



Asociación Pro Derechos Humanos de España

The Secretary
African Commission on Human and Peoples Rights
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The Gambia

**COMMUNICATION SUBMITTED BY THE
*ASOCIACIÓN PRO DERECHOS HUMANOS
DE ESPAÑA* REGARDING THE REPUBLIC
OF EQUATORIAL GUINEA, UNDER
ARTICLE 55 OF THE AFRICAN CHARTER
ON HUMAN AND PEOPLES' RIGHTS**

A. Introduction

This letter introduces a communication under the Article 55 Communications Procedure of the African Charter on Human and Peoples' Rights (the "Charter") by the *Asociación pro Derechos Humanos de España* (APDHE). Founded in 1976, the APDHE is a nongovernmental organization that advocates for human rights and the rule of law around the globe. Among its objectives, APDHE advocates for human rights in Equatorial Guinea through its Equatorial Guinea Working Group. It is registered in Spain and counts among its members many nationals of Equatorial Guinea resident in Spain.

This communication alleges violations of the right under Article 21 of the Charter of the peoples of Equatorial Guinea to "freely dispose of their wealth and natural resources." Specifically, the communication alleges that the Government of Equatorial Guinea violates the Charter in permitting the family of the President, H.E. Teodoro Obiang Nguema Mbasogo, and a small number of allied families, mostly from the President's Esangui clan or the Mongomo region (the "Nguema/Mongomo group"¹), to divert to their own private benefit the overwhelming preponderance of

¹ In employing this term, the APDHE has no intention to suggest that the group includes only people from Mongomo, or that all or most people from Mongomo are part of the group. The Nguema/Mongomo group comprises a small minority of a small minority. It has, however, long been widely acknowledged that the Esangui clan and the Mongomo region have been very disproportionately represented in the political elite since independence in 1968. See, e.g., "Equatorial Guinea: Country Outlook," ViewsWire, Economist Intelligence Unit (January 4, 2007) ("Mr. Obiang has kept a tight grip on power since 1979...principally through a network of relatives and members of his Esangui clan from Mongomo, in the east, who occupy all the top security posts in government."), available at http://www.eiu.com/index.asp?layout=VWArticleVW3&article_id=1651791950®ion_id=&country_id=230000023&refm=vwCtry&page_title=Latest+analysis. See also United States Department of State, Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices – 2006* (March 6, 2007) ("near monopolization of political and economic power by the Fang ethnic group, particularly its Mongomo subclan"), available at <http://www.state.gov/g/drl/rls/hrrpt/2006/78732.htm>.

the value of and revenue from the Equatoguinean peoples' natural resources, in particular, the value of the peoples' land and hydrocarbon² resources. This misappropriation of the peoples' resources has continued for well over two decades and represents precisely the kind of massive "spoliation" that is prohibited by Article 21. These violations entitle the people of Equatorial Guinea to "lawful recovery of its property as well as to an adequate compensation." Moreover, this spoliation also entails additional grave violations of the "interest of the people."

In order to accomplish these violations, the Nguema/Mongomo group has established and maintains a far-reaching system of corruption affecting every sphere of life within Equatorial Guinea. The Government of Equatorial Guinea has materially assisted and colluded with this corruption system by, among other things, putting the Equatoguinean judicial system at the disposal of the ruling group, to implement and ratify the massive diversion of the peoples' wealth, thus violating the Government's "duty to guarantee the independence of the Courts," under Article 26 of the Charter, and the closely related duty to ensure the right of "[e]very individual [...to] have his cause heard," under Article 7(1).

The fruits of this corruption system are, in turn, the consequent violations of the right to development, right to health, right to education, and right to lawfully acquired private property, under Articles 22, 16, 17(1), and 14. The APDHE submits the present claim to the African Commission on Human and Peoples' Rights (the "Commission") in its own name and in defence of the human and peoples' rights of the individuals and communities in Equatorial Guinea that have been victimized by the corruption system imposed on them by the Government of the Republic of Equatorial Guinea, as further described below. Other victims of this system include but are not limited to legitimate individual and collective owners of land and other types of property which has been unlawfully seized by the Government for the benefit of members of the Nguema/Mongomo group; tenants and residential property owners who have been forcefully evicted from their homes without appeal and, generally, without reasonable compensation or alternative places to live; individuals, families and communities who have suffered, or seen loved ones suffer, death or serious illness because of the absence of sanitation, potable water, and/or adequate health care facilities and services; and children who have been robbed of dignity and economic opportunity for lack of free minimally acceptable education. Most of the individuals and communities that have endured the brunt of the corruption system are, because of their poverty and because of the threat of violent repression, unable to assert their claims on their own behalf either to the Commission or in other fora.

The Republic of Equatorial Guinea ratified the Charter on April 7, 1986.³ All the violations alleged in this communication occurred after this date. To the extent that

² As used in this communication, the term "hydrocarbons" refers generally to all oil and gas substances composed of hydrogen and oxygen that are produced commercially in Equatorial Guinea, including petroleum, liquefied petroleum gas, liquefied natural gas, and methanol.

³ See the Commission's website at http://www.achpr.org/english/ratifications/ratification_charter_en.pdf.

any of the communications herein alleged began before this date, the authors allege that those violations have continued since then and have persisted to the present day.

The APDHE hereby respectfully requests the Commission to be seized of this case. If seizure is granted, the APDHE will submit to the Commission a full legal memorandum in support of the claim.

B. Unique Gravity of the Circumstances of this Case

Equatorial Guinea has a relatively small population of about 550,000, and vast wealth from its natural gifts, above all, its abundant hydrocarbon deposits, but also forestry, fishing, and undeveloped resources including titanium, iron ore, manganese, uranium, and alluvial gold.⁴ Unlike many of its neighbors, Equatorial Guinea has also been spared the ravages of civil war and invasion. Yet, as explained below, the scale of the corruption system and the Nguema/Mongomo group's indifference to the welfare of the people have placed Equatorial Guinea at or near the bottom for every major development and governance indicator, far below countries whose per capita wealth should make them peers.

The United Nations Development Program (UNDP) measures every country's relative will and effectiveness in applying available wealth to the public benefit by comparing per capita Gross Domestic Product (GDP) ranking (roughly reflecting the amount of wealth available for the nation's needs) and the Human Development Index (HDI) ranking (reflecting the extent to which those needs are satisfied). Where the HDI rank lags substantially behind the GDP rank, it is a sign of a government's failure to use available resources appropriately to meet the needs of the people. By subtracting the HDI ranking from the per capita GDP ranking, UNDP generates a numerical measure of the government's performance. In its 2006 *Human Development Report*, UNDP found the difference between Equatorial Guinea's per capita GDP rank (30 out of 177) and its HDI rank (120) was -90 – putting Equatorial Guinea *dead last* of all states measured.⁵ If there is any case meriting the Commission's scrutiny under Article 21, it is the extreme outlier, Equatorial Guinea.

C. Background

Equatorial Guinea's economy has grown at double-digit annual rates⁶ since large-scale exploitation of its rich off-shore oil deposits began in the mid-1990s. On a per

⁴ United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLLS), Equatorial Guinea Country Profile (as of September 2006), available at <http://www.unohrlls.org/en/orphan/82/>.

⁵ See United Nations Development Program, *Human Development Report 2006*, Table 1, "Human development index," p. 285, available at <http://hdr.undp.org/hdr2006/pdfs/report/HDR06-complete.pdf>. The *Human Development Report 2006* uses data for 2004, the most recent data available at the time of publication. Subsequent year growth in GDP may make future calculations even starker.

⁶ International Monetary Fund, IMF Public Information Notice (PIN) No. 06/66, "IMF Concludes Article IV Consultation with Equatorial Guinea" (June 14, 2006), p.1 (economic growth averaging 37% per year during the past decade), available at <http://www.imf.org/external/np/sec/pn/2006/pn0666.htm>.

capita basis, Equatorial Guinea is the fourth wealthiest nation in the world, with a per capita GDP of \$50,200.⁷ However, despite the enormous wealth deriving from the Equatoguinean peoples' hydrocarbon, timber and other natural resources, "the standard of living for the population at large has not improved commensurately."⁸ The quality of life for most citizens of Equatorial Guinea has stagnated, and, by many measures, has actually declined in recent years.⁹ A small group at the top of Equatoguinean society and Government diverts to itself the better part of billions of dollars of the country's oil revenues and other natural resource earnings, and flaunts the luxury trappings of a lifestyle conspicuous even in the capitals of Europe and America, leaving the great bulk of the population mired in absolute poverty. Sixty percent or more of Equatoguineans live on less than \$1 per day.¹⁰

Wealth that should have been used for the "exclusive interest of the people" to provide jobs, education, health care and housing has instead been substantially expropriated by the Nguema/Mongomo group. Indeed, large portions of the oil income have never even made their way to Equatorial Guinea, having been deposited into banks in the United States, Spain, Luxembourg, and elsewhere,¹¹ or squandered on cars, mansions and other extravagances for senior officials and their families.¹²

⁷ Official Website of the Embassy of the Republic of Equatorial Guinea to the United Kingdom, available at <http://www.embarege-londres.org/index.cfm?action=history>. This is an estimate for 2005 based on Purchasing Power Parity. See also United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLLS), Equatorial Guinea Country Profile (as of September 2006), available at <http://www.unohrlls.org/en/orphan/82/>; *New York Times* online, General Information on Equatorial Guinea, available at

<http://topics.nytimes.com/top/news/international/countriesandterritories/equatorialguinea/index.html>.

⁸ International Monetary Fund, "IMF Concludes Article IV Consultation with Equatorial Guinea," IMF Public Information Notice (PIN) No. 06/66 (June 14, 2006), p. 1, available at <http://www.imf.org/external/np/sec/pn/2006/pn0666.htm>.

⁹ For example, the infant mortality rate for 2005 was 123 per 1,000 live births. This reflects a continued worsening trend from the years 2000 (120 per 1,000 births), 1995 (112 per 1,000 births), and 1990 (103). Similarly, the under-five mortality rate for 2005 was 205 per 1,000 live births, compared with 200 in year 2000, 187 in year 1995, and 170 in 1990. Meanwhile, though the primary school completion rate improved from 44.4% in 2003 to 54.3% in 2005, it remains substantially worse than the 1999 rate of 61.0%. See official United Nations "Millennium Development Goals Indicators" website, <http://mdgs.un.org/unsd/mdg/Data.aspx>.

¹⁰ República de Guinea Ecuatorial y Sistema de las Naciones Unidas, *Balance Común de Pais (CCA), Versión Validada* (September 2006), p. 7. See also Système des Nations Unies, *Cadre d'assistance des Nations Unies pour le développement (UNDAF) en Guinée Equatoriale pour la période 2008-2012*, p. 7 (February 12, 2007) (67% of Equatoguineans live on less than \$1 a day in period 1994-2001), available at [http://www.undg.org/docs/7228/undaf%20version%20finale%20\(FR\)%2020-02-2007.doc](http://www.undg.org/docs/7228/undaf%20version%20finale%20(FR)%2020-02-2007.doc).

¹¹ See generally United States Senate, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, Minority Staff Report, *Money Laundering and Foreign Corruption: Enforcement and Effectiveness of the PATRIOT Act, Case Study Involving Riggs Bank* (July 15, 2004), available at http://hsgac.senate.gov/files/071504minorityreport_moneylaundering.pdf.

¹² See, e.g., Chris McGreal and Dan Glaister, "The Tiny African State, the President's Playboy Son and the \$35M Malibu Mansion," *Guardian* (November 10, 2006) (President's son purchased \$35 million California mansion, on a monthly salary as government minister of less than £3,000), available at <http://www.guardian.co.uk/equatorialguinea/story/0,,1944445,00.html>. *Forbes* magazine listed the Malibu property as the sixth most expensive home purchase in the United States in 2006. Matt Woolsey, "Most Expensive Home Sales 2006," *Forbes* (December 12, 2006), available at

Most Equatoguineans survive from subsistence farming,¹³ living almost entirely outside the monetary economy, which is dominated by energy extraction activities.¹⁴ Senior Government officials strictly control participation in the formal economy, allocating licenses and other business opportunities to themselves or other members of the Nguema/Mongomo group in exchange for a share of the revenues; and channeling access to hydrocarbon-related jobs through a handful of highly profitable politically connected “employment agencies.”¹⁵

While a small number of enterprises owned by or closely linked to the governing elite profit handsomely from building fancy hotels and luxury housing in the urban centers of Malabo, Bata and elsewhere, thousands of the poor and even the middle class have seen their homes expropriated, or live in fear that their homes will be next. Those rendered homeless to make way for the construction boom receive negligible compensation for their losses, if any at all, and have no legal recourse.¹⁶

Equatorial Guinea is the third largest hydrocarbons producer in sub-Saharan Africa. However, it is also a country in which most people have no regular access to electricity, and prolonged blackouts are a common occurrence even in the capital city; the health care system ranks 174 out of 190 in the world in quality,¹⁷ with only 51% of one-year-olds immunized against measles and 39% of one-year-olds immunized against polio;¹⁸ average life expectancy is less than 43 years;¹⁹ 57% of the population

http://www.forbes.com/home/2006/12/11/most-expensive-sales-forbeslife-cx_mw_1212mostexpensivehomesales.html.

¹³ United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLLS), Equatorial Guinea Country Profile (as of September 2006), available at <http://www.unohrlls.org/en/orphan/82/>.

¹⁴ Oil revenues accounted for 81% of Government revenues in 2005; hydrocarbons represented 97% of total exports. United States Department of State, Bureau of African Affairs, “Equatorial Guinea: Background Note” (June 2007), available at <http://www.state.gov/r/pa/ei/bgn/7221.htm>. See also official website of the Ministry of Mines, Industry and Energy of the Republic of Equatorial Guinea (“Petroleum production now dominates the Equatorial Guinea economy.”), available at <http://www.equatorialoil.com/>.

¹⁵ “Wealthy individuals were able to buy the licenses needed to operate and had the influence to squeeze out competitor....According to regional representatives of the International Labor Organization, the government continued to influence employment in all sectors. Requirements to utilize employment and security agencies controlled largely by the president's relatives continued.” United States Department of State, Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices – 2006* (March 6, 2007), available at <http://www.state.gov/g/drl/rls/hrrpt/2006/78732.htm>.

¹⁶ See, e.g., Amnesty International, “Guinea Ecuatorial: Los Desalojos Forzosos Violan los Derechos Humanos” (June/July 2007) (approximately 1,000 families forcefully evicted since 2003), available at <http://web.amnesty.org/library/print/ESLAFR240092007>.

¹⁷ Based on World Health Organization survey for year 1997. World Health Organization, *World Health Report 2000, Health Systems: Improving Performance*, Annex Table 10, “Health system performance in all Member States, WHO indexes, estimate for 1997,” p. 203, available at http://www.who.int/whr/2000/en/whr00_en.pdf.

¹⁸ United Nations Children’s Fund, *The State of the World’s Children 2007*, Statistical Table 3, “Health,” p. 110 (figures for 2005), available at <http://www.unicef.org/sowc07/docs/sowc07.pdf>. Of those states with reported data, only seven ranked worse with respect to measles immunization, and only four with respect to polio.

lives without access to clean drinking water, and 47% without access to safe plumbing;²⁰ more than 51% of primary school teachers lack adequate professional training,²¹ and the routine tools of governance include ignorance, censorship, fear, indefinite detention, kidnapping, torture, and extrajudicial execution.²²

This willful abdication by the Government of responsibility to provide for the basic needs of the people, as reflected in Articles 22, 16, 17(1), and 14, is a direct consequence of the Government's complicity in the illicit self-enrichment of the Nguema/Mongomo group and the corruption system which is the central basis of this communication.

D. Statement of the Case: The Corruption System in Equatorial Guinea

The original foundation for the corruption system most immediately involved use of the coercive machinery of the state, in the early 1980s, to implement the wholesale expropriation – without compensation – and distribution to members of the Nguema/Mongomo group of what was at the time the country's most valuable asset, rich agricultural farmland on Bioko Island (formerly, Fernando Po), owned mostly by Spaniards but also in some cases by Equatoguineans. Though Equatorial Guinea was not a party to the Charter at the time these initial expropriations took place, the seizures constituted violations of Article 17, 6, and 7 of the Universal Declaration of Human Rights²³ as well as of applicable Equatoguinean law.²⁴ These original

¹⁹ United Nations Development Program, Human Development Report 2006, Table 1, p. 285, available at <http://hdr.undp.org/hdr2006/pdfs/report/HDR06-complete.pdf>.

²⁰ United Nations Development Program, Human Development Report 2006, Table 7, p. 307, available at <http://hdr.undp.org/hdr2006/pdfs/report/HDR06-complete.pdf>.

²¹ *Système des Nations Unies, Cadre d'assistance des Nations Unies pour le développement (UNDAF) en Guinée Equatoriale pour la période 2008-2012*, p. 8 (February 12, 2007), available at [http://www.undg.org/docs/7228/undaf%20version%20finale%20\(FR\)%2020-02-2007.doc](http://www.undg.org/docs/7228/undaf%20version%20finale%20(FR)%2020-02-2007.doc)

²² See, e.g., most recently, United Nations Press Release, "Visita del Grupo de Trabajo sobre la Detención Arbitraria a Guinea Ecuatorial" (July 13, 2007) (reporting findings of a July 2007 mission by the United Nations Human Rights Council Working Group on Arbitrary Detentions that found cause for "deep concern" regarding detentions of political prisoners, kidnapping from foreign countries, secret detentions, indefinite detentions without charge or trial, summary trials of civilians, without appeal, before military tribunals, extended hand- and foot-shackling and other physical mistreatment, etc.), available at <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/4DB693A1A20AD0D2C125731A002D6AF9?opendocument>. See also, e.g., United States Department of State, Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices 2002 – Equatorial Guinea* (March 31, 2003) (reports of "between three and five deaths... from torture by prison authorities" and other cases of torture, beatings, or abuse that, "combined with a lack of medical care, resulted in some prison deaths"), available at <http://www.state.gov/g/drl/rls/hrrpt/2002/18181.htm>.

²³ Article 17 of the Universal Declaration of Human Rights (1948) guarantees to each person the "right to own property" and the right not to be "arbitrarily deprived of his property." Article 6 guarantees the "right to recognition everywhere as a person before the law," and Article 7 guarantees the right to "equal protection of the law," including protection against "any discrimination" in violation of the Declaration. Available at <http://www.unhcr.ch/udhr/lang/eng.htm>.

²⁴ Article 75 of the then applicable 1982 Constitution of the Republic of Equatorial Guinea provided that "Property is inviolable. No one can be deprived of his assets and rights except for a reason justified by a public utility or a declared social interest in conformity with law and subject to appropriate indemnification." Quoted in Juan María Calvo, *Guinea Ecuatorial: La ocasión perdida*, chapter 40, "La

expropriations set the pattern by which the Nguema/Mongomo group would continue for decades to abuse the apparatus of the state to divert individual and collective property into their own private hands.

The authors take no position on how or by whom the losses of the Spanish *finqueros* should have been indemnified. What matters for purposes of this case is that once the Government of Equatorial Guinea came into possession of the plantation properties, it should have recognized and acted in accordance with the principle that it held those properties in trust for the true owners, the nation's people, to be "dispose[d] of....in the [people's] exclusive interest."

Moreover, subsequent to April 7, 1986, when Equatorial Guinea ratified the Charter, numerous other valuable land properties – mostly owned by Equatoguineans – including lucrative agricultural land, timber land and, later, urban residential neighborhoods, have fallen victim to similar large-scale expropriations, without independent judicial oversight or meaningful compensation to owners, in violation of individual and collective property rights under Articles 14 and 21 of the Charter.

When large deposits of exploitable petroleum and gas were discovered in Equatoguinean waters in the early 1990s, the Nguema/Mongomo group used its previous acquisitions and political dominance to ensure itself control over the vast hydrocarbon resources that have now made Equatorial Guinea the envy of its neighbors. Members of the Nguema/Mongomo group have been able to lock up for themselves the benefit of these new opportunities, building upon a legal system entirely subordinate to the uncontrolled will of the Executive. Far from fulfilling its traditional functions as "the bastion of protection of the individual's rights against the abuses of State power,"²⁵ the Equatoguinean judiciary has been regularly used to justify and directly enforce land expropriations and other injuries necessary for the illicit privatization by the Nguema/Mongomo group of the natural resources of the country.

This diversion of the peoples' wealth in Equatorial Guinea is accomplished through several means, including but not limited to:

- (a) Large-scale expropriations of properties and businesses from individual and communal proprietors, continuing over more than two decades, generally executed under one or another legal pretext, such as purported "national security" needs, fictitious determinations of property "abandonment," alleged or actual failure to pay discriminatory "taxes," technical disqualifications of legal title claims, or payment of token compensation;

Constitución" (1989), unpublished work by former Malabo correspondent for Spanish news agency EFE (APDHE translation), available at <http://www.asodegue.org/hdojmc.htm>.

²⁵ *Civil Liberties Organizations v. Nigeria*, ACHPR 129/94, Annual Activity Report (1995), Paragraph 16.

- (b) Sham “co-investment” transactions by which leading members of the Nguema/Mongomo group use their influence to obtain direct equity holdings in the enterprises of foreign companies for little or no consideration;
- (c) Rigged Government procurement, construction, and licensing contracts “negotiated” by officials irremediably tainted by conflicts of interest;
- (d) Secret off-the-books “contributions” by foreign companies of educational scholarships and other payments to or for the benefit of leading members of the Nguema/Mongomo group;
- (e) Use of political and economic power to ensure for the Nguema/Mongomo group’s own private enterprises sole authorization for provision of all important local goods and services – particularly land and labor – required for the hydrocarbon extraction activities; and
- (f) Direct diversion of millions of dollars from Government revenue accounts into the private accounts of senior officials, often through use of offshore shell corporations.

As a result of these and other corrupt arrangements, Equatorial Guinea routinely ranks near the bottom of Transparency International’s “Corruption Perception Index,” placing at number 168 (out of 179) in 2007.²⁶

This corruption system in Equatorial Guinea has functioned and grown as a seamless web of political and economic power, each of which is used to bolster the other. Political power puts the force of the state at the service of the Nguema/Mongomo group’s private enrichment and furnishes the formalities of legal process often used to create the appearance of lawfulness for this misappropriation of wealth. Ever increasing economic power, in turn, finances the machinery of political control that eliminates effective opposition through repression and/or bribery.

The design and effect of this corruption system is to ensure the Nguema/Mongomo group a *de facto* monopoly on virtually all of the peoples’ natural resources and the economic opportunities resulting from their exploitation, thus depriving the peoples of Equatorial Guinea of the full and “exclusive” enjoyment of the country’s patrimony, to which they are entitled under Article 21.

²⁶ Available at http://www.transparency.org/news_room/in_focus/2007/cpi2007/cpi_2007_table. See also World Bank, *Governance Matters 2007*, Worldwide Governance Indicators website, Equatorial Guinea, Control of Corruption (2006) (showing Equatorial Guinea at low end of the “0th - 10th Percentile”), available at http://info.worldbank.org/governance/wgi2007/mc_chart.asp.

E. Unavailability of Local Remedies for the Wrongs Complained of

The authors will at the appropriate time show that this corruption system is sustained by a governmental policy that violates judicial independence and precludes any form of judicial or other accountability for the violations complained of. In particular:

- (a) Equatoguinean law provides no remedy for actions committed by the Executive, as evidenced, for example, by the text of expropriation decrees that contain no provision for administrative, let alone judicial, challenge to property seizures or decisions regarding eligibility for compensation, or amounts.²⁷ Individuals who have sought judicial remedies for specific property or business expropriations or evictions have found no law to be applicable.
- (b) Those victimized more broadly through unavailability of gainful employment, housing, health care, or education do not have legal standing as plaintiffs in any judicial forum in Equatorial Guinea.
- (c) And even were judicial remedies technically provided for, informed observers are consistent in voicing “concern at the absence of an independent judiciary...and at the conditions for the appointment and dismissal of judges, which are not such as to guarantee the proper separation of the executive and the judiciary.”²⁸ United Nations human rights bodies and rapporteurs have highlighted this unbroken history of judicial subordination to the Executive in Equatorial Guinea for decades, as have the European Parliament, the United States Department of State, and respected nongovernmental organizations such as the International Bar Association, Amnesty International, and Freedom House.

F. Violations

In consideration of the above, the APDHE respectfully requests the Commission to find that the respondent Government has:

- (a) permitted the unlawful diversion of the country’s natural resources, in violation of Article 21 of the Charter;
- (b) facilitated this spoliation through abuse of the judicial system, in violation of Articles 26 and 7(1); and,

²⁷ See, e.g., Presidential Decree No. 176/2005, of October 4, 2005, “to authorize the forced expropriation of the buildings situated around the Peoples’ Palace in Malabo,” BBC Africa Monitoring Service (BBC English translation, published December 22, 2005, of original Spanish language broadcast of December 16, 2005, 0600 GMT, Radio Nacional de Guinea Ecuatorial, Malabo), available on LEXIS.

²⁸ United Nations Human Rights Committee, 81st Session, “Concluding Observations on the Situation of Civil and Political Rights: Equatorial Guinea,” CCPR/CO/79//GNW (July 30, 2004), Paragraph 7, available at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/ff303399c6edc0c0c1256efc00565697?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/ff303399c6edc0c0c1256efc00565697?Opendocument).

- (c) as a consequence, failed to ensure fundamental legal, economic and social rights of the peoples of Equatorial Guinea, in violation of Articles 22, 16, 17(1), and 14.

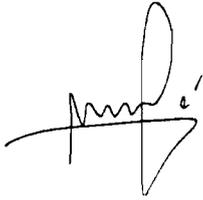
G. Remedies Requested

The APDHE requests that the Commission recognize the systematic spoliation of the peoples' wealth that has over decades been perpetrated by the Nguema/Mongomo group, and that the Commission issue recommendations to the Government of the Republic of Equatorial Guinea that will oblige it to:

- (i) engage with representatives of all sectors of civil society to ensure genuine oversight by the people of revenues, investments, and expenditures comprising or deriving from the peoples' resources, including rapid and full implementation of all steps necessary for compliance with its obligations under the Extractive Industries Transparency Initiative;
- (ii) establish and enforce a compulsory system of regular and meaningful financial disclosure under direct monitoring of the Commission and applicable to all government departments without exception, in order to help "prevent potential conflicts of interest, help to detect illicit enrichment of public officials, and...help to deter corrupt practices";²⁹
- (iii) ensure full and fair rights of appeal regarding land condemnation decisions, and prompt and adequate compensation, including provision for comparable alternative housing;
- (iv) ensure that the dire needs of Equatoguineans in the spheres of health, education, and housing are adequately addressed, including by provision of adequate resources for such needs in the Government's budgets; and
- (v) take such other remedial measures as may come to appear appropriate during the course of the proceedings relating to this case.

²⁹ Organization for Economic Co-operation and Development, "OECD Guidelines for Managing Conflict of Interest in the Public Service," Section 2.2.3(b), in *Managing Conflict of Interest in the Public Sector: A Toolkit* (2005), p. 109. The Guidelines, arising out of an OECD review of the experience of 30 countries in handling conflict of interest issues, are intended to help governments adopt policies and deploy "effective procedures...for the identification, disclosure, management, and promotion of the appropriate resolution of conflict-of-interest situations." *Ibid.* pp. 94-96.

In view of the above, the *Asociación pro Derechos Humanos de España* hereby requests the Commission to be seized of this case.



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