



**ЭКОНОМИЧЕСКИЙ
И СОЦИАЛЬНЫЙ СОВЕТ**

Distr.
GENERAL

E/CN.4/2003/67/Add.2
9 January 2003

RUSSIAN
Original: ENGLISH

КОМИССИЯ ПО ПРАВАМ ЧЕЛОВЕКА
Пятьдесят девятая сессия
Пункт 11 с) предварительной повестки дня

**ГРАЖДАНСКИЕ И ПОЛИТИЧЕСКИЕ ПРАВА, ВКЛЮЧАЯ ВОПРОС
СВОБОДЫ ВЫРАЖЕНИЯ МНЕНИЙ**

**Доклад, представленный Специальным докладчиком по вопросу о свободе
убеждений и их свободном выражении г-ном Амбейи Лигабо
в соответствии с резолюцией 2002/48 Комиссии
по правам человека**

Добавление

Миссия в Экваториальную Гвинею*

* Настоящее резюме распространяется на всех официальных языках. Сам доклад содержится в приложении к резюме и распространяется только на том языке, на котором он был представлен, и на испанском языке.

Резюме

Настоящий доклад был подготовлен в соответствии с резолюцией 2002/48 Комиссии по правам человека. В нем излагается и анализируется та информация об уважении права на свободу убеждений и их свободное выражение, которую Специальный докладчик получил до и во время его визита в Экваториальную Гвинею, 2-7 декабря 2002 года, от официальных и частных лиц, неправительственных организаций, а также от бывшего Специального представителя Комиссии по правам человека по вопросу о положении в области человека в Экваториальной Гвинее.

Специальный докладчик отмечает, что с точки зрения законодательства положение дел с уважением свободы убеждений и их свободного выражения в Экваториальной Гвинее, как представляется, улучшилось. За последние годы принято несколько законов, которые, в случае их полномасштабного осуществления, значительно повысят эффективность уважения свободы убеждений и их свободного выражения. Соответственно, Специальный докладчик настоятельно призывает правительство принять все необходимые меры для осуществления этих законодательных актов и соглашений, ссылаясь, в частности, на Национальный пакт 1993 года и заключенные в связи с ним соглашения 1997 и 2001 годов, а также на нормативные акты, регулирующие процедуры выборов.

В то же время Специальный докладчик отмечает, что есть законы, в частности Закон 1997 года о прессе печатных и аудиовизуальных средствах массовой информации и Закон 1999 года, регулирующий деятельность неправительственных организаций, которые необходимо пересмотреть и привести в соответствие с международными нормами и стандартами по правам человека применительно к праву на свободу убеждений и их свободное выражение.

Касаясь положения средств массовой информации, Специальный докладчик выражает беспокойство в связи с отсутствием в стране бесплатных и независимых аудиовизуальных средств массовой информации, а также в связи с теми юридическими и административными препятствиями, с которыми сталкиваются печатные средства массовой информации. Правительству надлежит всеми возможными средствами поощрять развитие плюралистических, бесплатных и независимых средств массовой информации в Экваториальной Гвинее, а также защиту и уважение независимости, свободы убеждений и их свободного выражения применительно к журналистам.

Специальный докладчик обеспокоен тем, что правозащитным НПО по-прежнему запрещаются регистрация и деятельность в Экваториальной Гвинее, и он настоятельно

призывает правительство пересмотреть ныне действующий Закон 1999 года. Он также с беспокойством отмечает необоснованность запрещения некоторых НПО, имея, в частности, в виду Ассоциацию адвокатов и Ассоциацию прессы, которые были запрещены в мае 2002 года. Специальный докладчик призывает правительство пересмотреть его решение и разрешить этим двум организациям свободно действовать.

По мнению Специального докладчика, необходимо реформировать судебную систему и незамедлительно организовать подготовку по юридическим нормам и правам человека для работников правоохранительных органов и адвокатов.

Специальный докладчик полагает также, что необходимо пересмотреть статус и компетенцию Национальной комиссии по правам человека в свете "Принципов, касающихся статуса национальных учреждений, занимающихся поощрением и защитой прав человека" ("Парижских принципов"), которые были приняты Комиссией по правам человека в 1992 году и Генеральной Ассамблеей в 1993 году.

Специальный докладчик призывает Президента Республики рассмотреть вопрос об освобождении заключенных после состоявшегося в июне 2002 года "Процесса 144-х".

В заключение Специальный докладчик рекомендует правительству запросить техническую помощь Организации Объединенных Наций в целом и УВКПЧ в частности для осуществления настоящих рекомендаций. По его мнению, более тесное сотрудничество с такими правозащитными механизмами Организации Объединенных Наций, как договорные органы и специальные процедуры Комиссии по правам человека, будет в этой связи весьма полезным.

Annex

**REPORT SUBMITTED BY MR. AMBEYI LIGABO, SPECIAL RAPPORTEUR
ON THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION, IN
ACCORDANCE WITH COMMISSION ON HUMAN RIGHTS
RESOLUTION 2002/48**

Mission to Equatorial Guinea

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
Introduction	1 - 7	5
I. GENERAL BACKGROUND AND LEGAL FRAMEWORK	8 - 22	6
A. General background	8 - 11	6
B. Legal framework	12 - 22	6
1. International obligations	13 - 16	7
2. Domestic legislation	17 - 20	7
3. Other laws and regulations with an impact on the exercise of the right to freedom of opinion and expression	21 - 22	8
II. PRINCIPAL CONSIDERATIONS AND CONCERNS	23 - 50	9
A. The media	24 - 29	9
B. The exercise of political rights	30 - 38	10
C. Other concerns relevant to the promotion and respect for the right to freedom of opinion and expression	39 - 50	11
III. CONCLUSIONS AND RECOMMENDATIONS	51 - 68	13
<u>Appendix</u> : List of persons the Special Rapporteur met during his visit		16

Introduction

1. This report has been prepared pursuant to resolution 2002/48 of the Commission on Human Rights. By letter dated 7 October 2002 addressed to the Permanent Representative of Equatorial Guinea to the United Nations Office at Geneva, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sought the agreement of the Government to a visit to Equatorial Guinea. On 24 October 2002, the Government of Equatorial Guinea granted the request.
2. This report presents and analyses information received by Mr. Ambeyi Ligabo, Special Rapporteur, before and during his visit to Equatorial Guinea from 2 to 7 December 2002, from officials, individuals and non-governmental organizations on the situation of freedom of opinion and expression, including allegations of violations of the right to freedom of opinion and expression. The Special Rapporteur has also taken into consideration in the preparation of his mission the work of the former Special Representative of the Commission on Human Rights on the human rights situation in the Republic of Equatorial Guinea.
3. The Special Rapporteur wishes to underline that, as his visit took place from 2 to 7 December 2002, the report does not cover the Presidential election of 15 December 2002.
4. The Special Rapporteur would like to express his gratitude for the cooperation extended to him by the Government of Equatorial Guinea in discharging his mandate.
5. The Special Rapporteur would also like to express his appreciation to the United Nations Resident Coordinator and staff of the United Nations Development Programme (UNDP) as well as the United Nations Information Center (UNIC) in Malabo for their assistance prior to, and during the visit.
6. The Special Rapporteur visited the capital, Malabo. He met with the President of the Republic and government representatives. He also had the opportunity to talk with representatives of non-governmental organizations (NGOs), media professionals, and members of the political opposition. A list of persons he met during the visit appears in the appendix to the present report.
7. The Special Rapporteur also requested to meet the following officials, and he regrets that they were not available: the Minister for Foreign Affairs; the Minister of Justice and Worship; the Minister of Information, Tourism and Culture; and the Vice-Minister of the Press, Radio and Television; a representative of the Inter-Ministerial Commission on Human Rights; the President of the Cámara de los Representantes del Pueblo (House of Representatives of the People) and members of the Corte Suprema de Justicia (Supreme Court). Furthermore, the Special Rapporteur regrets that he was not able to visit the Black Beach Prison in Malabo, where he had expressed the wish to meet with a number of detained political opposition parties' leaders, convicted in June 2002 at the end of the "Trial of 144".

I. GENERAL BACKGROUND AND LEGAL FRAMEWORK

A. General background

8. After the declaration of independence from Spain in 1968, a Constitution was adopted by referendum and fragile institutions established. Fernando Macías Nguema was elected President. In July 1970, a single-party State was created. By 1971, major parts of the Constitution were abrogated by the President and in 1972, Macías declared himself “President for life”. His exclusive rule from 1968 to 1979 was marked by a complete absence of democratic processes, arbitrariness and human rights abuses, and his Government focussed quasi-exclusively on national security, to the detriment of other public sectors such as health, social security and education, as well as infrastructures for transportation, energy, water and communications. Religion was severely repressed and all schools were closed down. During Macías’ rule, an estimated one-third of the country’s population - mostly the economic and intellectual elite, the educated, and qualified workers - were killed or went into exile.

9. Macías’ regime was overthrown in 1979 by the then Minister of Defence, Teodoro Obiang Nguema Mbasogo, the current President of the Republic. The country was governed during the first three years by the military - i.e. the President and a Supreme Military Council. A new Constitution, abolishing the Supreme Military Council, was drafted and adopted by referendum in 1981, but the Government remained under a one-party rule; the *Partido Democrático de Guinea Ecuatorial* (PDGE) founded in 1987 was the only authorized political party for five years. In 1991, a multi-party regime was introduced when a new Constitution was adopted. The latter was in turn amended by the Constitutional Act No. 1 of 17 January 1995.

10. Obiang was elected for a seven-year presidential term in 1982, and was re-elected in 1989 and 1996. Regular legislative and municipal elections have also been organized over the years to elect members to the House of Representatives of the People and to the municipal councils.

11. This historical background has not been conducive to the development in Equatorial Guinea of a culture of democracy, of institutional guarantees and safeguards for respect for the rule of law, of a culture of impunity for officials and the governing elite, of a culture of organized civil society, and has led to a lack of education - both general and civic education. The Special Rapporteur is of the view that this has impeded - and to some extent is still impeding - the development of a vigorous civil society, of participatory political processes and of democratic institutions.

B. Legal framework

12. In this section, the Special Rapporteur will briefly consider some aspects of the international and national legal frameworks governing the protection of the right to freedom of opinion and expression in Equatorial Guinea.

1. International obligations

13. Equatorial Guinea has assumed a whole range of obligations deriving from international instruments in the area of human rights, notably by adhering, in 1987, to the International Covenants on Economic, Social and Cultural Rights (ICESCR) and on Civil and Political Rights (ICCPR), and the Optional Protocol to the International Covenant on Civil and Political Rights; in 1984, to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); in 1992, to the Convention on the Rights of the Child (CRC) and, in 2002, to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and to the International Convention on All Forms of Racial Discrimination (ICERD).

14. Equatorial Guinea also ratified the African Charter on Human and People's Rights on 7 April 1986.

15. Article 8 of the Fundamental Law of Equatorial Guinea provides that "the State respects the principles of international law and reaffirms its adherence to the rights and obligations emanating from the charter of the international organizations and organisms of which it is a member".

16. The Special Rapporteur wishes to underline that Equatorial Guinea has an extremely poor record of reporting under the various international human rights instruments it has ratified: three reports were submitted to CEDAW (the initial report in 1987 and the second and third reports in 1994). The fourth and fifth reports under CEDAW are overdue, as well as all reports under ICESCR (three reports in all), ICCPR (also three reports) and CRC (two reports). The Special Rapporteur considers that this is not conducive to effective interaction with the various treaty bodies, and therefore prevents the latter from assessing objectively the human rights situation in the country and from providing to the Government useful recommendations for possible improvement. He notes the commitment undertaken to this end by the President of the Republic and other officials he met, and encourages the authorities to launch a dialogue with the United Nations human rights treaty bodies.

2. Domestic legislation

(a) The Constitution

17. Article 13 (b) and (k) of the Fundamental Law protects the right to "freedom of expression of thoughts, ideas and opinions" and to "freedom of association, assembly and manifestation".

(b) Legislation governing the media

18. The *Ley Número 6/1.997 de Prensa, Imprenta y Medios Audiovisuales* (law on the press, publishing and audio-visual media) governs the registration, functioning and control of "*todas las formas y modos de comunicación social, particularmente a la imprenta, librería, órgano de prensa, empresas editoras, empresas de distribución y carteleras y a las empresas de comunicación audiovisual*".

19. The law stipulates in its first article that “*la profesión de periodista se ejercerá conforme a las disposiciones de la presente Ley*” and that “*el derecho a la libertad de expresión de pensamiento, ideas y opiniones reconocido en Guinea Ecuatorial, se ejercerá cuando se difundan a través de los medios de comunicación social conforme a lo dispuesto en la Ley Fundamental y en la presente Ley*”.

20. Recurrent concerns have been expressed that this law grants extensive powers to the authorities to restrict the activities of the media, in particular by making possible control of the media by refusing registration or requesting the submission of copies prior to publication. The law also establishes criminal, civil and administrative penalties for violation of its provisions, in particular when it comes to violations of the 19 “publishing principles” enshrined in its article 2, which are vague and open to subjective and restrictive interpretations.

3. Other laws and regulations with an impact on the exercise of the right to freedom of opinion and expression

21. The *Pacto Nacional Vinculante* (National Pact), signed by the Government and the recognized political parties in March 1993 and reviewed in 1997 and in 2001, provides a framework “*para crear las premisas políticas del medio externo de pluralismo político que aseguran el libre desarrollo de los partidos políticos*”. The 2001 evaluation was signed by the 13 legally recognized political parties, i.e. the Government party (PDGE), the 11 other parties of the governing coalition and the one recognized opposition party, the *Convergencia para la Democracia Social* (CPDS). This evaluation includes the following agreements relevant to freedom of opinion and expression:

- (a) A provision for the abolition of the commissions on access to the communications and on survey media and the transfer of their functions to the Supervisory and Monitoring Commission, to be composed of 10 delegates designated by the Government, the leaders of the political parties or their representatives and a member for each political party;
- (b) A provision for the simplification of procedures to facilitate the installation of private audio-visual media;
- (c) An undertaking to end smear campaigns conducted through the media;
- (d) The prohibition of voting in public; and
- (e) The prohibition of demands to produce the membership card of any political party in order to obtain employment.

22. In addition, the Special Rapporteur expresses his concern that, despite recommendations by the Commission on Human Rights in its resolutions 2000/19 and 2001/22, the *Ley Número 1/1.999* regulating non-governmental organizations, which excludes the registration of non-governmental organizations in the field of human rights and social affairs, has not been amended.

II. PRINCIPAL CONSIDERATIONS AND CONCERNS

23. In order to assess the situation of the right to freedom of opinion and expression in Equatorial Guinea, the Special Rapporteur met with government officials, media professionals and other members of civil society.

A. The media

24. A national radio-television broadcaster owned by the Government, *RTVGE*, and a private radio-television outlet, *Asonga*, owned by a relative of the President of the Republic, are the only audio-visual media in the country. The reception of several foreign television channels, through modern systems of television communication, is common and not prohibited.

25. Foreign press is basically unavailable throughout the country and its importation, even at random, was firmly hindered by the authorities until a few years ago. While no daily press exists, some magazines are published on an irregular basis. *La Gaceta de Guinea Ecuatorial* is the only print media that manages to be published with some regularity (approximately once a month). Official news is not accessible to private newspapers, and it is reported that very often journalists from private newspapers are not invited to, or are excluded from, public events to prevent them from reporting thereon. Only two publications seem to deal with political subjects and have, as a result, often been confiscated by the authorities.

26. It seems that, although the authorities have stopped direct prohibition of the purchase of national or foreign newspapers, the population still lives in fear of buying a newspaper. In addition, the Government has not yet invested in adequate infrastructures for the print media; newspapers have to be printed outside the country, such as *La Gaceta de Guinea Ecuatorial*, or are photocopied when paper, which is imported at very high prices, is available. In addition, there are nearly no press retailers in the country: the only press retailer in the capital recently abandoned his business in favour of other commercial activities.

27. Another main feature underlined by all interlocutors of the Special Rapporteur is the lack of training and formation for journalists and media operators, accompanied by a lack of modern technology. One private press operator underlined that, as a result of the country's historical process, there is a widespread lack of political culture among the population at large. In this connection, the conditions for the exercise of freedom of opinion and expression are not fulfilled at the present time. Having experienced the confiscation of several issues of his magazine in recent times, he also added that repression against the press appears nowadays to be more a matter of the culture of officials than a legal or political issue.

28. A journalist noted that economic difficulties cannot be invoked as a justification for the quasi-absence of print media in the country, because Equatorial Guinea is going through an exceptional period of economic growth, and therefore the Government would have sufficient financial resources to support the press.

29. Another journalist commented that there is no direct censorship, and that publication directors' own responsibility is the key to relations between the authorities and the press. A representative of the public radio-television broadcaster RTVGE said that the Government wishes to promote and guarantee freedom of opinion and expression regardless of the possible problems that the exercise of this right may create. In his view, the major deficiencies of the press and the media can be found in the lack of a managerial culture, including marketing and the development of human resources, and in the regrettable attitude of always resorting to the Government to solve financial troubles.

B. The exercise of political rights

30. The Special Rapporteur notes that there has been progress recently at the legislative and regulatory levels to promote a pluralistic political scene in Equatorial Guinea. The President of the Republic noted that the democratic process commenced 10 years ago with the introduction of a multiparty system. He underlined that the signature of the *Pacto Nacional Vinculante* and its implementation are critical factors in this process. The *Pacto* contains rules and regulations that govern some aspects of the right to freedom of opinion and expression in a democratic society. The President emphasized the need for technical assistance in this respect.

31. The Minister of Interior indicated that the 2001 review of the *Pacto Nacional* led to the creation of a National Electoral Commission presided by himself and by the leader of the main opposition party as his deputy. In addition, the revision also addressed three critical issues: the nature of the compromise between Government and opposition, the possible revision of a number of relevant laws and the nature of the relation among political parties.

32. Notwithstanding the fact that steps have been taken to implement the *Pacto Nacional* and the undertakings of the 1997 and 2001 evaluations, the Special Rapporteur notes that the fact that most commitments undertaken in 2001 are the same as those of 1997 may imply that little progress has been achieved towards its implementation in practice.

33. In this respect, the Special Rapporteur has received information that some political parties are still facing obstacles to their registration, such as the *Fuerza Demócrata Republicana* (FDR), and that harassment of political opponents, including through arrest, detention, fines, difficulties in finding jobs or to leave the country to participate in international meetings because they are refused exit visas, has continued. However, it is not clear to the Special Rapporteur whether these acts of harassment are part of an explicit campaign of the Government against the political opposition, or constitute isolated acts of a number of officials, due to a lack of knowledge of new legal provisions and a lack of training.

34. In addition, the Special Rapporteur expressed his concern over recurrent criticisms from the political opposition parties and independent observers that the country's electoral processes, at the Presidential, legislative and municipal election levels, have in general not been fair or that the results have not reflected the votes expressed. This has led the opposition political parties to withdraw from most of the recent elections, claiming that they were marred with fraud, such as carrying out the vote in public, the unavailability in polling stations of voting slips for parties other than the governing party, the surveillance of polling stations by on-duty military personnel,

or impeding opposition political parties from monitoring the election processes in polling stations. Reports have circulated to the effect that the opposition is systematically obstructed while organizing rallies and conferences and that it has no access to the media even during election campaigns. It is further reported that opposition political parties' supporters fear retaliation from supporters of PDGE. While blatant cases of violence are reportedly rare, the atmosphere is not conducive to an electoral process run according to democratic rules and to the norms of the relevant Equatorial Guinea laws.

35. The Special Rapporteur expresses his concern at such allegations, which constitute grave violations of the right to freedom of opinion of both members of opposition political parties and electors.

36. The Minister of the Interior indicated that, in his capacity as president of the National Electoral Commission, his main duties are to maintain peace and order throughout the country and to allow the holding of elections in a climate of tranquillity.

37. In relation to the country's current political context, the Special Rapporteur also wishes to refer to the case of the 144 people accused of attacking State security in March 2002. According to reports received, most of those arrested are linked to FDR and CPDS, and to one faction of the *Unión Popular* (UP), and include two leaders of FDR, Felipe Ondó Obiang and Guillermo Nguema Elá, a leader of one faction of UP, Emilio Ndongo Biyogo, as well as Plácido Micó, leader of CPDS.

38. The subsequent trial, held in May-June 2002, led to the conviction of 67 people for an attempt to murder the head of State, for attacking the form of government and for rebellion; their sentencing was between 6 years and 8 months, and 20 years of imprisonment. Without in any way implying any determination on the facts of the case, the Special Rapporteur wishes to report that he has received consistent information that these arrests and trial might have been politically motivated, with a view to destabilizing and weakening the political opposition. Information has also been transmitted to the Special Rapporteur to the effect that the "Trial of 144" violated several international human rights norms and standards, such as articles 7, 10 and 14 of the International Covenant on Civil and Political Rights and the Convention against Torture. With regard to the fairness of the trial, the President of the Republic himself, in his meeting with the Special Rapporteur, acknowledged the lack of professional magistrates in the country.

C. Other concerns relating to the promotion and observance of the right to freedom of opinion and expression

39. The Special Rapporteur notes, as highlighted in the Introduction above, the general absence of participatory and effective structures for civil society in the country. In his view, this is further hindered by legal and administrative obstacles to the registration of non-governmental organizations, in particular in the field of human rights, as well as the ability to arbitrarily ban registered non-governmental organizations. With respect to the latter, he refers to the recent ban of the *Colegio de Abogados* and the *Asociación de la Prensa de Guinea Ecuatorial* (ASOPGE) in May 2002 - just before the start of the "Trial of 144". According to information received by the Special Rapporteur, the Deputy Minister of Information called for the prohibition of

ASOPGE, apparently without giving a reason. As the Bar Association is concerned, the reason invoked by the Government for its ban was the lack of adequate training of a number of lawyers to exercise their profession. The Government is reported to have indicated that it intends to set up a new Bar Association, and will set as one requirement for belonging to it not to be affiliated with a political party.

40. Another major impediment to the effective exercise of the right to freedom of opinion and expression, and in particular the right to information, is, in the view of the Special Rapporteur, the continuing difficulties in accessing the text of laws. The Special Rapporteur acknowledges that some efforts have been made in this regard, but he stresses that they are insufficient and that more should be done in order for officials, law enforcement officers, members of the judiciary, lawyers and the public at large to have access to legislative texts.

41. The Special Rapporteur wishes to underline that, in addition to infringing the exercise of the right to seek information, this constitutes an impediment to the implementation of the rule of law. In the view of the Special Rapporteur, this situation also seriously hinders individuals' right to recourse against a violation of their human rights, as guaranteed by article 2, paragraph 3, of the ICCPR, as they are not aware of the protection and remedy afforded to them by the laws.

42. Continuing allegations of impunity of officials for human rights abuses and of poor professional training of judges and law enforcement officers also constitute a major concern for the Special Rapporteur. The latter wishes to welcome the organization in January 2003 by the President of the Republic of a conference on the judicial system, which should constitute a good starting point for its general reform of the system as a whole.

43. The Special Rapporteur notes that judges are appointed by cooptation, which can favour nepotism, and that they have hardly any legal training or background in addition to law studies. The Special Rapporteur also notes that members of the judiciary and lawyers receive no training in human rights norms and standards. In addition, and as mentioned above, they have little access to, or knowledge of, legislative texts.

44. Despite these obstacles to registration, all non-governmental organizations which met with the Special Rapporteur admitted that the authorities allow them to carry out their activities even without legal recognition. However, it must be noted that there are still no local non-governmental organizations monitoring the human rights situation or otherwise dealing directly with human rights issues in Equatorial Guinea.

45. Non-governmental organizations also complained about the lack of support, in particular financial support, from the Government to carry out their tasks, especially for those running activities with a marked social interest, willing to be the voice of people without voice, like the elderly, youths, women, the girl child, etc.

46. The scourge of corruption and the overwhelming lack of morality affecting officials were also mentioned as a factor hindering the work of non-governmental organizations in the country.

47. With regard to non-governmental organizations' difficulties in obtaining the necessary authorization to function, the Prime Minister noted that a number of non-governmental organizations are changing their goals and purposes, deviating from the field of activity for which they had originally obtained the authorization, which contravenes the law.

48. Finally, as the general human rights situation is concerned, the Special Rapporteur notes that, according to the Director of the National Human Rights Commission, the Government has made attempts to improve its human rights record through initiatives such as the organization of conferences and seminars with the purpose of identifying priorities in the area of human rights programming in Equatorial Guinea. However, it was underlined that the National Human Rights Commission is still recording a large number of complaints and petitions for human rights violations, especially by the police and the army. These complaints and petitions are not transmitted to the Courts but are referred to the Parliament.

49. The Special Rapporteur regrets that he has not been able to review the status and activity reports of the National Human Rights Commission, and expresses the hope that these will be made available to him rapidly.

50. The Special Rapporteur notes with appreciation that the Centre for the Promotion of Human Rights and Democracy is involved in capacity-building in human rights, through mainly the publication of books and brochures.

III. CONCLUSIONS AND RECOMMENDATIONS

51. On the basis of the principal observations and concerns set out in the previous section, the Special Rapporteur would like to offer the following recommendations to the Government for its consideration. In view of the open and constructive exchanges of views that took place during his visit, the Special Rapporteur is convinced that these recommendations will be received in a spirit of shared commitment to strengthening the promotion and protection of the right to freedom of opinion and expression.

52. The Special Rapporteur wishes to recall that freedom of opinion and expression constitutes the basis of all the freedoms on which democracy rests. No nation can make progress if freedom of expression is not guaranteed to all its citizens and protected by the law.

53. In this respect, the Special Rapporteur underlines that the existence of a free, independent and pluralistic media - public or private - is one of the major components of an effective and functioning democracy. With this in mind, the Special Rapporteur recommends that the Law on the Press, Publishing and Audiovisual Media be reviewed, in order to restrict the Government's control over the public and private media.

54. The Special Rapporteur also believes that the Government should encourage the creation and functioning of independent media, inter alia, by investing in the necessary infrastructure, in particular for print media, to overcome the present shortage in, for example, printing presses and newspaper retailers, and by encouraging - on a non-

discriminatory basis - public advertisement in locally printed media. The organization of training sessions for journalists and media operators is also a priority in the Special Rapporteur's view, and the Government might seek the assistance of OHCHR and relevant international NGOs in this area.

55. The Special Rapporteur welcomes the efforts undertaken to date by the Government to implement the National Pact of 1993 and the 1997 and 2001 agreements thereunder. However, he urges the authorities to take all necessary steps to implement these agreements, in close cooperation with the co-signatories and other political forces in the country. Many of the agreements undertaken, if implemented, will have a major impact towards further democratization of the country's political system and institutions and will significantly improve the general human rights situation in Equatorial Guinea, in particular when it comes to the right to freedom of opinion and expression and the right to information.

56. The Special Rapporteur is of the view that additional efforts should also be made by the Government to ensure that future electoral processes respect the agreements in the National Pact, relevant national laws as well as international standards in the area of elections. He therefore invites the Government to consider inviting independent monitors for all future elections, including legislative and municipal, and to cooperate closely with international and regional mechanisms in this area.

57. Furthermore, opposition political parties should be allowed to monitor the election process in polling stations of their own choice, and the process and results of the elections should be independently monitored. The Special Rapporteur suggests that the assistance of the United Nations, including of the OHCHR, be sought in that regard.

58. The President of the Republic may wish to consider the release of the detainees sentenced to prison terms at the end of the "Trial of 144" in June 2002. This humanitarian gesture could reinforce the international credibility of the current leadership and open new avenues for the development of the democratic process in the country.

59. The Special Rapporteur notes with concern that NGOs working in the area of human rights continue to be excluded by Law No. 1/1.999. This constitutes a significant impediment to the improvement of the country's human rights situation. He recommends that the law be revised in order to allow for the registration and functioning of human rights NGOs, including their monitoring of human rights abuses and provision of legal assistance to victims of human rights abuses. He underlines that close cooperation between the Government and international and local human rights NGOs, in particular when it comes to technical assistance in the revision of laws, regulations and development of human rights programmes, has proved in many cases to be extremely productive and efficient.

60. The Government may wish to speedily reconsider the decisions to disband the Bar Association and the Press Association, which should be granted full legal recognition and independence. Likewise, the Government should make sure that legal recognition of associations and other non-governmental organizations is quickly granted by the relevant authority.

61. **The Government may wish to request United Nations assistance in the field of training and education, in particular human rights training and education, for judges, lawyers and law enforcement officials. The appropriate United Nations bodies and agencies, namely UNESCO, UNDP and the OHCHR, should quickly prepare, at the request of, and in close collaboration with the Government and the civil society, a comprehensive plan of action on the above-mentioned issues.**
62. **The Government is urged to proceed, with the help of relevant international organizations, with the reform of the judicial system, in particular when it comes to the wide competence of military courts, in order to ensure the independence of judges and lawyers, as well as effectiveness and quality work in the courts. He underlines that independence of judges and lawyers, as well as the fight against corruption and impunity, must be addressed on a priority basis in a State governed by the rule of law.**
63. **The Special Rapporteur would like to call the attention of the Government to the Principles relating to the status of national institutions for the promotion and protection of human rights (the “Paris principles”), adopted by the Commission on Human Rights in 1992 and the General Assembly in 1993, which provide guidance on the establishment, competence, responsibilities, composition, independence, pluralism, methods of operation, and quasi-judicial activities of such national bodies, and recommends that the assistance of the OHCHR be sought by the Government in order to review the status and competence of the National Human Rights Commission.**
64. **The Special Rapporteur also wishes to endorse the recommendation of the Commission on Human Rights in its resolution 2002/11 that a comprehensive programme of technical assistance be discussed with the OHCHR towards the adoption of a national human rights action plan.**
65. **he Government may wish to take measures to ensure increasing dissemination of news, information, opinions and matters of common interest for the population. In this connection special regard should be given to the measures being implemented for the fight against the spread of HIV/AIDS.**
66. **The Government may wish to proceed further with the ratification of international human rights instruments and their Optional Protocols such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Optional Protocols to the Convention on the Rights of the Child on children in armed conflicts and on child prostitution and child pornography.**
67. **The Special Rapporteur urges the Government to fulfil its reporting obligations under the international human rights instruments it has ratified and, in doing so, to engage in a substantive dialogue with the United Nations treaty bodies.**
68. **The Government is kindly invited to report to the Special Rapporteur on the measures taken to implement his recommendations.**

Appendix

LIST OF PERSONS THE SPECIAL RAPPORTEUR MET DURING HIS VISIT

Officials

H.E. Teodoro Obiang Nguema Mbasogo, President of the Republic
Candido Muatetema Rivas, Prime Minister
Clemente Engonga Nguema Onguene, Minister of the Interior and Local Communities,
and Chairman of the Electoral Commission
Lino Sima Ekua, Secretary of State for Cooperation, Ministry of Foreign Affairs
Alejandro Evuna Owono, Minister of Missions
Santiago Micha Oyono, Director General, Ministry of Social Affairs and Condition of
the Woman
Simeon Edjang Mangué, Chief of Cabinet, Ministry of Social Affairs and Condition of
the Woman

Professionals in the information sector

Rodrigo Angue Nguema, correspondent, AFP/BBC/PANA
Louis Nguema Nseng, RTVGE
Norberto Olinga Obama, RTVGE
Federico Abaga Ondo, RTVGE
Marcelino Nkulu Abegue, *El Tiempo* newspaper
Vincente Ensema Avomo, *Ebano* newspaper
Roberto Martin Prieto, *La Gaceta de Guinea Equatorial* newspaper
Antonio Ondo Abaga, *La Gaceta de Guinea Equatorial* newspaper
Manuel Nse Nsogo, *La Opinion* newspaper

Non-governmental and civil society organizations

Manuel Nse Nsogo, Asociacion de la Prensa de Guinea Ecuatorial (ASOPGE)
José Antonio Ndong Obama, J. XX
Bernardino Nogé Buya, J. XX
Marcelino Nkulu Abegue, AGECDIA
Ruth Jones, AMIC FLORA
Vera Cruz Baleyorn, AMGE
Ekpo Duke Oroy Oyuc, AMUCRICA

Others

Bacar Abdouroihamane, Resident Representative UNDP Office

Virgilio Ela Mangué, UNDP Office

Idalecio Neves, Officer-in-Charge of UNICEF

Benoît N. Soro, Chief of the WHO Office in Equatorial Guinea

Eulogio Obiang Mba, National Human Rights Commission

Carmelo Mecong Ouguene, Centre for Human Rights and Democracy

Scundino Nsogo Ondo, Centre for Human Rights and Democracy

Justo Nguema Ntutum, Centre for Human Rights and Democracy

Ponciano Mbomio Nvo', Secretary of the Bar Association

Salvador Nguema Nchama, Secretary of Student Affairs of the National University

Arsencio Bibang Esono, Director of the Electoral Campaign Department of the Convergencia
para la Democracia Social (CPDS)

Angel Obama Obiang Eseng, Secretary of Juridical Affairs and Human Rights Department of the
CPDS.
