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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL
AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the human rights situation in the Republic of
Equatorial Guinea prepared by Mr. Alejandro Artucio,
Special Rapporteur of the Commission, pursuant to
Commission resolution 1993/69

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Introduction

1. The Commission on Human Rights has concerned itself publicly with the question of Equatorial Guinea since 1979. On 8 March 1979, at its thirty-fifth session, the Commission adopted a confidential decision whereby it discontinued consideration of the human rights situation in Equatorial Guinea under Economic and Social Council resolution 1503 (XLVIII) - the confidential procedure - and took up consideration of the question under the public procedure provided for by Commission resolution 8 (XXIII) and Council resolution 1235 (XLII). Subsequently, on 13 March 1979, the Commission adopted resolution 15 (XXXV), by which it decided to entrust to a special rapporteur of the Commission, to be appointed by its Chairman, the task of making a thorough study of the human rights situation in Equatorial Guinea. The Economic and Social Council, for its part, approved the Commission's decisions by its own decision 1979/35 of 10 May 1979, adding that the material before the Commission on the question should no longer be restricted under Council resolution 1503 (XLVIII).

2. The Chairman of the Commission appointed as Special Rapporteur, Mr. Fernando Volio Jiménez (Costa Rica), who submitted his first report on the human rights situation in Equatorial Guinea to the Commission at its thirty-sixth session (E/CN.4/1371 and Corr.1). In the light of that report, the Commission adopted resolution 33 (XXXVI) of 11 March 1980, whereby it decided to request the Secretary-General to appoint, as an expert in his individual capacity, a person with wide experience of the situation in Equatorial Guinea, in particular with a view to assisting the Government of that country in taking the action necessary for the full restoration of human rights and fundamental freedoms, keeping in mind the recommendations of the Special Rapporteur and the economic, political and social realities of the country. The Commission's resolution was approved by the Economic and Social Council on 2 May 1980 (decision 1980/137). The Secretary-General appointed Mr. Fernando Volio Jiménez as the Expert in his individual capacity to carry out the above task. Mr. Volio Jiménez accepted the appointment on 19 September 1980, and the Government of Equatorial Guinea indicated its concurrence on 1 October 1980.

3. From then on, the Expert reported annually to the Commission on Human Rights on the mishaps befalling the Plan of Action for the restoration of human rights and fundamental freedoms which he himself prepared, and which was proposed by the United Nations and accepted by the Government of Equatorial Guinea.

4. At its forty-seventh session, the Commission had before it the report of the Expert contained in documents E/CN.4/1991/54 and Add.1 and 2, highlighting the Expert's concern over the stagnation in the implementation of the Plan of Action along with his view that the Commission's strategy for considering the human rights situation in Equatorial Guinea should be rethought. To that end, he suggested that his mandate should be "broadened and strengthened so that, in investigating the human rights situation in that country, he can consider allegations of possible human rights violations and conduct inquiries on the spot" (E/CN.4/1991/54/Add.2, para. 18).

5. At its forty-eighth session, the Commission considered the report of the Expert contained in document E/CN.4/1992/51, describing the Expert's mission to Equatorial Guinea in November 1991, and his view that the human rights situation in that country had seriously deteriorated. Accordingly, the Commission decided, *inter alia*, to request its Chairman, following consultations with the Bureau, to appoint a suitable individual of recognized standing as an expert of the Commission with a mandate to make "a thorough study of the violations of human rights by the Government of Equatorial Guinea" (resolution 1992/79, para. 12). In decision 1992/247 of 20 July 1992, the Economic and Social Council approved the Commission's resolution. The Chairman of the Commission on Human Rights, in turn, appointed Mr. Fernando Volio Jiménez as the Expert. In fulfilment of that mandate, the Expert submitted his report and recommendations on the most important events which occurred in Equatorial Guinea in 1992 (E/CN.4/1993/48).

6. The report states, in the conclusions, that there "has been no change in the human rights situation in Equatorial Guinea. The political and institutional conditions that seriously hinder both the free exercise and due legal protection of fundamental rights persist" (E/CN.4/1993/48, para. 23). It further states (para. 27) that the "situation is made worse by the fact that the Government of Equatorial Guinea has shown no sign of the necessary readiness to make sincere changes in its present repressive policy ...". In the recommendations by Mr. Volio Jiménez emphasis is placed on the "Emergency Plan of Action" proposed in his report (E/CN.4/1992/51), which did not receive the official approval of the Government of the country.

7. At its forty-ninth session, the Commission on Human Rights examined the above-mentioned report and, on 10 March 1993, adopted resolution 1993/69 without a vote. In it, the Commission *inter alia*, expresses "its serious concern at the persistence of politically motivated violations of human rights, such as arbitrary arrests and the application to political prisoners of torture and other cruel, inhuman or degrading treatment or punishment, and at the lack of cooperation with the Expert" (para. 2); "deplores the situation of women in Equatorial Guinea" (para. 4) and calls upon the Government "to put an end to the use of military courts for trying ordinary law offences and to permit the establishment of an independent judiciary" (para. 5). At the same time, the Commission requested its Chairman, following consultations with the Bureau, to appoint "an individual of recognized international standing in the field of human rights who is entirely familiar with the situation in Equatorial Guinea as special rapporteur of the Commission, with a mandate to make a thorough study of the violations of human rights by the Government of Equatorial Guinea on the basis of all the information which he considers relevant, including information furnished by intergovernmental and non-governmental organizations and by private individuals and, in particular, any documentation provided by the Government of Equatorial Guinea" (para. 9). That resolution was approved in decision 1993/277 of the Economic and Social Council and the Chairman of the Commission appointed Mr. Alejandro Artucio (Uruguay) as the Special Rapporteur.

8. At the same time, the Centre for Human Rights and the United Nations Development Programme (UNDP) paid special attention to the situation in Equatorial Guinea and sent several advisory missions there. By agreement between the two organizations, Mr. Eduardo Luis Duhalde was appointed as the

Human Rights Consultant in Equatorial Guinea for the purpose, established in the terms of reference, of assisting the Special Rapporteur in all respects, in particular by providing him with reliable and comprehensive information collected in situ on the human rights situation; by assisting the Monitoring and Follow-up Commission provided for in the National Pact of 18 March 1993; by coordinating in situ the Centre for Human Rights' technical assistance services to the Government of Equatorial Guinea and by helping the Special Rapporteur to define in agreement with the Government of Equatorial Guinea the most appropriate legislative and institutional framework for ensuring an effective improvement in the human rights situation in that country.

9. Of the missions undertaken during this period, the United Nations/UNDP mission of 7 April 1993 deserves special mention. Its aide-memoire constituted a veritable plan of action submitted to the Government of Equatorial Guinea for its consideration. Mention should also be made of the advice given about preparations for elections indicating the measures that should be adopted by the Government to ensure a transparent electoral process and the free exercise of democracy, but which were not applied by the authorities at the proper time.

10. The Special Rapporteur wishes to express his appreciation to the non-governmental organizations and in particular to Amnesty International, the International Movement for Fraternal Union among Races and Peoples and the World Council of Churches, which, pursuant to Commission on Human Rights resolution 1993/69, provided him with valuable information.

I. ACTIVITIES IN SITU: REPORT ON THE SPECIAL RAPPORTEUR'S FIRST AND SECOND VISITS TO THE REPUBLIC OF EQUATORIAL GUINEA

11. The Special Rapporteur paid his first visit to Equatorial Guinea from 2 to 9 October 1993 and his second visit from 11 to 19 December 1993. The groundwork for both visits was laid by the Human Rights Consultant, Mr. Eduardo Luis Duhalde, who also gave very valuable assistance during the visits. Very effective cooperation was also provided by the UNDP Resident Representative in Malabo, Mr. Markku Visapaa, and the UNDP staff.

12. During his visits, the Special Rapporteur tried, on the one hand, to have daily contact with the Government, in order to exchange views and suggestions, to acquaint himself with the various aspects of the situation and to explain the terms of his mandate and the content of resolution 1993/69, as well as the concerns of the Commission on Human Rights. During his second visit, on 15 December 1993, he was received by the Prime Minister and Head of Government, Mr. Silvestre Siale Bileka, and on the following day by His Excellency the President of the Republic, Mr. Obiang Nguema Mbasogo. Both interviews were cordial and positive, particularly the one with the Head of State, in that it was possible to have a very frank exchange of views on the human rights situation in Equatorial Guinea and the conditions that had to be met by the Government in order to obtain United Nations technical assistance. In the interview with the President of the Republic, the Special Rapporteur also showed special interest in the situation of the former soldiers who are still in prison - although their sentences had been reduced - and requested the application of mechanisms that will enable their early release. Among the long list of officials with whom interviews were requested for the purpose of

a more detailed inquiry by branches of government, he succeeded in meeting only some of them. The conversations were first channelled through the Minister for Foreign Affairs and the French-speaking Countries, Mr. Benjamin Mba Ecu Mico, and then through the Minister of Justice and Worship, Mr. Mariano Nsue Nguema, and the Deputy-Minister of Justice responsible for Human Rights, Mr. Francisco Javier Ngomo Mbengono, who were solicitous and obliging in responding to the Special Rapporteur's requests. Each, within his field, cooperated fully and expressed a wish to improve the human rights situation in the country.

13. Notwithstanding the foregoing, on both visits the Special Rapporteur encountered obstacles in the discharge of the mandate assigned to him. On 15 December 1993, police officers, on the orders of their superiors, proceeded to seize an envelope containing reports of human rights violations that a leader of an opposition party attempted to reach the Special Rapporteur. When the confiscated correspondence was not returned and no satisfactory explanation was given, he was forced to submit a note verbale on the incident. The Minister who is the Government spokesman subsequently returned the correspondence and apologized on behalf of the Government. During the first visit, the Human Rights Consultant assisting the Special Rapporteur was also attacked verbally and threatened - as was the United Nations Resident Coordinator in Malabo - by a senior commissioner when both of them met, on 21 September 1993, at the Malabo police station to obtain information about the detention of an FAO guard. The second visit to the Bata city prison, to the "3 August" military camp and to the senior police station in Bata, which was scheduled for 16 December last, could not take place, despite the fact that the Special Rapporteur had received the Government's approval, because the Ministry of Defence was slow in issuing take-off permission at Malabo airport for the aircraft which the Embassy of Spain had kindly placed at his disposal to take him to the continental region.

14. During all these interviews a number of matters were raised including:

(a) The concern of the Commission on Human Rights expressed in resolution 1993/69 over the human rights situation in Equatorial Guinea;

(b) The points contained in the aide memoire submitted by the UNDP/UN mission of 7 April 1993;

(c) The need for the Republic of Equatorial Guinea to ratify or accede to the main international human rights instruments;

(d) The need also for the Government to conclude an agreement with the International Committee of the Red Cross (ICRC), in order to authorize it to make periodic visits to all the prisons in the country and interview all prisoners without exception;

(e) The firm belief that the legal system is very unreliable mainly because of the inadequate functioning of the judiciary, the failure to publish the laws enacted, the lack of proper legislation and the broad powers vested in the military courts;

(f) Compliance by the Government of Equatorial Guinea with the obligation to submit reports in accordance with the international instruments to which it is a party;

(g) Non-application of the death penalty to civilians in extremely summary military trials, the immediate execution of sentences preventing any appeal or petition for pardon by the person sentenced, as in the case of the young man Romualdo Rafael Nsongo, who was executed at Bata beach on 18 September 1993;

(h) The fact that prisoners receive long custodial sentences, in politically motivated trials, handled by the military courts of doubtful legality;

(i) The constant application to detainees of torture and ill-treatment which have left noticeable injuries and after effects;

(j) The lack of freedom of the press, even for those political parties which have been legalized;

(k) Restrictions on freedom of expression, mainly of the leaders and active members of the opposition parties, who are constantly subjected to detention, surveillance and death threats, and even tried for insulting the Head of State;

(l) Inhuman and degrading treatment in the prisons, where food, medical care, beds, sanitary services etc. are lacking; and the detainees are subjected to unpaid and forced external labour and/or solitary confinement in tiny cells where they remain locked up day and night;

(m) The restrictions on the right to move and travel freely throughout the national territory, by means of veritable internal Customs, by requiring that the nationals of the country obtain visas in order to enter and leave it, and by the withholding of many of their passports by the Department of State Security;

(n) The complaints about the electoral process made by the platform and the failure in that regard to respond to the comments made by the United Nations expert;

(o) The situation of women in society, discrimination against them and the lack of opportunities for them, the fact that women are imprisoned because they do not have means to return the dowries to their ex-husbands - imprisonment that is a violation of article 11 of the International Covenant on Civil and Political Rights, to which Equatorial Guinea is a party.

15. In general, the members of the Government who were interviewed said they agreed that there was a need to make human rights effective. In every instance, they said that an improvement in human rights depended on the receipt of international multilateral and bilateral financial assistance. The Special Rapporteur stressed the fact that the international community requires the adoption of specific measures by the Government and not only promises or

declarations of good intent, before channelling either financial aid or technical assistance. He reiterated that certain matters, such as the treatment of detainees and prisoners, did not depend on financial need.

16. It was also suggested to the Government of Equatorial Guinea that it could take a number of measures for immediate improvements in the situation, such as a pardon, reprieve or amnesty for the political prisoners, in particular to those sentenced for the events which occurred on the island of Annobon and for the group of former soldiers who were tried and sentenced for the alleged crime of conspiring to organize a rebellion; their trials did not have the guarantees of due process of law.

17. The Special Rapporteur wishes to express his satisfaction - as he did in the communiqué to the international press on 21 October 1993 - that a few days after he proposed this type of clemency measure, the Government decided, on 12 October, National Independence Day, to grant a full amnesty to and immediately release the eight persons sentenced for the events on the island of Annobon (including two who were fugitives from justice), and a partial amnesty to other convicted persons. Consequently, the persons sentenced to more than 20 years' imprisonment had their penalties reduced by two thirds and those sentenced to less than 20 years had theirs reduced to a half.

18. The Special Rapporteur, accompanied by the Consultant, visited the prisons of the cities of Malabo and Bata. The latter is on the mainland. In the Malabo prison, there were 28 inmates at the time of the first visit and 22 at the time of the second. In the Bata prison there were 45 inmates. Chapter II of this report gives a detailed description of the situation in both prisons.

19. The Special Rapporteur attached special importance to the interviews with individuals, victims of State repression, representatives of the various churches and political parties, non-governmental and intergovernmental organizations represented in Equatorial Guinea women's groups and other sectors of the society. He had several talks with diplomats of donor countries accredited to Malabo, and of course, with the UNDP Resident Representative in Malabo and his associates. He also visited the districts of Los Angeles and Ela Nguema in the city of Malabo and the villages of Sampaca, Basapu, Balorei, Luba, Bococo and Baney on the island of Bioko, and talked with the inhabitants.

20. Other persons interviewed include those listed in annex 1. The information gathered and the evaluation of it are included in the specific analysis contained in chapter II of this document.

21. The Special Rapporteur also proceeded to gather the principal laws currently in force, a trying task because there are no publications on texts of those laws.

II. SURVEY OF THE PRESENT INSTITUTIONAL SITUATION IN
EQUATORIAL GUINEA, WITH SPECIAL REFERENCE TO THE
VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

A. Legal structure of the State

22. A curb on power is the basic principle on which any State governed by the rule of law is founded. The formal and material rule of law, with its correlative limitation, a reasonable restriction of the rights of the inhabitants and a check on whether it is applied fairly, for as the essence of a democratic State governed by the rule of law, the basis of which is the principle of the legal certainty - the jus certum - of its components. This principle is reflected in the democratic origin of authority in a system based on valid constitutional laws, the separation and independence of the public authorities, particularly by checks and balances, in the requisite disclosure of government, and in the responsibility of the State and its officials. Viewed from this standpoint of a peaceful international doctrine, the institutional system of Equatorial Guinea can hardly be described in these terms. During 1993, despite the provisions laid down in the National Pact of 18 March 1993, no change has occurred in the legal structure of the State to invalidate the assertion contained in the conclusions of the Special Rapporteur, Mr. Volio Jiménez, in his 1992 report, that: "Power remains concentrated in the hands of the President of the Republic, whose responsibilities are combined, both *de facto* and *de jure*, with the basic functions of public policy, which clearly contradicts the doctrine and practice of constitutionalism, and directly harms the fundamental rights of all individuals" (E/CN.4/1993/48, para. 23).

23. This situation not only occurs in actual fact but is also seen in the legislation in force and the absence of regulations restricting the President's power, something which gives the State model a noticeably authoritarian slant. This emerges from an analysis of the legal framework, of which some brief examples are given below.

1. The political Constitution in force or Fundamental Law

24. The system set out in the Fundamental Law, i.e. the Constitution (adopted by referendum on 17 November 1991) is one of absolute control by the President of the Republic over the three branches of government. It is supremacy unchecked, for article 32 ("The person of the Head of State is inviolable during and after his mandate") and the additional provision ("... the President of the Republic, Obiang Nguema Mbasogo, may not be prosecuted, judged, nor called as a witness before during or after his mandate") enunciates the principle of absolute impunity for his acts. As the Sub-Commission on Prevention of Discrimination and Protection of Minorities recalled in its resolution 1992/23, when it requested a study on the impunity of perpetrators of violations of human rights proposing "measures to combat that practice", the United Nations should gradually strengthen its role in combating impunity. In paragraph 4 of the same resolution, the Sub-Commission also invited Governments and competent bodies of the United Nations to provide information on the question. The impunity enshrined in Equatorial Guinea's

Constitution in the name of a single person runs counter to democratic principles, which lay down that those who govern and those who are governed must both respect the law.

25. The list of the rights and duties of individuals is adequate and follows the general lines of some of the international human rights instruments. However, a number of these rights and freedoms depend on the adoption of laws governing their exercise and since the majority of such laws have not yet been adopted, this casts doubt on whether the rights are actually operative.

26. The text - as the previous Special Rapporteur, Mr. Volio Jiménez, observes - gives the President of the Republic excessive power. Among other powers devolving on the Chief Executive, he has the right to veto laws, yet the Legislature does not have machinery allowing it to insist on maintaining them (art. 38); he can issue decree laws during the parliamentary recess (art. 39 (c)), and they may only be repealed by law (the Executive has practically unlimited power of legislation, since the Chamber of Representatives of the People usually only meets in the months of March and September, under the terms of art. 70); he appoints and dismisses the Prime Minister and civilian and military officials (art. 39 (f) and (h)); he negotiates and ratifies international agreements and treaties (art. 39 (j)); he approves national development plans (art. 39 (n)); he orders the dissolution of the Chamber of Representatives (art. 39 (o)); should the President consider that there is an "imminent danger", he may suspend the rights and guarantees laid down in the Fundamental Law for four months and take special measures, and during such time suspend the operation of the Chamber of Representatives (art. 41); he may decree a state of siege (art. 42); the opening of each ordinary and special session of the Chamber of Representatives of the People requires a decree issued by the President of the Republic (art. 72); the initiative to enact laws lies with the President of the Republic and the Representatives of the People in the Chamber, but "bills from the Representatives of the People shall be deposited on the Table of the Chamber and transmitted to the Government for study" (art. 75).

27. The provisions of the Fundamental Law concerning the Judiciary do not guarantee its declared independence; the President and all members of the Supreme Court of Justice are freely appointed by the President of the Republic for a period of five years (art. 91); the Attorney-General of the Republic, whose main task is to ensure strict compliance with the Fundamental Law, the laws and other legal provisions on the part of all State bodies (art. 92), is freely appointed and dismissed by the President of the Republic (art. 93); the Constitutional Chamber of the Supreme Court of Justice, which conducts hearings on the constitutionality of laws and remedies of amparo against legal acts which violate rights and fundamental freedoms, consists of five members - the President of the Supreme Court (appointed by the President of the Republic) and another four members also appointed by the President of the Republic, two on his personal decision and two on the proposal of the Chamber of Representatives of the People (arts. 94 and 95).

28. It should be added that the constitutional provision which establishes the conditions in order to become President of the Republic (art. 33) sets out requirements for candidates which are plainly prejudicial to leaders of the

opposition, for example, they must "have been established in the country for ten years" (art. 33 (e)). It will be recalled that several of these leaders spent time in exile.

2. Residual legislation

29. Decree-Law No. 4 of 3 April 1980 lays down that "throughout the national territory, only the criminal, civil, commercial, administration, labour and military laws which existed in Equatorial Guinea up to 12 October 1968, in so far as they are not inconsistent with legislation promulgated by the Supreme Military Council since 3 August 1979, until the date of entry into force of this Decree-Law, shall be applied residually". Two comments may be made here.

30. First and foremost, the legislation in question is precisely the legislation in force in Spain on the date Equatorial Guinea reached independence, i.e. the laws issued by the authoritarian regime of Generalissimo Francisco Franco, which Spanish society proceeded to modify substantially shortly after the start of political transition, regarding them as incompatible with a democratic system.

31. Secondly, its residual implementation is relative and is subject to the criterion of the implementing authority, thus creating juridical insecurity, for not only does above-mentioned Decree-Law No. 4/1980 make the operation of the laws conditional on them being "not inconsistent with legislation promulgated by the supreme Military Council" - the Fundamental Law itself contains a "Repealing provision" with effect on "provisions that are inconsistent with those of this Fundamental Law". In turn, the laws enacted by the Chamber of Representatives of the People and presidential decree-laws usually contain a final article repealing "such rules of similar or lower standing as are inconsistent with this law".

3. Main laws in force

32. The restricted legislation promulgated in Equatorial Guinea's 25 years of independent life, particularly the substantive laws sanctioned after the adoption of the latest Fundamental Law (1991), consolidate the autocratic nature of the political system, since they lack objective criteria and any reasonableness in restricting collective and individual rights which are subject to the whim of the implementing authority, normally the President of the Republic. Simply as an example, the Political Parties Act (Act No. 3/1992, of 6 January 1992) lays down that a cause for dissolution of a political party is the undermining of "national concord and harmony", something which is very difficult to visualize as a concept and very easy to generalize about (art. 25 (i)). Similarly, a provision of article 15 stipulates that "nationals of Equatorial Guinea who have acquired another nationality shall provide legal evidence that they have renounced that nationality in order to found or join a political party", yet the constitutional rules at no time prohibit more than one nationality. The Freedom of Association Act (Act No. 4/1992 of 6 January 1992) forbids meetings of more than 10 persons on the public highway without a special authorization (art. 3, in fine) and grants broad powers to the Director-General of National Security, or failing him the Provincial Governor, to refuse permission to hold public meetings or demonstrations (art. 8). The Right of Complaint and

Petition Act (Act No. 5/1991 of 10 June 1991) neither fixes a time-limit for the authorities to resolve the complaints nor does it establish any criterion other than the opinion of the actual authority concerned as to whether the complaint is well-founded or inappropriate.

33. Act No. 4/1991 of 4 June 1991, regulating the Exercise of Religious Freedom, and Act No. 5/1992, amending it are analysed in paragraph 68 of this report. They accentuate the authoritarian features of the State. The same may be said of Act No. 13/1992, on the Press and Publishing (see para. 63).

34. The Electoral Act, No. 3/1993 of 12 January 1993 also contains sufficient signs of arbitrary exercise of authority and restricts the rights of citizens to an irrational degree. For example, it establishes that nationals of Equatorial Guinea who possess "foreign nationality and have not legally relinquished it" do not have the right to vote (art. 8 (e)); electioneering material, with the exception of speeches, must be signed by the candidates and two copies submitted for approval to the Minister of Territorial Administration and Local Corporations (art. 60, part 1); "All candidates are strictly forbidden to undermine (...) the consideration of another candidate or depart from the subject-matter of each election" (art. 63).

35. The intensive efforts made by the Special Rapporteur with the collaboration of the Human Rights Consultant to track down and collect the legislation promulgated and in force reveal the difficulties attendant on getting to know the legislation of Equatorial Guinea, which is virtually inaccessible. One set of regulations on top of another, their tacit repeal, gaps in the statutes and an inadequate legislative technique are the basic features. One very obvious gap is that there are no civil, commercial, criminal, civil procedure or criminal procedure codes.

36. All this, along with the lack of precision regarding the residual applicability of the legislation in force in 1968 makes the juridical situation in Equatorial Guinea totally uncertain and slippery legal terrain, particularly in view of what is said below, namely the fact that the laws are not published.

4. Failure to publish laws and government measures

37. The Government of Equatorial Guinea maintains that it is impossible to publish regularly the State's Official Gazette, for lack of a publisher. It is similarly impossible to obtain copies of any issues that have been published, which are out of print. The acts, decree-laws and decrees which the Government promulgates are reported on radio and television. The true meaning of this verbal information is not always apparent and serious uncertainties and doubts are created about the content of these legal texts, which cannot be consulted by interested parties and only with difficulty even by lawyers.

B. Observance of fundamental rights and guarantees

38. From his two visits in October and December 1993 to the territory of Equatorial Guinea, together with his personal observations and the documentation and information contributed by the authorities and by national

and international non-governmental organizations (particularly Amnesty International), as well as statements from the persons interviewed, the Special Rapporteur must conclude that the Republic continues to reveal a persistent pattern of serious human rights violations.

1. Arbitrary arrests, torture and other cruel, inhuman or degrading treatment of prisoners and detainees

39. Following the mass arrests and torture of political and social leaders and civilian personalities - some 140 persons - on 17 December 1992, the after-effects of this illegal procedure continued throughout 1993 when many of the victims were again arrested or persecuted. The Special Rapporteur received oral and written evidence from persons who were maltreated on 17 December 1992 in the Malabo police compound, known as "Rabat". They all agreed that the brutal beatings were meted out to them by a group of policemen headed by the Commissioner for Frontiers and Chief Inspector for Presidential Security, Mr. Timoteo Mebiama Esono, alias "Adjinana".

40. The Special Rapporteur received numerous complaints from opposition political parties and in particular from alleged victims, concerning ill-treatment and torture of political militants in the numerous instances of arrest and imprisonment throughout the country. These complaints refer to cases which occurred in 1993 on the island of Bioko, on the island of Annobon and on the mainland in the province of Kien Ntem (districts of Ebebiyin, Mikomiseng and Nsok Nsomo), Wele Nzas province (districts of Mongomo, Nsok Esabakang and Añisok) and Litoral province (districts of Bata and Kogo). In some cases the injuries were observed and verified by the Special Rapporteur, as in the case of Manuel Abaga, a 27 year-old teacher, arrested in Malabo on 21 August 1993 by a police commission and savagely tortured on the sole charge of being a Progress Party activist. Nearly two months after his release, the Special Rapporteur saw serious injuries on his legs, which had still not healed, caused by blows with sticks and thick cables, and marks on various parts of the body, on account of which he had to be admitted to Malabo hospital. Former soldier Tobías Obiang Nguela, tried and acquitted by a military court in October 1993, showed clear marks of torture on his body. This case gave rise to an urgent appeal by the Commission on Human Rights' Special Rapporteur on the question of torture, Mr. Nigel S. Rodley, on 14 September 1993 (G/SO 214 53-8), which received no answer from the Government of Equatorial Guinea. Former sergeant Jacinto Nculu, sentenced at the same trial to 24 years' imprisonment, sustained serious injuries to the joints which prevent him using his hands normally - according to his statements, because of the time he spent strung up by the wrists - and there are clear signs of blows on the head, as the Special Rapporteur was able to see during his visits to Malabo prison. He also saw the foot injuries of Mr. Pío Miguel Obama, a 33 year-old administrative official, who was arrested in the streets of Malabo on 21 August 1993 and released following torture and interrogation concerning his political activity in the opposition. The Special Rapporteur found similar injuries in the case of José Pablo Nvo, who was arrested on 17 December 1992 and on 21 August 1993. A Catholic priest, Pedro Ncogo, described to the Special Rapporteur the tortures to which he was subjected by the police together with another churchman, Father Luis Ondó Maye, the effects of which he still bears. In his visit to Bata prison, the

Special Rapporteur was able to verify the accuracy of the complaint received from the Popular Union Party about the brutal torture of four of its militants arrested on the mainland. One of them, Efren Osa Ovono, cannot walk without assistance and part of his body is still bandaged because of unhealed wounds.

41. On his second visit to the country, the Special Rapporteur found that the arbitrary arrests and torture and ill-treatment of detainees has continued, for example as in the case of Salvador Cupe and Nemesio Riloha, who were arrested in Basacato del Este, 30 kilometres from Malabo, on election day, 21 November 1993, accused of distributing written material calling on the Bubi people not to vote. They were arrested by a military patrol and severely beaten at the time of their arrest, in front of people from the village, and then kept in Baney police station, where the ill-treatment continued. Both of them, Salvador Cupe and Nemesio Rihola, told the Special Rapporteur that, 7 kilometres on the way, to Malabo, as they were approaching a bridge, they were taken out of the vehicle and beaten up and threatened with being shot if they did not give the names of the persons who had handed them the confiscated political material. In Malabo they were taken to the central police station where they were beaten up again. Then they were taken before a higher official, whom they identified and whose name they communicated to the Special Rapporteur; according to them he threatened and accused them violently and ordered that they should be given 200 strokes each. The Special Rapporteur was able to see the wounds both had in their feet and the bruises and haemorrhages in various parts of their bodies. They were set free in the afternoon of 24 November and both Cupe and Rihola attribute their prompt release to the fact that their situation had reached the international press, which was in Malabo to cover the elections.

42. In the persistent pattern of arbitrary arrests, torture, ill-treatment and persecution of political activists and leaders of the opposition parties, the events that occurred on the mainland after the elections in connection with the tour by leaders of the Joint Opposition Platform (POC) early in December 1993 are particularly serious. The Special Rapporteur has received complaints of 24 arrests in the town of Niefang, including that of the District Chairman of the Progress Party, Mr. Manuel Abaga Okiri. In the town of Ebebiyin, the headquarters of the Popular Union (UP) and Social Democrat Coalition (PCSD) parties were attacked by security forces, who destroyed furniture, equipment and political material, and detained and subsequently tortured local leaders, including Teofilo Ondo Nculu, District Chairman of the UP and Mauricio Nso Nchama, Executive Secretary of the PCSD. Mr. Norberto Siboco Ricoso, national leader of the PCSD and a member of the POC delegation which toured the mainland was also held at Bata Airport when attempting to board a plane for Malabo.

43. Recent cases include the arrests in Bata which accompanied the expulsion of the Spanish Consul, Mr. Diego Sánchez Bustamante (see para. 74). On the night of 10 December 1993, after going to the offices of the consulate to collect bibliographical material, 28 students from the National Distance Education University of Spain (UNED) were arrested as they came out, and their families have reported that they were subjected to ill-treatment. They were released 10 days later.

2. Summary executions and arbitrary application of the death penalty

44. The Special Rapporteur has received reports of six cases of deaths at the hands of the security forces in 1993. From the statements and evidence, the Special Rapporteur is convinced that in at least four of the cases there are specific matters which tally and which lead to the presumption that the deaths were caused by agents of the security forces and were politically motivated. The cases were those of detainees who were tortured to death. In a fifth case, police responsibility for the death and the political links were corroborated by members of the National Pact Monitoring and Follow-up Commission. The sixth case concerned the death penalty on an 18 year-old activist in an opposition political party, decreed by a military court on the grounds that he had caused the death of another civilian in a fight, and he was given no opportunity to request a pardon or appeal to the Supreme Court of Justice. In none of these cases was the Special Rapporteur informed that any administrative or legal investigation had been carried out. The cases are described below.

(a) Case of Pedro Motú

45. The situation of former army lieutenant Pedro Motú Mamiaga Oyana, who had taken part in the overthrow of the dictator Macías and his capture has already been brought to the attention of the Commission on Human Rights. The Expert, Mr. Fernando Volio Jiménez, told in a report submitted in January 1992 (E/CN.4/1992/51, para. 70) that he had met him in Malabo prison, where he was being held in inhuman conditions. The Expert states in his report that Pedro Motú had suffered political persecution since 1979 and had been forced to leave the army. He was then placed under house arrest and had been detained on 16 different occasions. Mr. Volio reported that Motú had been arrested on 2 December 1990 in Ebebiyin, and transferred initially to Bata and then to Malabo prison, on charges of attempting to promote political pluralism and of insulting the President of the Republic, although he had not been tried for any offence. He had been permanently locked up in a cell 1 m by 1.50 m, held incommunicado, only allowed out once a week to wash himself, and had had to relieve himself in the cell itself. Steps taken by the then Expert of the Commission on Human Rights secured his release on 7 January 1992 and, although he had not been tried or sentenced, Act No. 2/92 on Amnesty for Political Offences, was applied to him.

46. Following his release, Pedro Motú settled in his home village, Odjip-Mbo, on the mainland, and left for exile in Gabon, when he learned that the Government was attempting to arrest him again. Following the signing of the National Pact, he returned to Equatorial Guinea on 25 July 1993 from Douala, Cameroon, whereupon his passport and identity card were seized by the airport authorities in the capital city. From that time on he engaged in no public activity - except for a visit two days after his arrival to the Archbishop of Malabo, whom he asked to intercede with the Government on his behalf to put an end to his unjust persecution - until 22 August, when he went to the Ureca Hotel in Malabo city to greet the Chairman of the Popular Union Party, Andrés Moisés Mba Ada, who had returned from a 14-year exile that day.

47. According to direct reports obtained by the Special Rapporteur, at approximately 3 p.m. on 22 August 1993 the Secretary of National Security, Manuel Nguema Mba, appeared in the hotel, accompanied by another Security official, who found that Mr. Pedro Motú was in the hall, and used his portable radio to call in more policemen; Mr. Andrés Moisés Mba and Mr. Pedro Motú went to the former's room, where, a few minutes later, Motú was captured when the room door was violently broken in. The witnesses concur that Pedro Motú was savagely beaten about the head and the rest of the body when he was dragged down the stairs, and was put into the police van in a lamentable physical state. Another witness, who was in detention that day in the police compound known as "Rabat" (where the presidential guard of Moroccan origin had previously been quartered), said that he was witness to the brutal torture of Mr. Motú around 7 p.m. According to the testimony of persons detained in Malabo prison, during the night of 22 August 1993 Pedro Motú was brought to the prison unconscious and died without regaining consciousness in the early morning of the 23rd. An improbable official report stated that Pedro Motú had committed suicide on 23 August when he realized the "enormity of his crimes". As soon as they heard of his death, the family claimed the body and were refused; they were neither permitted to see it nor to be present at the burial. According to the complaints by the political parties belonging to the Joint Opposition Platform, particularly Popular Union Progress Party and Social Democracy Convergence, high-level government officials took part in arresting and torturing Mr. Motú; their names were given to the Special Rapporteur in the hope of an impartial investigation. According to the same reports, after Motú's death, his brain, heart and genitals were removed for ritual purposes by four doctors whose names were also given to the Special Rapporteur. The political parties comprising the Joint Opposition Platform have declared Mr. Pedro Motú a "Martyr of the Transition in Equatorial Guinea". The Government for its part, presumably to justify the detention of the victim, subsequently arrested a series of former military men and brought them before a military court on a charge of conspiring to rebel at the prompting of Pedro Motú. They were convicted on 2 October, but their sentences were partially reduced (partial amnesty of 12 October 1993), 10 days later.

(b) Summary executions on the island of Annobon. Cases of Simplicio Llorente Yaye and Manuel Villarrubia

48. On 13 August 1993, in the town of Pale on the island of Annobon, which lies in the Gulf of Guinea, more than 600 kilometres from the capital, a group of students from the island on a return visit - they study in Malabo since there are not even primary schools on the island - decided on an act of protest to draw the attention of the national authorities to the situation of the population of Annobon, which is without air and sea communication, the most elementary health care, electricity and subsists only on the few natural products of one rocky environment and sea coast. They decided to hold Governor Marcos Ondo Nsue and the Military Lieutenant while they were drinking in the town's only bar. This they did on 13 August at 11 a.m., tying both of them to their chairs and disarming them. Witnesses agree that the captors had no firearms. At 2 p.m., members of the military battalion who had been informed of what had happened, burst into the bar firing their weapons. The students who were holding the Governor and the military chief simply fled, pursued by the guards. In a street in the north-east of Pale, the young

Simplicio Llorente Yaye was captured by military personnel and riddled with bullets even though he was unarmed. Some witnesses have asserted that the young man had not taken part in the incident. Later, on the sea shore one of the ringleaders in the detention of the Governor, Manuel Villarrubia, was also riddled with bullets; according to witnesses, although he was carrying in his belt the weapon seized from the officer, he neither used it nor showed it when he fled. Corporal Baudilio Bacale was named as the material perpetrator of both executions.

49. Later, according to witnesses, the military forces destroyed and sacked a number of dwellings, burning the houses of the families of the students involved in the incident, who were gradually captured in the forests and tortured. Arrests and ill-treatment of various citizens then became widespread, including the then deputy member of the Chamber of the People, Mr. Saturnino Ronda, Vice Chairman of the Office of the Government Party (PDGE), in the province of Annobon; terror reigned for approximately 72 hours until the ship the Acacio Mañe arrived and took the prisoners, chained and in a lamentable state, to Bata. The Special Rapporteur was able to interview both those acquitted in the military trial and those who were convicted, who were in Bata prison at the time of his first visit there. Two of the convicted persons, Francisco Medina and Osvaldo Cartagena, sentenced to 28 years' imprisonment, showed clear signs of the torture to which they had been subjected. The inconsistency in the charges of rebellion for which they were sentenced and the arbitrary nature of the trial itself led the Special Rapporteur to request the Government to amnesty them, and, as has already been explained, this request was granted on 12 October 1993. Since these events, the population of Annabon has been living in complete isolation, without means of transport or any possibility of communication by telegraph or radio.

(c) Case of Gaspar Mba Oyono

50. This person was chairman of the local committee of the Popular Union Party in the village of Ewong-Nsomo. He was arrested by order of the Government Delegate, Lucio Anselme, and brutally tortured in Nsok-Nsomo police station. He was admitted to Ebebiyin hospital in a serious state and died on 27 July 1993. His family was refused the death certificate showing the cause of death.

(d) Case of Damaso Abaga Nve

51. He was arrested on 30 March 1993 by members of the national police in the town of Ebebiyin, capital of the province of Kie-Ntem, on the mainland, because he was walking around the streets by night, and was taken to the local police station by Police Sergeant Pelayo Mba Obiang. Mr. Abaga Nve, aged 47, from the village of Ncuakieñ-Esandon, suffered from mental disorders, although the reports indicate that he was not at all dangerous. According to the on-the-spot investigation by members of the National Pact Monitoring and Follow-up Commission appointed for the purpose, whose report is in the hands of the Special Rapporteur, the prisoner was taken to the police compound where he was beaten to death in the early morning of 31 March. When they saw that he was dying, the police called in the Director of the hospital, who saw when he arrived at the police premises that he was dead. According to the forensic report, a copy of which is also in the Special Rapporteur's possession, the

corpse showed: (a) two small grazes on both sides of the forehead with bruising under them; (b) incomplete fracture of the left forearm some 4 to 5 cm from the inside of the wrist; (c) a cut 3 cm long and 1½ cm deep between the little finger and the ring finger of the left hand and (d) double rib fracture in the right hemithorax, and grazes on both wrists and the upper third of the left breast about 3 cm long. Since no internal examination - autopsy - was made of the corpse, no order having been issued, the forensic experts were unable to determine the basic cause of death. It may be noted that the district judge was not called in nor was the corpse legally removed. According to evidence from the family and the Secretary-General of the Popular Union Party of the district of Ebebiyin, Marcelino Asumu Nsue, the victim, who had joined the party in 1991 when he was still in his right mind, used to escape from his village and wander around the town of Ebebiyin insulting the ruling party, something which had led on various occasions to his being beaten up by the police and taken back home. His family had been warned that, if it happened again, he would lose his life.

(e) Case of Romualdo Rafael Nsogo

52. This 18-year-old, from the village of Alum-Esamongon in the district of Bata, was executed by firing squad on the local beach on 18 September 1993, after being found guilty of the crime of murder in highly summary proceedings conducted by a court martial in Bata. Not more than 24 hours elapsed between the sentence and the execution. The events which gave rise to the application of the death penalty took place on 28 August 1993 in the village of Bindung, Bata district, where Romualdo Rafael Nsogo got into a fight with several youths over a girl (Nsogo had gone to visit a former girlfriend and the local youths attacked him to chase him off), according to evidence collected by the Special Rapporteur. Given the circumstances, Romualdo Nsogo had defended himself from the alleged attack with a knife he was carrying, and caused the death of Antonio Bibang Elka. He ran off and was arrested two weeks later. When his home was searched, the authorities found evidence that he was a member of the Social Democracy Convergence Party (CPDS); from then on the affair was regarded as political and came under military jurisdiction. Neither the affair itself nor the personal situation of the victim or of the perpetrator of the murder warranted military jurisdiction or the application of the death penalty. Similarly there was no justification for not giving him the time or the opportunity to submit an appeal or a petition for a pardon. Evidence collected by the Special Rapporteur during his visit to Bata prison from prisoners who were there with Romualdo Nsogo all shows that he himself told the authorities that he wanted to request the President of the Republic to commute his sentence, that he needed legal assistance, but that he was not allowed to appeal.

53. The Special Rapporteur ventures to point out that article 6, paragraph 4 of the International Covenant on Civil and Political Rights, to which Equatorial Guinea is a party, sets out the right of anyone sentenced to death to seek pardon or commutation of the sentence. In all cases, and particularly in those subject to the death penalty, the accused shall also have the right to appeal to have his conviction and sentence reviewed by a higher tribunal. This can be seen in article 14, paragraph 5 of the Covenant (Human Rights Committee; Trevor Collins v. Jamaica case, 25 March 1993).

3. Due process of law (independence of the Judiciary and the right to a defence). Military jurisdiction

54. There is no doubt, in the light of the above information, that the independence of the Judiciary is not guaranteed and that the rights of the defence, contrary to the provisions of the Universal Declaration and the International Covenant on Civil and Political Rights are not respected. In some of the cases analysed, such as the proceedings under case No. 35/93 brought against Hilario Mañana Mañana in No. 1 Examining Court in the city of Bata, it was found that not only had the procedural deadlines been exceeded, but the burden of proof had in practice been shifted, for the judge admitted as evidence the mere statement by the traditional chief of the village of Ebongonzong in Micomesen district that Hilario Mañana had insulted the Head of State, and it was left to the accused to prove his innocence. A former member of the Supreme Court of Justice and practising lawyer, Mr. Fermín Nguema Nsono, has confirmed to the Special Rapporteur that the courts are not independent in Equatorial Guinea, that the judges are appointed by the President of the Republic, that there is no judicial profession and that the decisions of the courts are determined by the views of the Executive. Nor is there employment security for judges; since January 1992 the Judiciary has already been reshuffled three times.

55. As to military jurisdiction, it is apparently unlimited in criminal affairs and covers offences that are not of a specifically military nature, even when it is not military personnel, but ordinary civilians who are involved. The decisions of the courts-martial do not allow appeals to the Supreme Court, even in cases involving the death penalty. As a rule, the highly summary proceedings compels detainees to choose defence counsel from among the officers of the military garrison where the court sits. In some cases, persons convicted by courts-martial said there had been no dialogue between them and their court-appointed defence counsel during the trial.

56. When it comes to trying abuses committed by military personnel, as has been recognized by the Commission's Working Group on Enforced or Involuntary Disappearances (E/CN.4/1991/20, dated 17 January 1991, paras. 408-410) military jurisdiction is as a rule a source of impunity. In such circumstances, and particularly during periods of political unrest, the use of military courts, made up of officers of the armed forces, who try civilians or their own comrades-in-arms is not a satisfactory solution.

4. Treatment of detainees

57. As already stated, the Special Rapporteur had access to the Malabo and Bata prisons. During his visit to Bata Public Prison, he found a total lack of material resources. The daily ration of two loaves of bread, the lack of beds or bunks, of medical and educational assistance, of sanitary facilities and the obligation to work without pay are part of the prisoners' wretched lot. The prison has 42 male inmates and 3 women, who lack any privacy as they are held in a hut from which it is possible to communicate with the men's huts. The Special Rapporteur observed traces of recent corporal punishment on the bodies of several prisoners, who said that they had been punished at the prison itself. During his visit, he held private interviews with many of the

inmates. Among them were the persons convicted for the incidents in Annobon, and a woman who was imprisoned because she was unable to return the dowry to her ex-husband (see para. 70).

58. The Special Rapporteur wishes to place on record that the authorities - the Director of Prisons of the Ministry of Justice and Worship, Mr. Ricardo Eló and the Governor of the public prison - willingly accepted his request for private and confidential interviews with all the inmates he wished. Nevertheless, he is obliged to draw attention to something very negative and disturbing, namely that inmates whose families are unable to provide them with food - in some cases because they live several hours away - had a daily food ration of only two loaves of bread. There is no cooking in the prison for the inmates. The attention of the authorities referred to and of the Minister of Justice and Worship was drawn to this. As regards the system of work outside the prison although this is a considerable advantage for the prisoners from the humanitarian angle, as they leave the prison daily and are not kept locked up, it is unacceptable that they should receive no form of pay and that they should be obliged to work (work is compulsory for those designated by the prison administration and is not imposed by a court decision) and do domestic chores and repairs at the homes of local officials.

59. This situation violates article 8, paragraph 3, of the International Covenant on Civil and Political Rights and article 2, paragraphs 1 and 2, of ILO Convention No. 29 concerning Forced or Compulsory Labour (the labour is not performed pursuant to a lawful judicial decision and the services are provided to individuals without pay).

60. As to Malabo prison, with 28 inmates at the time of the first visit and 22 at the time of the second, both visits took place in the same manner and the Special Rapporteur received the full cooperation of the Director of Prisons, Mr. Ricardo Eló and of the prison governor. The physical conditions are slightly better in Malabo, as the inmates at least have mattresses to lie on. The inmates said that they were not physically ill-treated in prison, but complained of the lack of food and medical care. In these respects, the situation is the same as at Bata prison.

61. The Special Rapporteur was able to check that all the inmates on the register had been presented to him. The prisoners with whom the Special Rapporteur spoke at Malabo prison included a group of former military personnel sentenced by the military courts. At least one of them bore clear signs of having been beaten all over his body and had difficulty walking. He said he had been tortured during interrogation before being taken to jail. There was only one woman in the prison, although she had permission to leave as she was close to childbirth.

62. In the opinion of the Special Rapporteur, the treatment given to prisoners fails to respect their basic rights and violates the standards set by article 10 of the International Covenant on Civil and Political Rights, the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolutions 663C (XXIV) and 2076 (LXII)) and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173, dated 9 December 1988). The Special Rapporteur raised with the competent authorities the question of the need for

an effort to improve the situation of detainees and prisoners, and this was well received by the authorities (the Minister of Justice and Worship, the Deputy Minister and the Director of Prisons), who assured him that they shared his wish.

5. Freedom of expression

63. There is no freedom of expression in Equatorial Guinea, either in law or in practice. The so-called Freedom of Assembly and Demonstration Act (Act No. 4/1992, dated 6 January) is designed, in its own words, "to regulate and ensure discipline at public meetings and demonstrations". It is restrictive and the rights set out in article 13 (b) of the Fundamental Law are therefore without substance. In addition, the Printing and Publishing Act (No. 13/1992, dated 10 October), particularly articles 14 and 15, notoriously restricts the right to print and publish, and by no means guarantees freedom of the press. Article 2 lays down a number of general rules with which the press has to conform, on pain of criminal, civil or administrative liability, subjecting the press as a whole to the whim of the official responsible for ensuring compliance with the Act, requiring, for example, that the press must "not be influenced by private interest" and must "reliably inform the public".

64. At the present time there is no written publication legally in circulation except La Voz del Pueblo, the organ of the Partido Democratic Party of Equatorial Guinea (PDGE, the ruling party). Although the newspaper La Verdad is the organ of a lawful political party, Social Democracy Convergence (CPDS) and, according to article 50 of its statutes, which have been approved by the Government, "the CPDS party's organ of information is the newspaper La Verdad, which shall be published as frequently as circumstances permit and its own administration decides", it has been specifically prohibited. By a decision dated 26 September 1993, the Minister of Territorial Administration issued the following order: "For the purpose of putting an end to such criminal behaviour, marked by a lack of the respect due to institutions and persons when criticizing political and administrative affairs, I hereby prohibit the publication and distribution of the newspaper La Verdad ...)".

65. Any criticism of the authorities is likely to result in legal proceedings under article 147 of the colonial Penal Code, a residual provision, the first part of which stipulates that "Anyone who insults or threatens the Head of State in writing or publicly in his absence shall incur rigorous imprisonment". The Code also stipulates that rigorous imprisonment is from 6 to 12 years (art. 30). The courts of Equatorial Guinea extensively apply this provision, despite the fact that the case law of the Spanish courts had established that "attacks against the regime may not be considered as insults to the Head of State". This legislation is used to hold the press in check and, although convictions are rare, there are daily arrests for alleged offences, with the resulting ill-treatment and torture.

6. Freedom of religion

66. Act No. 4/1991, dated 4 June 1991, "Governing the exercise of religious freedom", and amending Act No. 5/1992 of 10 January 1992, relate to freedom of thought, conscience and religion in the broadest sense. In 1993, the amendments to these laws requested by churches of various denominations, and which the Government had promised to introduce over a year ago, were not made. The Special Rapporteur considers that the statutes in question go beyond the bounds of the acceptable, and jeopardize the things they ought to protect. A number of their provisions authorize undue interference by various government agencies in the activities of the various churches and may affect not only freedom of religion, but also freedom of worship (art. 8, para. 2; arts. 6, 10, 12, 14 and 16). These laws could undermine the provision contained in the Fundamental Law (art. 13, F), which guarantees "freedom of religion and worship". Actually, articles 22, 23 and 25 prohibit and penalize behaviour that is perfectly legitimate for any citizen of Equatorial Guinea, such as respectfully criticizing "the activities of State agencies", "questioning the lawfulness" of a particular act or even "making allusions" to State institutions.

7. Freedom of movement and freedom to travel

67. There are notorious restrictions on the freedom of the citizens of Equatorial Guinea to enter and leave and freely travel within the country, as a result of which they are denied the right freely to enter and leave their own country and to travel within it (International Covenant on Civil and Political Rights, art. 12). A special visa is required to enter and leave. The Special Rapporteur has received countless complaints - in particular from leaders and activists of opposition parties - that their passports are withheld by the authorities without any reason whatsoever, and that when they are not refused, visas are delayed for many months. There are also cases in which citizens are placed under house arrest by decision of the authorities. Where citizens who have served in the armed forces are concerned, under an order dated 30 December 1991 of the Ministry of Defence that is still in force, "all former military personnel in the chief localities of the municipalities of their respective administrative districts are hereby informed that they are to return to their villages, which they may not leave without informing the competent authorities. Anyone who acts in breach of this provision during the transition to a pluralist political system shall be liable to the maximum penalties". The Special Rapporteur has received information that citizens are not always free to travel from the island of Bioko to the mainland or vice versa, as they may not be allowed onto the boat or plane, usually on account of their political affiliation. There are also internal military checkpoints on the mainland and on the island of Bioko, such as the military post on the road to Luba, before the village of Sampakas, which controls entry to the city of Malabo by the eastern highway.

8. Situation of women

68. In compliance with the provisions of resolution 1993/46 of the Commission on Human Rights, in which it requests all special rapporteurs and working groups of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in the discharge of their

mandates, regularly and systematically to include in their reports available information on human rights violations affecting women (para. 2) the Special Rapporteur has devoted particular attention to this topic. He has reached the conclusion that there is blatant discrimination against women in all fields of opportunity, in comparison with men. Approximately 50 per cent of the female population lack any kind of education. Only 8.6 per cent have completed primary education and only 4 per cent secondary education. According to the study on the situation of women and children carried out by UNICEF this year, only 0.1 per cent of women have any vocational training, i.e. an education that trains them for work. Only 112 women have received any kind of university education. This indicates that the level of education of the women of Equatorial Guinea is extremely low, particularly in rural areas, despite their vital role, as they constitute the bulk of the labour force in agriculture and produce over 50 per cent of the country's GDP. As to conditions of work, their lack of training considerably hampers their participation in productive activities. Women's participation in the public sector is extremely low. Most of them perform subsistence activities, services to persons, street trade or other marginal occupations. As a result, most of them lack social security and legal protection of any kind.

69. The women's groups with whom the Special Rapporteur spoke complained about the lack of opportunities for them and said that the women of Equatorial Guinea are socially, politically and economically insignificant within the system. In contrast, although there are few opportunities for the women of Equatorial Guinea to attain positions of responsibility, they show deep interest and involvement in their country's politics, as is illustrated by the letter, dated 22 September 1993, sent by a group of them to the Secretary-General of the United Nations.

70. Particularly serious is the persistence of the traditional practice of imprisoning women who, after their marriage breaks up, are unable to return the contribution made by the husband to her family when the marriage was solemnized ("the dowry"), together with the sums spent by him for her subsistence "while she was his dependent". The period of prison is unspecified, and lasts until the dowry is returned. When he visited Bata public prison, the Special Rapporteur found at least one woman, called Inmaculada Omogo, who had been a prisoner on such grounds for five months. It should be pointed out that before his visit, the Special Rapporteur informed the Minister of Justice that imprisonment on such grounds was contrary to the provisions of article 11 of the International Covenant on Civil and Political Rights, which stipulates that no one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation, in this case a dowry payment. The official denied that there were any such cases in Equatorial Guinea, although the Special Rapporteur found that this was not the case. On his second visit to Malabo jail, the Special Rapporteur found that Mr. Felipe Mba Obiang was imprisoned there by order of the district judge, as neither he nor his 25 year-old daughter had been able to return the sum of 450,000 CFA francs, representing the dowry plus the amount spent on her maintenance, when she left her husband (1 US\$ = 300 CFAF).

9. Ethnic discrimination

71. The Special Rapporteur has received numerous reports of ethnic discrimination in Equatorial Guinea. If we accept the definition of an ethnic group (including national minorities) as a group of persons that considers itself to be a class on the basis of common descent and being linked by emotional ties, a common culture and the desire to preserve the group (Richard M. Burkey, "Discrimination and Racial Relations"), we must first of all recognize that there are different ethnic groups on the territory of Equatorial Guinea. The country's population is largely made up of various ethnic groups of Bantu origin: the Fang, Bubi, Ndowe, Kombe and Bujebas, together with the Annobonese, i.e. the inhabitants of the island of Annobon. The majority ethnic group which controls most decision-making positions within the State structure is the Fang, to whom the President of the Republic himself belongs. Although further study of this issue is necessary on account of its complexity, there are two indications of the possible existence of ethnic discrimination against the Bubi and the Annobonese.

72. The Bubi, the indigenous people of the island of Bioko, the seat of the national Government, claim through their village heads and councils of elders that they are oppressed by the Fang. The Special Rapporteur was able to ascertain that, because of the high percentage of abstention in Bubi villages in the elections held on 21 November 1993 and the letter sent by a number of leading members of the Bubi to the President of the Republic, claiming the right to self-determination, a campaign of detention, involving torture and ill-treatment, death threats and persecution was instituted and orders were issued to expel persons from villages on the grounds that they belonged to the Bubi ethnic group. This happened in the cases of the detentions of Salvador Cupe, Nemesio Riloha (described in para. 41) and Patricio Bolekia Bomao, which took place in Basacato del Este; of the President of the Sampaka Village Council, Aya Looba Brikopa, and of Félix Cuaresma Jhony a 16 year old. The Special Rapporteur has a photocopy of the order for the expulsion of Josefina Collins from the village of Cacahual (Bioko Norte), because the government representative decided on 26 November 1993 that, as she had refused to vote, in keeping with the line taken by the Bubi, she was not entitled to live in a Fang village.

73. The existence of ethnic discrimination towards the inhabitants of the island of Annobon is seen in their isolation, as they have no means of transport other than the boat link provided every six months by the Acacio Mañe; the suspension of Spanish cooperation by order of the Government of Equatorial Guinea; the lack of medical care and educational facilities for the population; the prohibition on access to telecommunications; the failure to provide fuel to generate electricity and the repression unleashed on 13 August 1993, already mentioned earlier. However, as already stated, in view of the complexity of the subject it will be analysed in a later report.

10. Diplomatic incidents and expulsion of aliens

74. A number of diplomatic incidents occurred during 1993, such as the threat, made in a note verbale dated 8 January 1993, to declare the Ambassador of the United States of America, the representative of the European Community and an official of the Spanish Embassy, personae non gratae on account of

their protest against constant human rights violations. In the case of Spain, which is the largest donor country in terms of its contributions, on 16 January permission was refused for a diplomatic pouch to enter Equatorial Guinea and the pouch had to be sent back to Spain. Between 7 August and the date of this report, 10 Spanish citizens have been expelled and another's residence visa has been withdrawn, without any reason being given. It should also be noted that one of those expelled, Dr. Luis Costart Tafalla, had been living there for over 10 years; his wife is from Equatorial Guinea and he has children who were born there. A particularly serious incident occurred in Niefang on 6 June 1993, when a Spanish aid worker, Mrs. C.M., was raped by two individuals, one of whom she identified as Alejandro Sima Obiang, a member of the State security forces. The authorities informed the Special Rapporteur that they were unable to locate the official. The confrontation came to a peak with the expulsion, on 11 December 1993, of the Spanish Consul in Bata, Mr. Diego Sánchez Bustamante, on the grounds that he had - according to the authorities - met political opposition leaders. Spain's reaction was not long in coming and on 14 December it ordered the expulsion of a diplomat of Equatorial Guinea accredited to the Embassy in Madrid and a substantial reduction (50 per cent) in Spain's cooperation aid to Equatorial Guinea.

75. The incidents described above are but some examples of an intense and deepening confrontation in bilateral relations that the Government of Equatorial Guinea apparently wishes to engage in with the Government of Spain. Most of the foreigners expelled from Equatorial Guinea are Spanish nationals and the grounds advanced for their expulsion frequently do not match the information obtained during the Special Rapporteur's missions. In addition, most of the diplomatic incidents have been with Spain. Similar incidents have affected relations with the Ambassador of the United States of America. Recently the Ministry of Foreign Affairs of Equatorial Guinea refused to accept a note from the Ambassador. In the note, the Embassy of the United States of America in Malabo informed the Government of the statement issued by the State Department, dated 18 November 1993, concerning the preparations for the general elections to be held in Equatorial Guinea on 21 November. The statement was couched in harsh and critical terms. On 25 November, the note sent in reply by the Ministry to the Embassy of the United States of America, dated 25 November, states literally that the note was returned "as it was an odious hotchpotch of lies and shameless allegations ..." (the Centre for Human Rights has the full text of both notes).

11. Other economic, social and cultural rights

76. In order to ensure this report does not exceed the requisite length, and in conformity with the provisions of Commission on Human Rights resolution 1993/94.A, paragraph 1, dated 11 March 1993, these issues, which are of considerable importance, will be discussed in a later report if the Commission deems it desirable.

12. Committee on Human Rights in Equatorial Guinea and the National Pact Monitoring and Follow-Up Commission

77. Neither of these two bodies operates or performs any kind of activity. This was confirmed for the Special Rapporteur by members of both bodies as well as by government officials.

13. Political rights: the electoral process

78. A start was finally made on the so-called transition to democracy in Equatorial Guinea, announced by the Government in 1991, with the signing of an agreement between the Government of Equatorial Guinea and the existing political parties. The commitment, known as the National Pact, which was signed on 18 March 1993, first of all established the binding nature of the agreements for the signatories. For its part, the Government undertook to "to release all prisoners and detainees held for reasons of conscience or opinion" and to cooperate in "the return and resettlement of citizens of Equatorial Guinea overseas who wish to return to their country". Article 5 and the following articles established essential commitments on the part of the Government of Equatorial Guinea regarding the development of the transition to democracy. They were: the free movement of persons, goods and the publicity material of the political parties; the issue of passports and visas without any form of restriction; a prohibition on entering and searching residences and offices for political reasons; a prohibition on the withholding and tampering with correspondence; total abolition of all extrajudicial deportations; equal conditions of access to the mass media for all political parties; guaranteed free conduct of the activities of political parties throughout national territory. The Government also undertook to put an end to the prevailing impunity and to punish public officials and government agents for all arbitrary acts which tend to reduce or restrict the rights and freedoms provided for by law, while ensuring the free exercise of the rights and freedoms recognized in article 13 of the Fundamental Law. Accordingly the Pact declared respect for and protection of the leaders of political parties by the authorities responsible for public order, financing for the activities of the political parties and a thorough review of the electoral roll with the assistance of international experts and the collaboration of the political parties. In article 14, the National Pact established the "Monitoring and Follow-up Commission", comprising five members designated by the Government and one for each political party.

79. The Special United Nations Mission (UNDP/UN Mission to assess the enabling environment for the implementation of the country programme) which visited Equatorial Guinea 20 days after the National Pact was signed (3-8 April 1993) submitted an aide memoire summarizing the point of view of the international community regarding the measures required to establish the necessary domestic and external climate of confidence. In turn, on 11 August 1993 the Secretary-General, Mr. Boutros Boutros-Ghali, informed the Government of Equatorial Guinea of the need for prompt adoption of the recommendations made by the United Nations inter-agency missions, the one already referred to in April 1993 and the technical mission of electoral experts (26 June to 10 July 1993), as a prerequisite for sending observers to the elections. The Government of Equatorial Guinea has repeatedly claimed that it has complied with its commitments and with the requirements, as was

stated by His Excellency the President of the Republic in his letter of reply to the Secretary-General of the United Nations, dated 21 October 1993. Nevertheless, events subsequent to the signing of the agreement between the Government and the opposition demonstrate that the Government of Equatorial Guinea has largely failed to fulfil the commitments it assumed in the National Pact.

80. Accordingly, it is no surprise that, as a result of the countless hurdles and after withdrawing their representatives from the inoperative Monitoring and Follow-up Commission, many of the parties in the Joint Opposition Platform (POC) took the decisions set out in their document dated 22 September 1993, which include the decision "to reiterate their resolute intention not to take part in the general elections unilaterally called by the Government on 21 November this year until the climate of intimidation, of death threats to leaders and members of the political opposition come to an end and until the conditions set out in the five points are complied with, in order to permit elections with a minimum of freedom, transparency and objectivity". For their part, Equatorial Guinea's two main donor countries - Spain and France - after a meeting between their two Governments at which the situation in Equatorial Guinea was analysed, issued a joint declaration in which they "regretted that the failure to respect a number of the commitments made by the Government in the National Pact and the conditions under which the ballot of 21 November has been organized have not allowed the most significant sector of the opposition to take part in the election, thereby preventing the elections from being truly multi-party elections. On account of this, Spain and France have decided not to send observers to the elections."

81. The general elections were held on 21 November 1993. Of the 14 legally recognized parties, 6 fully took part in them. Two splinter groups of the parties in the Joint Opposition Platform (POC), which the Government rapidly recognized despite the provisions of the Political Parties Act, also took part. Eight parties (including the two whose splinter groups were accepted) abided by their decision to stay out of the elections including the three that are publicly recognized as being the largest and best established of the opposition forces: Popular Union (UP), Progress Party (PP) and Social Democracy Convergence (CPDS). The Government failed to comply with its legal obligation (art. 45.1 of the Act) to publish the electoral rolls 10 days in advance and the rolls were only released 24 hours before the voting. If the rolls are correct, the number of registered voters nationwide was 119,103, although the number in the 1991 referendum was 156,000, a figure which suggests that approximately 25 per cent of the eligible population chose not to take part in the elections and did not register as voters. According to the official figures, 81,734 persons voted nationwide, i.e. a 68.62 per cent turnout of registered voters, with 31.38 per cent who did not go to the polls. As regards the political parties which participated in the election, in accordance with the provisions of article 178 of the Electoral Act, which prohibits the presentation of an incomplete state of candidates, it may be safely concluded that only the PDGE and the Liberal Democratic Convention (CDL) complied with this requirement. Under the system for the allocation of seats applied by the Government, the Democratic Party of Equatorial Guinea, currently in power, had 68 deputies and the 12 remaining seats were shared among three other parties competing in the elections. Countless complaints have been made by the parties in the POC about military personnel voting

several times in various polling stations and districts, ballot boxes being broken open, returns being falsified, opponents being prevented from voting and of violence and threats being used to force people to vote for official candidates. It has not been possible for the Special Rapporteur to analyse or verify the complaints, as he was not in the country on the day of the elections.

82. The Special Rapporteur is convinced that the right of political parties not to present candidates was treated by the Government as unlawful, and their leaders were prohibited from holding meetings, speaking on radio and television and even travelling through the country. One of the parties which took part in the elections and obtained one seat, the Liberal Party, through its National Executive, denounced "electoral manipulations for the sole purpose of swelling the number of fraudulent votes cast for the Democratic Party of Equatorial Guinea", and identified a range of alleged irregularities, on the basis of which it contested the validity of the elections. It should also be mentioned that the international press which followed the elections also cast doubt on the official figures in view of the degree of abstention, which stood out at 70 per cent in the opinion of the Joint Opposition Platform. The heads of the diplomatic missions of the United States of America, France, Spain, the European Union and leading church dignitaries did not attend the swearing in of the members of the Chamber of Representatives who had been elected.

III. CONCLUSIONS

83. The Special Rapporteur was able to establish that some changes have occurred in the human rights situation in Equatorial Guinea. He is pleased to report the positive aspects of a number of measures adopted by the Government that will help to promote greater respect for human rights. They include the acceptance of the principle of a multi-party political system, the legalization of 14 political parties, the release of political prisoners and the steps recently taken, on 12 October 1993, to grant pardon and amnesty to several persons convicted of political or politically motivated acts. Also deserving of mention are the steps taken by the Ministry of Justice and Worship, at the request of the Special Rapporteur, to improve the food of the inmates in the Malabo prison and to make the system of the so-called "closed" prisons more flexible.

84. Another positive move was the decision taken in August 1993 by the Kingdom of Morocco to withdraw the soldiers who were serving as the security guards of the President of Equatorial Guinea. This Moroccan contingent of some 400 men, had been stationed in the country since 1979 and had been involved in police work on more than one occasion. Their withdrawal had been repeatedly demanded at both the national and the international levels.

85. The measures by the authorities described above are a step forward, but they are still not enough for anyone to claim that human rights are effectively being respected. The Special Rapporteur concludes that serious and persistent violations of human rights and fundamental freedoms continue to occur in the Republic of Equatorial Guinea.

86. In the discharge of his mandate, the Special Rapporteur became convinced that civilian society is allowed little room in the political, social and economic life of Equatorial Guinea, because the areas are dominated by the State. It is therefore of the utmost importance to promote the development of mechanisms to enable civilian society to function within a democratic system, and thus ensure that it will effectively have the right to create, the right to move ahead and the right to participation.

87. In the opinion of the Special Rapporteur, the Government should adopt various legislative and administrative measures to ensure that an appropriate climate of trust is established between the Government and the political opposition, so that the major national issues can be discussed. The discussion should also include the parties and groups which refused to take part in the general elections of November 1993 on the grounds that no guarantees were provided for their participation. By the same token, the authorities should give clear instructions to police officers and soldiers to stop considering political opponents as enemies.

88. There have been no changes in the juridical structure of the State since the Commission on Human Rights held its forty-ninth session. Power basically continues to be concentrated in the hands of the President of the Republic, to the detriment of other branches of government, and this obviously hinders the functioning of a democratic system and prevents the establishment of a State governed by the rule of law.

89. Under the present legal system, the independence and impartiality of the Judiciary are not guaranteed, nor is respect for the right to a defence during a trial. There are obvious shortcomings and irregularities in the operation of the administration of justice, so that sometimes some persons are placed in a situation in which they have no defence at all. This is compounded by a noticeable lack of rigour in the legal system, on account of overlapping rules, gaps in legislation, the residual application of Spanish legislation dating from before 1968 that has been overtaken by time and historical circumstances, and the non-publication of the laws.

90. Arrest and arbitrary detention of political opponents are still frequent in different regions, and are often accompanied by torture and cruel and inhuman treatment. This report describes several cases of persons who died as a result of police action, some presumably as a consequence of the treatment received in prison. In the cases which resulted in death, the Special Rapporteur was not aware that any administrative or judicial investigation had been carried out and still less that those responsible had been punished.

91. Many of the persons accused of political activities or because of the inordinate increase in the list of punishable offences were tried in summary court martial proceedings. In his report, the Special Rapporteur pointed out that military courts should have jurisdiction only over offences of a strictly military nature, committed by military personnel. Furthermore, under the present legal system, no appeals may be lodged with the Supreme Court of Justice against the rulings and judgements of the courts martial, not even in cases where the death penalty has been imposed.

92. The treatment of prisoners and detainees has been discussed more thoroughly in the report because it is felt to be a violation of the international provisions contained in the treaties to which the Republic of Equatorial Guinea is a party.

93. It can be said that there is neither de jure nor de facto freedom of expression in the country, because the laws on freedom of assembly and expression (Act No. 4/1992) and on the press and publications (Act No. 13/1992), severely restrict such freedom.

94. Although religious freedom is exercised daily without any major obstacles, it is not adequately protected by the current laws on the subject, and this is the opinion not only of the Special Rapporteur but also of representatives of various denominations.

95. Citizens have difficulty in or are prevented on political grounds from effectively exercising the right to enter and leave their own country, and even to travel freely within it.

96. In accordance with Commission resolution 1994/46, the Special Rapporteur paid careful attention to the situation of women in Equatorial Guinea. He found that, as far as their situation and legal and social status are concerned, they are still passed over and discriminated against at the educational, occupational, social and political levels, despite the efforts made by the Government through the Ministry for the Advancement of Women and Social Affairs.

97. Matters relating to ethnic discrimination have been examined (paras. 71 to 73), but the Special Rapporteur feels that, because of their importance and particular complexity, they require further study.

98. Similarly, other economic, social and cultural rights, such as health, education and housing, should be examined in a later study.

99. Over the past year, there were continuing expulsions of foreigners. In many instances, the reasons given by the authorities do not tie in with the information obtained on the spot by the Special Rapporteur.

Political rights

100. The signing of an agreement, called the National Pact, between the Government and the existing political forces, on 18 March 1993, was a milestone in the process of transition of democracy started by the Government. It paved the way for very important measures which are discussed in paragraph 78 of this report. The Special Rapporteur is, however, convinced that the authorities have failed to fulfil several of the commitments it entered into in the National Pact.

101. The electoral process was pursued without any regard for the observations and recommendations made by the inter-agency missions sent by the United Nations. In addition, there were detentions, ill-treatment, prohibitions and intimidation by the Government agents of the political opponents, which finally led eight of the big parties to withdraw and to

advocate abstention from the general elections on 21 November 1993. The Governments of the countries which are Equatorial Guinea's major aid donors, as well as other inter-governmental institutions, including the United Nations, decided not to send observers to the elections or to give any financial support, because they thought that "the elections were not genuinely pluralist in nature".

102. Lastly, the authorities of Equatorial Guinea have not fulfilled the obligations to submit periodic reports to the committees established under the International Covenant on Human Rights, which makes it difficult to monitor the actual implementation of those instruments. These obligations stem from the fact that the State has ratified or acceded to these human rights instruments. Nor have the authorities seen fit to reply to the request for reports made by the Special Rapporteur on the question of torture and the Chairman of the Working Group on Enforced or Involuntary Disappearances.

IV. RECOMMENDATIONS

103. In the light of the conclusions in this report, the Special Rapporteur considers that the Commission on Human Rights should urge the Government of Equatorial Guinea to meet the following basic conditions:

- (a) In the field of human rights
 - (i) Put an end to arrests, arbitrary detentions and persecutions on political grounds;
 - (ii) Put an end immediately to torture and cruel, inhuman or degrading treatment or punishment;
 - (iii) Characterize torture and cruel, inhuman or degrading treatment or punishment as specific criminal offences;
 - (iv) Adopt measures to ensure that the police and security forces will act as professional institutions for the prevention and punishment of crime, under the command of civilian authorities and with functions that are clearly distinguished from those of the armed forces;
 - (v) Place on trial and impose criminal and administrative penalties on any one guilty of violations of human rights, and grant compensation to the victims of abuses of authority;
 - (vi) Urgently improve the situation of prisoners and detainees, providing them with adequate food and medical care, a paid work programme, and temporary and early release;
 - (vii) Grant the free and full exercise of political rights to all citizens without discrimination of any kind on grounds of race, national or ethnic origin, sex, political or other opinion;

- (viii) Adopt measures to enable all political parties to exercise their right of participation;
 - (ix) Ensure full respect for the exercise of the right to freedom of opinion, expression and dissemination of ideas, with no restrictions other than those established by the law in any democratic society;
 - (x) Adopt measures to guarantee the right of persons residing legally in Equatorial Guinea to travel freely throughout the national territory;
 - (xi) Guarantee the right of nationals to enter and leave their own country. Abolish the entry and exit visa requirement for nationals of Equatorial Guinea;
 - (xii) Adopt measures to guarantee and facilitate the return of refugees and political exiles, including the signing of agreements with the Office of the United Nations High Commissioner for Refugees (UNHCR) and with the International Organization for Migration (IOM);
 - (xiii) Eliminate discrimination against women and adopt positive measures designed to improve their effective participation in the educational, occupational, social and political fields;
 - (xiv) Ratify or accede to all the international human rights instruments to which the Republic of Equatorial Guinea is not yet a party;
- (b) In the field of legislation
- (i) Adopt legislative and administrative measures to guarantee the complete independence and impartiality of the Judiciary and to ensure due legal process, including the right to a defence when on trial;
 - (ii) Restrict the scope of military jurisdiction to cases involving strictly military offences, committed by military personnel;
 - (iii) Legislate on the remedies of habeas corpus and amparo;
 - (iv) Amend the laws governing the activity of political parties, religious activity, the freedoms of assembly and expression, freedom of the press, trade union rights and the electoral law;
 - (v) Begin actual work on the codification of civil, trade, labour, criminal and procedural law;

- (vi) Revise national legislation to ensure that it is in full conformity with international human rights principles and standards;
 - (vii) Amend the Fundamental Law in order to establish, inter alia, the independent functioning of the Legislature and the Judiciary, to guarantee human rights and fundamental freedoms, in particular the right to life, physical integrity and freedom;
 - (viii) Publicize all legislation and government decrees by regular and constant publication of the Boletin Oficial del Estado;
- (c) In the political process
- (i) Conclude a new National Pact between the Government and all political forces, which will enable a consensus to be reached on lending substance to the transition to democracy, the chief objective being democratic and transparent rules of the game, for the purpose of the forthcoming presidential elections in 1996;
 - (ii) Establish participation mechanisms to monitor compliance with the new National Pact;
 - (iii) Ensure the free development of political life throughout the national territory and firmly instil in the security forces and all public officials the principles of equality before the law, the right of all people of Equatorial Guinea to express their opinions freely and to associate with others in advancing them.

104. To meet the basic conditions stated above and to keep the Commission on Human Rights duly informed, it would be necessary to maintain the contacts already established in the course of two successive visits, between the authorities and the Special Rapporteur, assisted by the Human Rights Consultant.

105. Technical assistance to the Government for the implementation for the proposed measures. In order to give the necessary impetus and the technical support for the adoption of such measures, the Centre for Human Rights together with the United Nations Development Programme should provide the Government of Equatorial Guinea with the following assistance:

(a) Experts should be sent to cooperate with national specialists in compiling existing legislation, drafting codes and other laws and revising national legislation in order to ensure that it is in conformity with the international human rights principles and standards;

(b) An expert should be sent to train officials in preparing the periodic reports to be submitted to the committees established under human rights treaties, conventions and covenants. The training should also include

the necessary steps for ratification of or accession to international human rights instruments;

(c) Training courses should be held on the independence, impartiality and suitability of the Judiciary, democratic principles and national and international human rights law, for judges, prosecutors and senior government officials;

(d) Training courses should be held on human rights and the treatment of detainees and prisoners, for military and police personnel and prison officers;

(e) Training courses should be held on human rights and fundamental freedoms, for leaders of political parties and for representatives of non-governmental organizations and social sectors;

(f) A seminar should be held with papers submitted by national and international experts, on the rights of women and the position of women in the society of Equatorial Guinea. This seminar should be for government officials and representatives of social sectors.

ANNEX

Main interviews held in the Special Rapporteur's two visits
to Equatorial Guinea, in October and December 1993

Mr. Roger Leenders, Delegate of the Commission of the European Communities
(European Union)

Mr. Jacques Gazon, Ambassador of France

Mr. John Bennett, Ambassador of the United States of America

Mr. Arturo Avello, Ambassador of Spain

Mr. John K. Shinkaiye, Ambassador of Nigeria

Mr. Jean Paul Ayina, First Secretary, Embassy of Cameroon

Mr. Eberhard Noldecke, Ambassador of Germany

Mr. Hilaire Mathas, Ambassador of Gabon

Mr. Wang Yoncheng, Ambassador of China

Mr. Diego Sánchez Bustamante, Consul of Spain in the city of Bata

Dr. Alain Christophe Brun, Representative of the World Health Organization

Dr. Rubén Delmir Cury, Adviser for malaria control

Dr. Inusse Noormahamoed, Technical Officer in charge of the programme to
strengthen the national health infrastructure

Mrs. Lidia Gaviria, FAO Programme Officer in Malabo

Officer in charge of the UNICEF Office in Malabo

The Regional Representative of the International Committee of the Red Cross
based in Yaounde, Cameroon

Members of the Commission for the Voluntary Return of Refugees and Exiles of
Equatorial Guinea

Monsignor Idelfonso Obama, Archbishop of the Catholic Church

Pastor Bienveido Samba, Representative of the Mt. Sinai Church
Congregation of Cherubim and Seraphim

Pastor Jaime Teibiale Sipoto, Secretary-General of the Reformed Church of
Equatorial Guinea

Pastor Ricardo Buu Menu, Representative of the Seventh Day Adventist Church

Representatives of the Assembly of God Church

Rev. Father Pedro Ncogo Eyi, Catholic priest of the Claretian Shrine

Mrs. Trinidad Morgades Besari, Principal, National School of Agriculture

Mr. Pablo Ruiz Jarabo, Coordinator of Spanish Cooperation

Mr. Ignacio Sánchez Sánchez, Director, Hispanico-Equatorial Guinean Cultural Centre

Mr. Ciriaco Boquesa, writer

Mr. Juan Antonio Martínez, Director, "Africa 2000" radio station

Members of the National Pact Monitoring and Follow-up Commission

Mr. Fabián Nguema, member of the Legislative Support Commission

Mr. Fermín Nguema Nsono, lawyer, former member of the Supreme Court of Justice of Equatorial Guinea

Mr. Bita Rope Laesa, Manager, La Unión Cooperative Centre, Malabo

Mr. Pedro Cristino Bueriberi, Representative of Institutions of the Bubi ethnic group

Mr. José Macheba Ikaka, former Minister of the Public Service and victim of the repression of 17 December 1992

Mr. Arsenio Moro and Mr. Fernando Abaga, UNDP officials, Malabo, former detainees

Mrs. Guadalupe Nge, Women's Secretary, Progress Party

Mrs. Gaudencia Mbang, leader, Women's Popular Union Party

Mr. Manuel Abaga, Teacher, recently detained and tortured

Mr. Miguel Ndong, Representative of the Progressive Democratic Party (PDP), which has not been legalized

Delegation of former workers of SEGESA, the Electricity Company of Equatorial Guinea, dismissed for belonging to opposition parties

Mr. José Pablo Nvo, recently detained and tortured

Mr. Pío Miguel Obama, recently detained and tortured

Mrs. Genoveva Nchama, witness to the detention of and the violence against Mr. Pedro Motú

Mr. Antonio Ela Mbomio, witness to the detention of and violence against Mr. Pedro Motú

Mr. Andrés Moisés Mda Ada, witness to the detention of and violence against Mr. Pedro Motú. President of the Popular Union Party (UP)

Mr. Pedro Nsue Ngema, brother of Mr. Pedro Motú

Miss María Luisa Oyana Motú, eldest daughter of Pedro Motú

Mr. Saturnino Ronda, former deputy for Annobon and current President of the Democratic Party of Equatorial Guinea in Annobon; detained, tortured, tried and acquitted for the events in Annobon in August 1993

Mr. Reginaldo Zamora Segorbe, detained, tortured and tried and acquitted for the events in Annobon

Mr. Constantino Villalba Solana, detained, tortured, tried and acquitted for the events in Annobon

Mr. Severo Moto Msa, President of the Progress Party (PP)

Delegation of the Popular Union Party (UP)

Mr. Francisco Mabale, President of the Social Democratic Party (PSD)

Mr. Victoriano Bolequia, Vice-President of the Progressive Democratic Alliance Party (ADP)

Mr. Jesús Ocue Moto, General Coordinator of the Social Democrat Coalition Party (PCSD)

Mr. Plácido Micó, Leader of the Social Democracy Convergence Party of Equatorial Guinea (CPDS)

Mr. Carmelo Mbá Bacale, Deputy Secretary-General of the Popular Action Party of Equatorial Guinea (APGE)

Mr. José Mcheba Ikaka Masoko, President of the National Democratic Union Party (UDENA)

Mr. Carlos Ona Boriesa, Programme Secretary of the Socialist Party of Equatorial Guinea (PSGE)

Mr. Teodoro Mitogo, Deputy Secretary-General of the Social Democrat Union Party of Equatorial Guinea (UDS)

Mr. Manuel Owono Obama, Political Adviser of the Social Democrat and Popular Convergence Party (CSDP)

Mr. Santos Pascual Bikomo Nanguande, President of the Liberal Party

Mr. Salvador Ezequiel Echeke, Deputy, Member of the Chamber of Representatives of the People for the Liberal Party

Mr. Salvador Cupe, recently detained and tortured

Mr. Nemesio Riloha, recently detained and tortured

Mr. Aya Looba Brikopa, President of the Council of Sampakas, former detainee

Mr. Patricio Bolekia Bomao, resident of Basacato, former detainee and victim of torture

Mr. José Olo Obono, practising lawyer

NOTE: The Democratic Party of Equatorial Guinea (PDGE) and the Democratic Liberal Convention Party (CLD) were invited to be interviewed but declined the invitation.
