removed from their positions based on the personal interests of the head of the state. Thus, the judiciary is not independent to review, interpret, or execute justice when necessary.

²⁰ https://uploads-ssl.webflow.com/5c5b3d21055de3235de4f742/5ca5dbe541698e91defc1b85_EG%20Justice%20HR%20Report%20ENG%202016_2017.pdf

According to the constitution, appointments should be made by the judicial authorities of the Higher Judiciary Council (Consejo Superior), based on independent and impartial procedures that include academic standing, career trajectory and experience. However, national-level appointments do not support the independence of the judiciary. The Higher Judiciary Council processes appointments once the head of state has approved them. The president, as the self-appointed “first magistrate of the nation” and chair of the Higher Judiciary Council, is responsible for appointing judges and magistrates, and thus he offers strategic positions to family members and cronies, instead of qualified legal minds.

In addition, there is no security of tenure; thus, judges have been removed by the President. The judiciary system is not autonomous because positions depend on judges demonstrating loyalty to President Obiang through their decisions and actions while in court. During the review period, the president appointed about a dozen new magistrates and judges, and fired Chief of the Supreme Court, Juan Carlos Ondo Angue in August 2018. And as Judge Angue Ondo was dismissed from his position for denouncing corruption among the national companies, other supporting judges, including Angel Mariano Edjang Ndong, were harassed and detained.

For the first time in the history of the country, in May 20, 2015, despite the legal provisions that specifically stipulate that judges and magistrates cannot be forcibly removed from their duties, the head of state by presidential decree dissolved the entire Judiciary. For more than two weeks, the country had no judges. A month later, in June, the President appointed 400 new judges, magistrates, court secretaries, and clerks.

A large majority of the new judges belonged to an association affiliated with the party in government, which is incompatible with a clause in the Judiciary's regulatory framework (Article 194). The presidential decree was not available on paper, but the appointments were announced on the national TV news broadcast of June 9, 2015. According to knowledgeable people interviewed, around 60 percent of the new appointees did not have a law degree or any specialized training for the post.

Proceedings of the military tribunals remain closed to the general public. According to activists and human rights defenders who have visited or spent time in prison, a large number of members of the security forces are in secluded in the prisons, perhaps an indication that the military tribunals remain very active.

In the process of the May 2019 trial of over 80 individuals accused of plotting to assassinate the president several irregularities were documented and will soon be published in a report by the American Bar Association. The most notable violations included the inclusion of new military prosecutors and judges, halfway into the trial proceedings. Defense attorneys were not allowed to ask their clients about the torture they had been subjected to, even though the presiding judges and prosecutors used evidence obtained under torture to convict the accused. Also, the prosecution was allowed to keep introducing new charges and new evidence to ensure convictions.

Communications surveillance and the right to privacy (art. 17)

The government of Equatorial Guinea continued to restrict access to critical reporting online, including by blocking citizens' access to independently run websites featuring critical articles. These online publications and websites included ASODEGUE Segunda Etapa, Diario Rombe, EG Justice, Guinea-Ecuatorial.net and Radio Macuto, most of which operated from abroad, in part, to evade censorship pressure. Access to these websites from inside Equatorial Guinea is routinely blocked, as was the case during the 2016 presidential election season. During such times, citizens attempting to connect to one of the blocked websites may get an error message or be automatically redirected to the official government Web page. A limited number of Internet users have access to special technology, such as proxy servers, that allows them to bypass such controls. Although Internet penetration rates remained very low in the country, segments of the population are active on social media. During the period in review, according to the sources consulted, Facebook was frequently blocked and communication via WhatsApp was at times also disrupted. Self-censorship is widespread online, and many articles online are published anonymously because making critical remarks about the government can carry great risks in Equatorial Guinea. When Celestino Okenve, a pro-democracy activist and opposition politician, published a highly critical article about Equatorial Guinea's security minister on the website Guinea-Ecuatorial.net in April 2016, he used his own name. Less than a week later, he was arrested and tortured, allegedly under the orders and in the presence of the same official he had criticized in his article²¹.

Freedom of expression, peaceful assembly and association, and protection of journalists and human rights defenders (arts. 6, 7, 9, 19, 21, 22 and 25)

In policy, freedom of the press is severely restricted; in practice, it's non-existent. All broadcast media channels are owned by the state, with the exception of RTV-Asonga, a radio and television network owned by the president's son and Vice President, Teodoro Nguema Obiang. The state-owned television station RTVGE is used as a platform for government propaganda and only broadcasts activities that are related to the governing party. Very few private newspapers exist and those that do are strictly censored. Journalists who state views that are perceived as critical of the government, security forces or the president and his family are dismissed or judicially persecuted. In light of these severe restrictions on state-owned media houses, the Equatoguineans who can afford the hefty costs of access to Internet, rely on online news sources from the diaspora for information. However, the authorities regularly block the websites of exiled groups, the political opposition and foreign news sources. The government also prevents information about protests and democratic uprisings in other countries from

²¹ https://aii.globalintegrity.org/indicator-details?country=equatorial_guinea&num=56&year=2017

being broadcasted in Equatorial Guinea. Because of these restrictions many journalists resort to self-censorship and others have fled into exile²².

Censorship by the government and self-censorship by journalists themselves continued to take place in Equatorial Guinea during the review period. This helps to account for the country's low level of media freedom, and grants the government its alibi stated by its representative at the UPR, that there are no journalists in prison today.

In the lead-up to the presidential elections in April 2016, police blocked the entry of 12 journalists traveling from Africa²⁴ in Chad for five hours and attempted to expel some of them, despite their having press credentials issued by the country's Ministry of Information. According to the sources consulted, once the journalists were permitted inside the country they discovered that their planned activities had been canceled, including most significantly a political debate they had intended to hold between presidential candidates. One report published from outside the country quoted an anonymous source from the information ministry as stating that all journalists were "under orders" not to permit any debate between candidates and to censor any anti-government political statements. The sources consulted also pointed to pre-publication censorship of Equatoguinean media involving interviews. In September 2015, a television program edited out of an interview with a civil society leader certain comments he made regarding freedom and democracy. In another example, the state television authority allegedly fired two journalists after they interviewed an opposition politician who had been prohibited from participating in the presidential election. In a further example, according to the sources consulted, media in Equatorial Guinea were instructed not to cover the presidential campaign in neighboring Gabon or the disputed election result in which the incumbent was ultimately declared to have won by a thin margin. No official statement was publicly available to confirm such a censorship order. A review of the official website of the government of Equatorial Guinea, however, shows that it published several articles during the period mentioning Gabon's president, including his meetings with the president of Equatorial Guinea in late July 2016. Yet its only apparent references to the Gabonese elections held in August 2016 were contained in two brief articles published the week of the vote, one concerning a celebration at the Embassy of Gabon in Malabo and the other describing arrangements for citizens of Gabon residing in Equatorial Guinea to vote there. The Ministry of Information also continued to exercise indirect influence over media during the review period that contributed to a climate of fear and self-censorship. Notably, it controlled the only newspaper printing facility in the country, and the minister regularly met with journalists and editors regarding news coverage and operations. Media in the country continued to be vulnerable to prosecution under criminal defamation laws, and the press law granting prepublication censorship powers to the authorities remained in effect²³.

²² <https://www.civicus.org/documents/JointUPRSubmissionEquatorial%20Guinea.pdf>

²³ https://aai.globalintegrity.org/indicator-details?country=equatorial_guinea&num=55&year=2017

During the period under review, the government of Equatorial Guinea continued to impose severe obstacles on NGOs and other civil society organizations. Many of these restrictions had to do with the tedious and taxing administrative process that these organizations must complete to be legally recognized. The organizations that openly identify themselves as pro-human rights continue to be vetoed in the country. For NGOs to be legalized, members must produce a series of documents, including the document of foundation and statutes, before the state notary. The state notary needs to consult with the Ministry of Interior; without the approval of the minister, the whole process is considered void. If the minister OKs the document, the file is then transferred to the Ministry of Interior along with a report by the relevant ministry (this depends on the type of activities the NGO will be conducting) supporting the application and two sworn documents stating that the organization will be subject to the control of the relevant ministry and will submit reports four times a year. Eventually, it is at the discretion of the minister of Interior to sign the authorization for the organization. There is no established timeline so the process can take as little as a few days or as much as a few years. Once this is completed, the NGO is registered at the National Registry of Associations and, eventually, the NGO must submit this registration at the regional registry where the organization seeks to operate. The registration process is much less tedious for those organizations identified with the government or the PDGE. In addition to the bureaucratic barriers, NGOs with no ties to the government either received little financial support from the state or none at all. Hostility against NGOs has worsened considerably, making it harder for most of them to meet the requirements. Furthermore, NGOs see how their activities are often hampered when they are not sponsored by the state or the ruling party. In effect, government actions against these organizations has the effect of criminalizing their members. Hostility against these organizations is also reflected by the lack of collaboration from state departments and civil servants who refuse to provide services that ordinary citizens and businesses are entitled to. During the review period, the most notorious case of harassment against NGOs was suffered by the leading civil society organization in the country. After seeing its administrative license suspended indefinitely by the minister of Interior on March 2016, this organization appealed the decision in September 2016. Members of the organization also decided to resume their activities pending a final decision on their suspension. Up to the date its top-two ranking officials were detained in April 2017, the case had not been resolved. The two activists remained in custody without formal charges for more than a week in one case, and nearly three weeks in the other. They were only released after they “reluctantly” accepted to pay the fine imposed upon them by the minister of Interior.

In practice, citizens cannot associate freely for fear of suffering repercussions at their place of employment or being arbitrarily detained. There is constant pressure for public- and private-sector employees to join the ruling Democratic Party of Equatorial Guinea (PDGE) to secure their jobs. In rural areas, peer pressure also forces many individuals to join the PDGE for fear of being alienated or undermining their relatives. The government of Equatorial Guinea severely retaliated against citizens who tried to carry out coordinated actions to demand improvements in their working conditions. This was the case of the strike by taxi drivers at the beginning of May 2017. Taxi drivers in

Malabo tried to organize and stage an industrial action in protest of the high cost of the numerous documents that the government requires for taxi operators and the constant harassment by the police. Taxi drivers were violently repressed bringing their protest to an end. While employees are required to attend PDGE rallies and celebrations, government officials often deny authorization for public events by other parties and organizations.

On Dec. 28, 2017, security forces arbitrarily arrested at least 30 people, all members of the *Ciudadanos por la Innovación* political party (CI) in Malabo, and more in Bata. The arrests were the beginning of a series of egregious and wanton violence against civilians who were exercising their right to freedom of association. Once arrested, the security forces severely tortured these individuals, leaving several of them with broken limbs, destroyed buttocks, backs and soles, in need of medical assistance. One individual, Santiago Ebee Ela, died after few days while in jail. Although some were released nearly two months later, following their trial, the court ordered the dissolution of CI on Feb. 26, 2018. The CI Party appealed this ruling, however, the Supreme Court ratified it on May 7, 2018²⁴.

Protection of political opponents and activists and participation in public affairs (arts. 6, 7, 9, 14, 17, 19 and 25)

Besides the ruling Partido Democrático de Guinea Ecuatorial (Democratic Party of Equatorial Guinea, PDGE), there are other political parties, such as Convergencia para la Democracia Social (CPDS), Union Popular (UP), Fuerza Demócrata Republicana (FDR) and Ciudadanos por la Innovación (CI). Political parties fund their organizations through memberships and private donations. These donations, according to sources, are not made public for several reasons. In the case of the ruling PDGE, disclosure of public donations is not a priority. Members of the party, including the head of state, do not believe they have to disclose their donations. In addition, there is no regulation regarding what political parties are required to do in relation to donations. During the period under review, the PDGE did not disclose any sort of documentation related to budgetary funds, expenditures or donations, with the exception of the three-day event in August 2018 called VIII Forum of the MAO, a congress of businessmen and politicians that support President Obiang. The event gathered youth organizations that gave donations to the PDGE. In the case of the other political parties, they, according to sources, do not disclose public donations because many prefer to maintain anonymity for fear of repression²⁵.

In practice, civil servants' work is compromised by interference that the ruling political party in power exerts over the country. Public and civil servants have limited or no independence from control by the head of state, as they are in their positions mostly due to their submissive status. Civil servants are removed from their positions or

²⁴ https://aii.globalintegrity.org/indicator-details?country=equatorial_guinea&num=67&year=2018

²⁵ https://aii.globalintegrity.org/indicator-details?country=equatorial_guinea&num=49&year=2019

promoted based upon their personal loyalties toward the head of state, who now has ruled the country for 39 years. The careers of civil servants are being controlled by the government — from nomination to their career path. Civil servants face pressure from the government and are subordinated to its will, including for disciplinary measures, removals or transfers. According to sources, during the period under review, civil servants could not leave the country on trips without the personal authorization of Vice President Teodorin Nguema, the son of the head of state. Civil servants often have their affiliation cards in the ruling political party PDGE because it gives them confidence and more assurance in their jobs. Sources claim that on occasion, it is difficult to differentiate a civil servant from a politician. Civil servants cannot openly express any disapproval of the ruling political party because they know someone can inform on them. The workplace is generally a space of fear and submission. The working environment is harsh and hostile toward civil servants. There is no freedom of association, worker unions or independent decision-making. On occasion, civil servants are targets of suspicion. This was the case of four civil servants who, during the period under review, lost their jobs on January 2018, because the government and their allies accused them, among many other reasons, of organizing and carrying out the “coup d’etat” attempt that occurred on Dec. 24, 2017. The situation among civil servants has not improved, despite the open National Dialogue celebrated in July 2018. During that congress, the head of state and allies invited opposition political parties and praised respect for freedom of expression, however, only one opposition political party attended the meeting. Civil servants' rights remained non-existent during the period under review²⁶.

Despite a national pact of March 16, 1993, amended in November 2014, by which the government and political parties agreed that political parties would have access to all state media, including newspapers, radio and television, the pact has been consistently ignored in practice. In fact, today, RTGE (Radio Television Guinea Equatorial) never shows live video images of the opposition, and rarely broadcasts their voice. Instead, a reporter narrates what the politicians supposedly said or did. During the period reviewed, the government and ruling party, PDGE (Partido Democrático de Guinea Ecuatorial), continued to monopolize the coverage of national media. Their election campaign for Nov. 12, 2017, really started at PDGE’s VI Congress, held July 4-6, 2017. News coverage and editorial commentary are biased toward the ruling party. The leaders of the opposition have no access to the state-owned media in order to reach potential voters. The same is true about access to the only private television and radio broadcaster, Radio and Television ASONGA, owned by the country's vice president and the son of the president, Teodoro Nguema Obiang Mangue²⁷.

The *Junta Electoral Nacional* (JEN, National Electoral Commission) lead by the Minister of Interior, and made up of government officials, members of the judiciary and members of supposed opposition parties allied to the ruling party, has no programs in between elections. They only comes together a few months before the contests to

²⁶ https://aii.globalintegrity.org/indicator-details?country=equatorial_guinea&num=38&year=2019

²⁷ https://aii.globalintegrity.org/indicator-details?country=equatorial_guinea&num=23&year=2018

ensure that the ruling party and President Obiang secure the overwhelming majority of votes. All members of the JEN are appointed by President Obiang. Thus, in effect, the JEN lacks a work plan, and it lacks any rigorous approach or preparation to, such as an electoral census, to ensure that elections are fair, and transparent. In between elections, members of the JEN are occupied carrying out their usual duties civil servant duties, such as Minister of Interior Clemente Nguema Oguene, who is also the chairman of the JEN. The JEN is composed of six judges or members of the Judiciary, six representatives of the government and administration, one secretary who is an official, and one representative of each electoral coalition. Considering that all the magistrates belong to the PDGE or are appointed by President Obiang, and that the other officials are also members of the PDGE, and of the 18 existing political parties, 14 form a coalition with the ruling party, the PDGE, in effect, has 28 votes guaranteed, compared to two votes that might side with the opposition. As for the district and municipal boards, the situation is even more tilted in favor of the ruling party. Further, JEN members can only be removed by presidential decree.

The National Electoral Commission has been led by Minister Clemente Engonga Nguema Oguene for nearly two decades. Appointments of electoral officials are not based on merit. New appointments take place by presidential decrees. In 2017, President Obiang designated, through Decree No. 59, new members of the JEN. The appointment of the new members has been made public, but details on their merits, either their academic background or professional qualifications, have not been advertised. Electoral officials are rarely chosen through merit selection but by political affiliation to the ruling political party, led by the head of state. The president and his party control the electoral system with impunity. The Regional and Municipal Electoral Commission include the same number of representatives, with the ruling party remaining the most represented. The National Electoral Commission granted the head of state's party almost 100 percent of the votes after the legislative, senatorial and municipal elections held on Nov. 12, 2017. The official results presented by the commission were fraudulent. The electoral system lacked independent monitoring and verification of the voter census, registration and tabulation of the ballots²⁸.

The 2012 Constitution of Equatorial Guinea does not contain any principles that could be construed as guaranteeing citizens access to public information. There is no legislation guaranteeing public access to government data. Both citizens and noncitizens (foreign media) are unable to easily access information held by the government. Law No. 5/1991, "Regulating the Right to Complaint and Petitions," is a general citizens' complaints framework with a vague process to respond to the complaints. This law does not provide a structure or processes to request public information. However, Law No. 6/1997 (May 30, 1997), "On the Press, Printing and Audiovisual media," does provide a legal means for journalists to request public information. According to Article 10 (1), the government, administration and state entities must turn over information about their activities to publications, news agencies

²⁸ https://aiglobalintegrity.org/indicator-details?country=equatorial_guinea&num=21&year=2018

and other media if their requests are deemed legitimate. Article 10 (2) limits possible access to documents that have not been classified.

In practice, citizen requests for public information are not very effective. citizens can try to request information, but given the limitations of the administrative system, it is extremely difficult to obtain information regarding the functioning and activities of government departments.

Public information is made available through the official government websites and state-owned companies' websites. However, most governmental records online are limited because they only contain the information that the ruling party decides to share after heavy censoring, and often does not contain transparent reports. According to an attorney, citizens can access public information such as laws and decrees, or recorded judiciary decisions, through an independent website run in the country or in person at the Government Gazette, the Official Bulletin of the state. They also can submit a request to the relevant ministry, a process that involves paying a fee. The cost varies, and it is unknown to many equatoguineans because requests for public information are rare, unless they are from journalists or lawyers. Prices of legal texts (printed on paper) related to the decision depend upon the volume of content, and the cost ranges from CFA 1,000 (\$1.75) to CFA 10,000 (\$17.49). In addition, the public information accessed may be limited for investigative purposes or for members that are opponents of the ruling party because of the lack of a democratic perspective and transparency. To access public information in person requires bravery. Government officials are suspicious as to why citizens are requesting public information at their offices. At time's public information can be accessed through acquaintances or family members employed as civil servants, however, most civil servants and citizens remain cautious and submissive because they fear losing their jobs²⁹.

²⁹ https://aiglobalintegrity.org/indicator-details?country=equatorial_guinea&num=42&year=2018