

Corruption and Its Consequences
in
Equatorial Guinea

A Briefing Paper

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Introduction

Equatorial Guinea is one of the wealthier nations in the world, with a per capita gross domestic product (GDP) greater than those of Italy, South Korea, or Saudi Arabia. Yet the country's citizens live in desperate poverty, with over 60% struggling to survive on less than \$1 a day. Despite abundant natural resources – especially oil and gas – and the billions of dollars these resources bring in, the country is marked by chronic hunger, poor sanitation, a crumbling education system, disease, and frequent blackouts, among other problems. This chasm between the country's wealth and the poverty of its people raises a basic question: if the money from the sale of Equatorial Guinea's natural resources is not going to benefit its citizens, where is that money going?

The Open Society Justice Initiative is seeking to answer that question by investigating corruption at the highest levels of Equatoguinean government and society. The Justice Initiative is working with two other human rights NGOs, the Spain-based Asociación Pro Derechos Humanos de España and the US-based EG Justice, to pursue remedies for the resource-related corruption wracking Equatorial Guinea. These efforts led to the recent launching of a criminal investigation in Spain into alleged money-laundering perpetrated by eleven family relatives and other close associates of Equatorial Guinea's President Teodoro Obiang Nguema, and the filing of a complaint with the African Commission on Human and Peoples' Rights accusing President Obiang and his family members and cronies of massive "spoliation" – the theft of natural resources and attendant wealth from the people to whom they should belong.

More information about these cases, including copies of legal filings, is available here: <http://www.soros.org/initiatives/justice/litigation/obiangfamily> (for the case in Spain), and <http://www.soros.org/initiatives/justice/litigation/equatorialguinea> (for the case before the African Commission).

This paper briefly examines government corruption in Equatorial Guinea and how it works, and the price paid by the country's citizens. It is intended to provide background information for lawyers, human rights advocates, and journalists interested in corruption and its consequences in Equatorial Guinea.

The Problem

The government, economy, and legal system of Equatorial Guinea are controlled by President Teodoro Obiang Nguema Mbasogo and a small number of cronies and family members. The president and his close circle (referred to in this paper as the "Nguema/Mongomo group" – most of whom come from the Esangui clan and/or the Mongomo region)¹ – divert to their own private benefit the overwhelming preponderance of revenue from Equatorial Guinea's natural resources, including its land and hydrocarbon² resources. This gross misappropriation of the nation's resources has continued for well over two decades, enriching members of the Nguema/Mongomo group and making Equatorial Guinea an almost perfect kleptocracy.

In order to appropriate and profit from the country's resource wealth, the Nguema/Mongomo group has established and maintains a far-reaching system of

corruption.³ Instead of protecting and providing needed services to the population, the government of Equatorial Guinea has put the machinery of the state at the disposal of the ruling group, to implement, protect, and ratify the diversion of the peoples' wealth.⁴ The government also controls the economy, ensuring that only the favored few have access to lucrative contracts and business opportunities.⁵

Wealth for a Few, Poverty for Many

Equatorial Guinea has a relatively small population of about 633,000, and vast wealth from its natural resources, particularly its abundant hydrocarbon deposits. The country also boasts forestry, fishing, and undeveloped resources including titanium, iron ore, manganese, uranium, and alluvial gold.⁶ Unlike many of its neighbors, Equatorial Guinea has largely 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 of every major development and governance indicator, far below countries with similar per capita wealth.

Equatorial Guinea is the fourth 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. Only 39% of one-year-olds are immunized against polio.⁷ Average life expectancy is under 50 years;⁸ 57% of the population lives without access to clean drinking water, and 47% without access to safe plumbing;⁹ more than 51% of primary school teachers lack adequate professional training;¹⁰ and tools of governance include ignorance,¹¹ censorship,¹² fear, kidnapping,¹³ indefinite detention and torture.¹⁴

Equatorial Guinea's economy has grown at virtually unbroken double-digit annual rates¹⁵ since large-scale exploitation of its rich off-shore oil deposits began in the mid-1990s. According to the United Nations Development Programme (UNDP) (based on 2007 data), on a per capita basis, Equatorial Guinea's GDP substantially outperforms all of its African neighbors, in most cases by well over 300 percent.¹⁶ According to UNDP's 2009 report, Equatorial Guinea, with a per capita GDP of \$30,627, also beat out countries in the highest category of human development, including Italy (\$30,353), New Zealand (\$27,336), Greece (\$28,517), Israel (\$26,315) and South Korea (\$24,801).¹⁷

However, despite the enormous wealth deriving from the Equatoguinean peoples' hydrocarbon, timber and other natural resources, "there have been few improvements in the population's living standards."¹⁸ The great bulk of the population is mired in desperate poverty, with more than sixty percent of Equatoguineans living on less than \$1 per day.¹⁹ The quality of life for most citizens of Equatorial Guinea has stagnated, and, by many measures, has actually declined in recent years.

In 1990, the infant mortality rate was 103 per 1,000 live births. By 2007 it had risen to 124. Similarly, the under-five mortality rate in the same period rose from 170 to 206 per 1,000 births. The 2007 figure indicates Equatorial Guinea has the fourth-worst infant

mortality rate in the world.²⁰ This fourth-worst ranking is a substantial decline from an already troubling twenty-sixth worst ranking in 2004.²¹

Particularly disturbing are deteriorations in cost-efficient preventive care, such as the proportion of one-year-old children immunized against measles, which registered a steep decline from 88% in 1990 to 82% in 1998, to 51% in each following year through 2007. The incidence of tuberculosis (per 100,000) peaked in 2004 at 272.7, then improved slightly, in 2007, to 255.9. That figure is, however, a staggering increase from the incidence in 1998 (189.7), and even more so from 1990 (107.5). Deaths from tuberculosis (per 100,000) rose from 36.7 in 1998 to 44.2 in 2000, reaching a peak of 92.7 in 2003 before settling at the current (2007) figure of 87.2 – an improvement from 2003, but vastly worse than the 1990 figure (19.2).²²

Meanwhile, net enrollment in primary education fell from 96.7% in 1991 to 91.1% in 2000, then slid further to 69.4% in 2007,²³ in an educational system rife with corruption and incompetence. “Teachers with political connections but no experience or accreditation were hired, even though they seldom appeared at the classes they purportedly taught. No teacher’s union existed to defend the rights of teachers, and teaching positions were available only to [the ruling party] PDGE members.”²⁴

The UNDP measures every country’s relative will and effectiveness in using available wealth to benefit its citizens. UNDP makes this calculation by comparing the country’s per capita GDP ranking (roughly reflecting the amount of wealth available for the nation’s needs) with the country’s Human Development Index (HDI) ranking (reflecting the extent to which those needs are satisfied). By subtracting the HDI ranking from the per capita GDP ranking, UNDP generates a numerical measure of the government’s performance. The lower this number, the greater the gap between a government’s resource capacity and its use of resources to address human needs. In its *Human Development Report 2009*, UNDP found the difference between Equatorial Guinea’s per capita GDP rank (28 out of 182) and its HDI rank (118) was -90, putting Equatorial Guinea at the *very bottom* of all states measured.²⁵ By this indicator, of all countries tracked, Equatorial Guinea is the worst governed in the world.

The System of Corruption

The source of the disparity between Equatorial Guinea’s vast national wealth and its widespread poverty is a system of corruption unparalleled in its brazenness. 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. Wealth that should have been used to provide jobs, education, health care, and housing has instead been substantially expropriated by favored members of the Nguema/Mongomo group to fund a lavish lifestyle marked by seaside villas and exotic sports cars.

As revealed in landmark investigations conducted by the United States Senate, Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, in 2004 (into Riggs Bank) and 2010, large portions of the country’s oil income

and other resource revenues end up in private bank accounts in the United States, Spain, Luxembourg and elsewhere, or squandered on mansions and other extravagances for senior officials and their families.

In 2004, the US Senate Permanent Subcommittee on Investigations issued the report on its investigation into alleged money laundering practices by the former Riggs Banks.²⁶ The Subcommittee found that three individuals – President Obiang, his son, Gabriel M. Obiang Lima (Minister of Mines), and his nephew, Melchor Esono Edjo (Secretary of State for Treasury and Budget) – had control over the Equatorial Guinea Government Oil Revenues Account at Riggs Bank, which often held tens of millions of dollars at a time. Two signatures – one from the President and the other from either his son or his nephew – were required to withdraw funds from the account. Between 2000 and 2003, these signatories moved approximately \$34 million from the Government Oil Revenues Account into shell corporations in bank secrecy jurisdictions. More than \$26 million of that was transferred in 16 operations into an account in Spain, at Banco Santander, held in the name of a Panama corporation named Kalunga S.A. Similarly, more than \$8 million was transferred in a series of ten transactions into an account at HSBC Luxembourg owned by a second shell company, Apexside Trading Ltd. The Senate investigators concluded they had “reason to believe that at least one of these recipient companies [was] controlled in whole or in part by the E.G. President” – a suspicion perhaps heightened by the fact that when Riggs “requested more information about the two companies from the E.G. President, he declined to provide it, except to say the wire transfers to them had been authorized.”²⁷

Subsequent investigations by the Spanish NGO Asociación pro Derechos Humanos de España and the Open Society Justice Initiative uncovered strong indications that millions of dollars from the Kalunga transfers were applied to the purchase of real properties in Spain for the account of President Obiang, Miguel Abia (a former Prime Minister), Atanasio Eca (former Minister of Mines), Teodoro Biyogo (brother-in-law of the President and Ambassador to Brazil), Pastor Micha (Minister of Foreign Affairs), Gabriel M. Obiang Lima (the President’s son and Oil Revenues Account co-signatory). These allegations are now under investigation by instructing magistrates in Grand Canary, Spain.²⁸ (The Riggs Senate investigators also found that the President’s nephew and Secretary of State for Treasury and Budget – and Oil Revenues Account co-signatory – had received from that account a total of \$499,000 in three transfers between 1998 and 2002.²⁹)

The multi-million dollar spendthrift habits of the President’s oldest son (and Minister of Forestry), Teodoro Nguema Obiang (known as Teodorin) have been the most widely publicized. In February 2010 the same Senate Subcommittee that had investigated Riggs issued a follow-up report, revealing that “between 2004 and 2008, Teodoro Nguema Obiang [Teodorin] used US lawyers, bankers, and real estate and escrow agents to move more than \$110 million in suspect funds through US bank accounts, including \$30 million to purchase a residence in Malibu and \$38.5 million to purchase an aircraft.³⁰ The \$35 million Malibu property was the sixth most expensive home purchase in the United States in 2006, according to *Forbes* magazine, which described it as “an eight-bedroom ocean front mansion....[on a] 15,000-square-foot estate, just off the Pacific Coast

Highway...[with] a four-hole golf course, tennis court and pools. Obiang has views of the ocean and, when the smog isn't too bad, of downtown Los Angeles."³¹

The 2010 Senate report also mentions Teodorin's two \$867 wine glasses³² and his fleet of 32 motorcycles and automobiles, including "seven Ferraris, five Bentleys, four Rolls Royces, two Lamborghinis, two Maybachs, two Mercedes, two Porches, one Aston-Martin, and one Bugatti, with a collective insured value of \$9.5 million."³³

The 2004 Senate Riggs investigation also uncovered a number of luxury housing purchases made by Teodorin's father and other close relations, including a \$2.6 million residence purchased by the President in Potomac, Maryland in 1999; a separate \$1.15 million Potomac Maryland residence purchased by the President's wife; and a \$349,000 residence purchased by the President's brother, Armengol Ondo Nguema (Director of National Security).³⁴ An internal Riggs memorandum from September 2001 also reported that President Obiang had sold "two properties in Spain in the amount of \$5 million," sending the proceeds to Riggs.³⁵ (The purchase moneys for these properties have not been traced to government accounts.)

The Senate investigators further found that "over a three-year period, from 2000 to 2002, [Riggs] facilitated nearly \$13 million in cash deposits into Riggs accounts controlled by the E.G. President and his wife – on two of those occasions, Riggs accepted without due diligence \$3 million in cash deposits for an account opened in the name of the E.G. President's offshore shell corporation, Otong, S.A."³⁶ President Obiang's salary as president, and that of his son Teodorin as Minister of Forestry, are each reported to be approximately \$60,000 per year.³⁷

The corruption on which the Nguema/Mongomo group thrives began well before oil was discovered in the early 1990s. The group first used the coercive machinery of the state, in the early 1980s, to implement the wholesale expropriation – without compensation – of what was then the country's most valuable asset: rich agricultural farmland on Bioko Island (formerly, Fernando Po). This land had been owned mostly by Spaniards and Portuguese (but also in some cases by Equatoguineans) and was forcibly redistributed to members of the Nguema/Mongomo group. As economist and corruption expert Robert Klitgaard explained in a memoir of his service for the World Bank in Equatorial Guinea in the 1980s:

When the World Bank's cocoa project was approved in late 1983, top government officials had foreseen a gold mine. 'The World Bank will be giving credit to those with cocoa farms. Let's get cocoa farms.' And so in 1984 there were draconian nationalizations of farms that had not been continually occupied during the Macias terror. Most had been owned by Spaniards and Portuguese; now government ministers held title to the choicest farms. The Prime Minister had a beauty near Luba, and the President himself seized nearly four thousand acres near the Malabo airport.³⁸

As articulated in the expropriation authorization decree, the legal rationale for the expropriations was that the properties had been abandoned. The 7,000 or so former European land owners had fled the country after independence amidst a growing terror unleashed by Equatorial Guinea's first President, Francisco Macías Nguema, who ruled from 1968 until he was overthrown by his nephew, President Obiang, in 1979. After coming to power, President

Obiang announced that the former owners could return to recover their properties. Those who had the courage to do so suffered a thousand setbacks. Though they legally continued to be owners of their properties, they found that they had "tenants" on the properties whom they could not dislodge, because they were members of the military, they belonged to the Mongomo clan, or simply were well connected. This included president Obiang himself, who ended up with some cocoa farms, though the Muñoz y Gala family tried to recover them.³⁹

These original expropriations set the pattern by which the Nguema/Mongomo group would continue to abuse the apparatus of the state to divert property into their own hands. Other valuable land – mostly owned by Equatoguineans – has fallen victim to large-scale expropriations, without independent judicial oversight or meaningful compensation to owners.

While a small number of enterprises owned by or closely linked to the governing elite profit handsomely from building deluxe office buildings, hotels and luxury housing in the urban centers of Malabo, Bata and elsewhere, thousands of the poor and even the middle class have had 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.⁴⁰

The most notorious of the forced evictions seems to have taken place on July 22 and 23, 2006. UN Special Rapporteur on the Right to Adequate Housing, Miloon Kothari, reported that some 300 families had allegedly been left homeless after "indiscriminate destruction" of their homes and possessions in two neighborhoods of Malabo, the Equatoguinean capital.

[The] evictions....were carried out...allegedly under the presence of government officials, civilian authorities, armed soldiers and police officers. Residents who protested against the demolition were ill-treated and intimidated by soldiers....It [was] reported that these evictions were carried out without consultation, prior notice or eviction orders and with no opportunities for residents to contest them....Many families were left homeless without any adequate alternative accommodation or any compensation for their loss offered to them....It [was] further reported that the country [was] experiencing pressure on the land for commercial purposes and luxury housing, and that....many of the houses demolished in the [preceding] two to three years were solid structures in well-

established neighborhoods and the vast majority of the occupants had titles to the land.⁴¹

The Special Rapporteur sent a letter to the Equatoguinean government regarding these evictions and other “development-based evictions,” but eight months later, he had received no reply.

For the same year (2006), the US Department of State noted that

During the year the government leveled many residential areas, ostensibly in the interest of urban renewal; however, government officials reportedly had personal financial interests in the redevelopment. According to AI [Amnesty International], officials often stated the seized land was for public utility development, but the land was not used for that purpose; instead, the land was usurped by the president, his family, and other members of the government to build luxury homes, supermarkets, or other businesses for themselves.

New social housing projects were underway, but they did not benefit the poor. High government officials and their relatives reportedly bought new social housing that was completed in “Bata 2” (a suburb of Bata).

According to AI, typically the government allowed no consultation with the communities affected, provided little or no prior notice, and allowed no right to contest the evictions. Hundreds of homes and businesses were destroyed; many were solid structures in well-established neighborhoods, and residents had no other place to go and no money to relocate.... [While t]he government sometimes offered partial payment to those who proved title and expenses of purchase or construction....[i]n many cases written title was nonexistent, although land had been in the hands of a family for generations.⁴²

According to Amnesty International, as of October 2009:

About 1,000 families ha[d] been forcibly evicted from their homes to make room for roads, up-market housing and hotels and shopping centres since 2003. Homes have been demolished in the capital, Malabo, and in the major city of Bata on the mainland as well as in other large towns. Many of the houses demolished were solid structures in well-established neighbourhoods and the vast majority of the occupants had title to the land....Despite promises of relocation for some of the victims, to date no one ha[d] been rehoused or compensated. Even the houses promised to the victims will have to be bought at a cost that far exceeds their ability to pay, and the houses are located far from the city and from their work and schools.⁴³

The US Department of State found the problem to be continuing in 2009.

The law provides for restitution or compensation for the taking of private property; however, the government seldom provided equitable compensation or alternate housing when it forced persons from their homes or land. During the year regeneration of the main cities continued to result in forced evictions....[of s]cores of families...to make room for roads and luxury housing.⁴⁴

When large deposits of exploitable petroleum and gas were discovered in Equatoguinean waters in the 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.⁴⁵

Today, most Equatoguineans survive from subsistence farming,⁴⁶ living almost entirely outside the monetary economy, which is dominated by energy extraction activities.⁴⁷ 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.”⁴⁸

In 2004, for example, the US Senate Permanent Subcommittee on Investigations learned about APEGESA, an agency owned in part by Juan Olo Mba Nzeng, former Equatoguinean energy minister and long-time close associate – and brother-in-law – to President Obiang. Marathon Oil Corp. told the Subcommittee that it “reimburses APEGESA for the compensation [APEGESA] pays to [Marathon’s] workers, and also pays [to APEGESA] a fee of approximately 20% of the salaries of the workers.” Over approximately two years, Marathon had paid APEGESA \$7.5 million.⁴⁹ Marathon also told the subcommittee that in approximately the same period it also engaged on similar terms another employment agency, Multi-Services Systems (MSS), a company the subcommittee believed was controlled by Equatoguinean officials, at a cost of \$6.9 million.⁵⁰ Other important “family held” employment agencies include:

- AMLOCASER (owned by de Armengol Ondo Nguema, the President’s brother, army general and national Director of Security);
- NOMEX (owned by Gabriel Mbega Obiang Lima, the President’s son and Vice-Minister of Mining and Energy);
- ATSIGE (owned by Manuel Nguema Mba, the President’s uncle, army general, and Minister of Security).⁵¹

Our own investigations and those of journalists and of other governmental and nongovernmental monitors and investigators have begun to identify and document some of the stratagems that appear to have been employed by the Nguema/Mongomo group to divert into private hands the benefit and value of Equatorial Guinea’s natural resource wealth. Among the methods used are:

- a) Large-scale expropriations of properties and businesses from individual and communal proprietors, executed under one or another legal pretext, such as purported development needs,⁵² fictitious determinations of property “abandonment,”⁵³ by collection of – or forfeiture for alleged or actual failure to pay – discriminatory “taxes,”⁵⁴ technical disqualifications of legal title claims,⁵⁵ or payment of token compensation (“seldom provid[ing] equitable compensation or alternate housing”)⁵⁶ ; or with no legal pretext provided;⁵⁷
- b) Sham or sweetheart “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;⁵⁸
- c) Rigged government procurement, construction, and licensing contracts “negotiated” by officials irremediably tainted by conflicts of interest;⁵⁹
- d) Secret off-the-books “contributions” by foreign companies to or for the benefit of leading members of the Nguema/Mongomo group;⁶⁰
- e) Use of political and economic power to ensure that the Nguema/Mongomo group’s own private enterprises receive sole authorization for provision of all important local goods and services – particularly land and labor – required for hydrocarbon extraction activities;⁶¹ 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”. In 2009, with a ranking of 168, only seven countries placed lower.⁶²

The corruption system in Equatorial Guinea has functioned and grown as a seamless and self-reinforcing web of political, economic, and legal power. Political power puts the force of the state at the service of the Nguema/Mongomo group’s private enrichment. Their domination of the legal system can furnish the formalities of legal process to create the appearance of lawfulness for this misappropriation of wealth.⁶³ Ever increasing economic power, including control over economic opportunity, in turn, finances the machinery of political control that eliminates effective opposition through repression and/or bribery.⁶⁴

The design and effect of this corruption system ensure the Nguema/Mongomo group a de facto monopoly on virtually all of the country’s natural resources and economic opportunities. By controlling Equatorial Guinea’s political, economic, and legal systems – and using that control to enrich themselves – the Nguema/Mongomo group has created a nearly perfect kleptocracy. Rarely have so few stolen so much so brazenly.

¹ Not all members of the Nguema/Mongomo group are from the Esangui clan or the Monogomo region, nor are all people from Mongomo or the Esangui clan members of the Nguema/Mongomo group. It has, however, long been widely acknowledged that the Esangui clan and the Mongomo region have been disproportionately represented in the country's political elite since independence in 1968. See, e.g., Economist Intelligence Unit, "Equatorial Guinea: Country Outlook" (January 4, 2007) ("Mr Obiang has kept a tight grip on power since 1979. He exercises this power 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.").

See also United States Department of State, Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices 2007* (March 11, 2008) (hereafter, "Department of State 2007 Report") ("Differences among subclans of the Fang, especially resentment of the political dominance of the Mongomo subclan, were sources of political jockeying and potential friction."), available at <http://www.state.gov/g/drl/rls/hrrpt/2007/100479.htm>; Matthias Basedau and Wolfram Lacher, "A Paradox of Plenty? Rent Distribution and Political Stability in Oil States," GIGA German Institute of Global and Areas Studies Working Paper No. 21 (2006) ("Long before the advent of oil wealth, Equatorial Guinea had been run like a private estate by President Obiang and his clan....Revenues gathered from...illicit practices has [sic] enabled the President to strengthen his grip on power by distributing them through patronage networks, almost exclusively among the President's Esangui clan."), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=909189. See also *Afrol News*, "21 of 50 Equatoguinean ministers related to President" (November 19, 2007) (reporting a then recent study by the journal *Afrique Education* that "had a look at all Equatoguinean Ministers and their family ties. Almost half were not only from the 'Mongomo clan,' but also close relatives to Mr. Obiang. Most relatives were even in senior positions"), available at <http://www.afrol.com/articles/10570>.

² As used in this paper, the term "hydrocarbon" refers generally to all oil and gas substances produced commercially in Equatorial Guinea, including petroleum, liquefied petroleum gas, liquefied natural gas, and methanol.

³ Equatorial Guinea ranks 168 out of 180 in Transparency International's Corruption Perceptions Index 2009, available at http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table.

See also World Bank, Governance Matters 2009, "Country Data Report for EQUATORIAL GUINEA, 1996-2008, Aggregate Indicator: Control of Corruption" (showing Equatorial Guinea falling around the second percentile), available at <http://info.worldbank.org/governance/wgi/pdf/c88.pdf>.

"Laws provide severe criminal penalties for official corruption; however, the government did not implement these laws effectively, and officials frequently engaged in corrupt practices with impunity. Corruption continued to be a severe problem....There was no requirement that officials divest themselves of business interests that were in potential conflict with official responsibilities, and no law prohibiting conflict of interest. The presidency and prime minister's office were the lead agencies for anticorruption efforts." *Country Reports on Human Rights Practices 2008* (February 25, 2009) (hereafter, "Department of State 2008 Report"), available at <http://www.state.gov/g/drl/rls/hrrpt/2008/af/118999.htm>. See generally International Bar Association, *Equatorial Guinea At the Crossroads, Report of a Mission to Equatorial Guinea by the International Bar Association, Human Rights Institute* (October 2003) ("little respect for the rule of law...no separation of powers....Executive exercises considerable control over both the legislature and the judiciary"), available at

http://www.ibanet.org/Human_Rights_Institute/Work_by_regions/Africa/Equatorial_Guinea.aspx.

⁴ The Department of State 2008 Report details key facets of this control structure:

The president exercised strong powers as head of state, commander of the armed forces, head of the judiciary, and founder and head of the ruling party. In general leadership positions within government were restricted to the president's party or the coalition of "loyal opposition" parties. Because the ruling party overwhelmingly dominated the commissions established to review electoral practices and recommend reforms, few changes were made....While criticism of government policies was allowed, individuals could not criticize the president, his family, other high-ranking officials, or the security forces without fear of reprisal, and the government reportedly attempted to impede

criticism by continuing to monitor the activities of the political opposition, journalists, and others... [While o]fficials by law must declare their assets... the declarations were not published publicly.

⁵ Leoncio Yu Way Morales, *Technical Support Project for Social Investment and Capacity Building in Equatorial Guinea. Quarterly Report* (August 7—December 31, 2006), USAID (January 31, 2007) (“The general practice [in Equatorial Guinea] is to use employment agencies, or ‘business centers.’ These small businesses are frequently owned by persons with close ties to [government] officials and therefore unreliable in their capacity to provide quality personnel rather than political favorites.”), available at http://pdf.usaid.gov/pdf_docs/PDACJ153.pdf.

⁶ 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 June 2008) (hereafter, “UN EG Country Profile”), available at <http://www.unohrlls.org/en/orphan/82/>.

⁷ UNICEF 2009 Report, Table 3 (“Health”), p. 126 (figures for 2007), available at <http://www.unicef.org/sowc09/docs/SOWC09-FullReport-EN.pdf>. Of those states with reported data, only four ranked worse with respect to measles immunization, and only two with respect to polio (Equatorial Guinea was tied with Somalia for third worst position).

⁸ UNDP 2009 Report, Table H, p. 172.

⁹ United Nations Development Programme, *Human Development Report 2007/2008* (hereafter, “UNDP 2007/2008 Report”), Table 7 (“Water, sanitation and nutritional status”), p. 253, available at http://hdr.undp.org/en/media/HDR_20072008_EN_Complete.pdf.

¹⁰ UNDAF 2007 Report, p. 8.

¹¹ According to UNDP, in the period 2000-2007, President Obiang’s government allocated a mere 4% of government expenditure to education – the lowest portion of all nations tracked by the agency. UNDP 2009 Report, Table N (“Health and Education”), p. 200, available at http://hdr.undp.org/en/media/HDR_2009_EN_Indicators.pdf.

¹² In 2006, the Committee to Protect Journalists ranked Equatorial Guinea among the five “most censored” countries in the world (adding that the country’s “one private broadcaster” belonged to the President’s son). Rob Mahoney, “The World’s Most Censored Countries,” Committee to Protect Journalists (May 4, 2006), available at <http://cpj.org/2006/05/charting-the-planets-10-deepest-information-voids.php>. See also Reporters Without Borders, “President dominates state media election coverage, opposition invisible” (November 27, 2009) (“Equatorial Guinea...ranked 158th out of 175 countries in the 2009 Reporters Without Borders press freedom index... President Nguema has for many years been on the organisation’s list of ‘Predators of press freedom.’”), available at <http://www.rsf.org/President-dominates-state-media.html>.

¹³ See, most recently, Amnesty International, Urgent Action 44/10, “Equatorial Guinea: Four at Risk of Torture in Equatorial Guinea” (February 26, 2010) (four Equatoguinean refugees believed to have been abducted, around January 28, 2010, from Benin by security forces from Equatorial Guinea and returned to their native country.), available at <http://www.amnesty.org/en/library/asset/AFR24/003/2010/en/9f005cd9-24f3-4baa-bceb-08d0e7b5f719/afr240032010en.html>. See also Amnesty International, Urgent Action 58/09, “Equatorial Guinea: Enforced disappearance/incommunicado detention/fear of torture or ill-treatment” (March 5, 2009) (reported abduction in December 2008, and return to Equatorial Guinea, of two individuals who had fled the country to Nigeria in 2003 to escape a crackdown on people suspected of involvement in a coup attempt), available at <http://www.amnesty.org/fr/library/asset/AFR24/001/2009/fr/02696e13-aa94-492b-b7e7-15d439755cb6/afr240012009en.pdf>. The latter document notes that “[a] number of Equatorial Guinean refugees who have fled to neighbouring countries are known to have been abducted by Equatorial Guinean agents, often with the connivance of those countries’ security forces,” referring to cases from 2004 (five refugees kidnapped in Gabon) and 2005 (four kidnapped in Nigeria). See also Department of State 2009 Report (“Former army colonel Cipriano Nguema Mba...abducted from Cameroon in October 2008 and secretly transported to Black Beach Prison in Malabo, remained in prison at year’s end.”).

¹⁴ See, e.g., most recently, United Nations Human Rights Council, Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak, Addendum: Mission to the Republic of Equatorial Guinea, A/HRC/13/39/Add.4 (January 7, 2010): “The Special

Rapporteur found that torture [was] systematically used by the police forces against persons who refuse to ‘cooperate’ – persons suspected of political crimes as well as suspects of common crimes...” para 38. He also noted with concern that some prisoners suspected of political crimes were being held in solitary confinement for periods of up to four years, almost always shackled at the legs, para. 26, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.39.Add.4_En.pdf. See also United Nations Report of the Working Group on Arbitrary Detention, Addendum: Mission to Equatorial Guinea (8-13 July 2007), A/HRC/7/4/Add.3 (February 18, 2008) reporting findings of a July 2007 mission by the Working Group including “issues of concern” regarding incompatibility of domestic criminal law with international standards, excessive powers of the police which “often leads to arbitrary arrests and detentions” and is met with “total impunity,” approximately 100 political prisoners currently in detention, 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, pp. 13-20, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/106/45/PDF/G0810645.pdf?OpenElement>. See also, e.g., United States Department of State, Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices 2002* (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>.

¹⁵ International Monetary Fund, “IMF Concludes Article IV Consultation with Equatorial Guinea,” IMF Public Information Notice (PIN) No. 06/66 (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>. See also IMF Public Information Notice (PIN) No. 09/26, “IMF Executive Board Concludes 2008 Article IV Consultation with the Republic of Equatorial Guinea” (February 27, 2009), available at <http://www.imf.org/external/np/sec/pn/2009/pn0926.htm>.

¹⁶ United Nations Development Programme (UNDP), *Human Development Report 2009* (hereafter, “UNDP 2009 Report”), Table H (“Human development index 2007 and its components”), pp. 171-175, available at http://hdr.undp.org/en/media/HDR_2009_EN_Indicators.pdf. UNDP put Equatoguinean per capita GDP for 2007 at \$30,627.

¹⁷ Id.

¹⁸ Central Intelligence Agency, *2009 World Factbook*, Equatorial Guinea data available at <https://www.cia.gov/library/publications/the-world-factbook/geos/EK.html>.

¹⁹ República de Guinea Ecuatorial y Sistema de las Naciones Unidas, *Balance Común de País (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* (hereafter, “UNDAF 2007 Report”) (February 12, 2007), p. 7, 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).

²⁰ United Nations Children’s Fund (UNICEF), *The State of the World’s Children 2009* (hereafter, “UNICEF 2009 Report”), Table 1 (“Basic Indicators”), p. 118, available at http://www.unicef.org/sowc09/docs/SOWC09_Table_1.pdf.

²¹ UNICEF, *The State of the World’s Children 2004*, Table 1 (“Basic Indicators”), p. 102, available at http://www.unicef.org/publications/files/Eng_text.pdf.

²² See official United Nations “Millennium Development Goals Indicators” website, <http://mdgs.un.org/unsd/mdg/Data.aspx>.

²³ Id.

²⁴ United States Department of State, Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices 2009* (March 11, 2010) (hereafter, “Department of State 2009 Report”), available at <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135951.htm>.

²⁵ UNDP 2009 Report, Table H, p. 172.

²⁶ 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) (hereinafter, “Senate 2004 Riggs Report”), available at <http://www.access.gpo.gov/congress/senate/pdf/108hr/95501.pdf>.

²⁷ Senate 2004 Riggs Report, pp. 3, 54-55.

²⁸ Information on the Spanish case, including Spanish and English language versions of the complaint, is available at <http://www.soros.org/initiatives/justice/litigation/obiangfamily>.

²⁹ Senate 2004 Riggs Report, p. 56.

³⁰ United States Senate, Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, Majority and Minority Staff Report, *Keeping Foreign Corruption Out of the United States: Four Case Histories* (February 4, 2010) (hereafter, “Senate 2010 Report”), available at http://hsgac.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=dd873712-eb12-4ff7-ae1a-cbbc99b19b52. See also Ian Urbina, “Taint of Corruption is No Barrier to US Visa for Millionaire,” *New York Times* (November 17, 2009), available at <http://www.nytimes.com/2009/11/17/us/17visa.html>; Global Witness, *The Secret Life of a Shopaholic: How an African dictator's playboy son went on a multi-million dollar shopping spree in the U.S.* (November 17, 2009) (describing in detail Teodorin’s movement of monies to purchase luxury properties and the involvement of banks and lawyers in facilitating and covering up the transactions), available at http://www.globalwitness.org/media_library_detail.php/878/en/the_secret_life_of_a_shopaholic_how_an_african_dic.

³¹ Matt Woolsey, “Most Expensive Home Sales 2006,” *Forbes* (December 12, 2006), available at http://www.forbes.com/home/2006/12/11/most-expensive-sales-forbeslife-cx_mw_1212mostexpensivehomesales.html.

³² Senate 2010 Report, p. 41.

³³ *Id.*, pp. 70-71.

³⁴ Senate 2004 Riggs Report, pp. 58-59. Armengol has a grisly reputation. In 1999, the US Department of State cited a

credible source [who] claimed that prisoners arrested for alleged involvement in the January 21[, 1998 revolt by Bioko separatists]...were subject to particular abuse. Police reportedly urinated on prisoners, kicked them in the ribs, sliced their ears with knives, and smeared oil over their naked bodies in order to attract stinging ants. The President and senior government officials acknowledged that the security forces had committed excesses, but attributed them to what were allegedly rogue elements. However, according to credible reports, this torture was approved at the highest levels of the Government and was directed by the chief of presidential security, Armengol Ondo Nguema, who is also President Obiang's brother. Ondo Nguema allegedly taunted prisoners by describing the suffering that they were about to endure.

United States Department of State, Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices 1998* (February 26, 1999), available at http://www.state.gov/www/global/human_rights/1998_hrp_report/eqguinea.html.

³⁵ Senate 2004 Riggs Report, pp. 51-52. See also *O Globo* (Rio de Janeiro), “Investigado por corrupção nos EUA, ditador da Guiné Equatorial negocia cobertura triplex em Ipanema” (“Under investigation for corruption in the US, Equatoguinean dictator negotiates purchase of a triplex residence in Ipanema” (Justice Initiative translation)) (March 6, 2010) (Obiang family is negotiating to purchase a \$10 million triplex from Andrade Gutierrez S.A., a major Brazilian construction firm *O Globo* says has \$500 million of Equatorial Guinea contracts), available at <http://oglobo.globo.com/mundo/mat/2010/03/06/investigado-por-corrupcao-nos-eua-ditador-da-guine-equatorial-negocia-cobertura-triplex-em-ipanema-916006296.asp>.

³⁶ Senate 2004 Riggs Report., p. 3

³⁷ For the president’s salary, see Ken Silverstein, “Our Friend Teodoro,” *Harper’s* (April 18, 2006), available at <http://www.harpers.org/archive/2006/04/sb-obiang-eg>. For Teodorin’s salary, see Ken Silverstein, “U.S. Government Documents Crime Spree by Dictator’s Son: Why no action by the feds?” *Harper’s* (November 16, 2009), available at <http://harpers.org/archive/2009/11/hbc-90006022>; and for Teodorin see also Matt Woolsey, “Most Expensive Home Sales 2006,” *Forbes* (December 12, 2006).

³⁸ Robert Klitgaard, *Tropical Gangsters* (1990), p. 61. The nationalization law itself, Decreto No. 22/1984 of February 20, 1984, is available at <http://faolex.fao.org/docs/pdf/eqg9409.pdf>. See also Max Liniger-Goumaz, *Who’s Who de la Dictature de Guinée Equatoriale* (1993) (“In April [1985], Obiang Nguema auctioned off to himself the Spanish cocoa plantation *Caifer*, near Santa Isabel [Malabo], for only 140,000 pesetas....Obiang Nguema (of Mongomo), on the occasion of the confiscation of the Spanish properties, appropriated for himself the *Andujar* building, in 1985.” (Justice Initiative translation)), pp. 16, 184.

Liniger-Goumaz reports on numerous other such early 1985 draconian nationalizations and inside purchases by members of the Nguema/Mongomo group, including purchases of the *Redondo* property (p. 183); the *Frapejo* property (p. 199), the *Hacienda Rosil* (p. 200); the *Escaned* property (p. 212), and the *Esteves-Garcia* property (p. 221).

In his book *El laberinto guineano*, former Equatoguinean State Commissioner of Agriculture (March 1981 - October 1982) and Minister of Health (October 1982 - August 1983), Emiliano Buale Borikó, provides details on 18 nationalization and “insider” sale decrees issued by the President during the first three weeks of January 1985. *El laberinto guineano* (1989), pp. 106-108. (The book itself is out of print, but the relevant pages are viewable on Google Books, at

http://books.google.com/books?id=ds113XGv1F0C&pg=PA108&lpg=PA108&dq=munoz+y+gala+guinea&source=bl&ots=6u4Oef_I8R&sig=jPTpJ8HvCE5uEE5sAB13LJVxQMk&hl=en&ei=HBYYS6yRC8zS8Aa03eAs&sa=X&oi=book_result&ct=result&resnum=5&ved=0CBAQ6AEwBDgU#v=onepage&q=&f=false.)

³⁹ Juan María Calvo, *Guinea Ecuatorial: La ocasión perdida*, Chapter 61, “Los Olvidados de Guinea o un caso de cobardía histórica” (1989), unpublished work by former Malabo correspondent for Spanish news agency EFE, available at <http://www.asodegue.org/hdojmc.htm>. (Translation from the Spanish by Justice Initiative.) The 1984-85 expropriations are described in chapters 49 (“Obiang se queda con las fincas”) and 61 of the book. (Calvo is now EFE’s International Relations Manager. <http://www.newsalliance.org/agencies/efe.htm>.)

⁴⁰ Department of State 2009 Report; Amnesty International, “Guinea Ecuatorial: Los Desalojos Forzados Violan los Derechos Humanos,” (June/July 2007), available at <http://web.amnesty.org/library/print/ESLAFR240092007>.

⁴¹ United Nations Human Rights Council, Report of the Special Rapporteur on the Right to Adequate Housing as a Component of the Right to an Adequate Standard of Living, Miloon Kothari, Addendum, Summary of communications sent and replies received from Governments and other actors, A/HRC/4/18/Add.1 (May 18, 2007), paras. 28-29, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/4session/A-HRC-4-18-Add1_en_sp.pdf.

⁴² 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>.

⁴³ Amnesty International, “Equatorial Guinea: New Wealth Driving People from their Homes,” AFR 24/007/2009 (October 5, 2009), available at <http://www.amnesty.org/en/library/asset/AFR24/007/2009/en/95fe1f21-cc2a-4103-a632-df5954900812/afr240072009en.pdf>.

⁴⁴ Department of State 2009 Report. See also the video testimony of Don Miguel Eyamam Ndong and related footage regarding alleged forced eviction without compensation of sixty-six families in February 2009 in Kogo, Rio Muni. Those evicted are allegedly to be removed to a completely undeveloped forest location 2.5 km from the city, with no provision of economic means or other resources to rebuild their lives. *Guinea Ecuatorial: Testimonio de un Desalojado* (June 29, 2009), available at <http://www.youtube.com/watch?v=140bXYn9-Gk>; and *Desalojos en Guinea Ecuatorial: La Zona Kogo II* (June 29, 2009), available at <http://www.youtube.com/user/ManReine#p/a/u/0/HBtgFMb6f0c>. (The videos were made and posted by a member of the legal opposition political party, Convergencia para la Democracia Social.)

⁴⁵ “[T]he judiciary was not independent, according to UN officials and local and international human rights advocates. Judges serve at the pleasure of the president, and were appointed, transferred, and dismissed for political as well as competency reasons. Judicial corruption was widely reported, and cases were sometimes decided on political grounds.” Department of State 2009 Report.

⁴⁶ UN EG Country Profile.

⁴⁷ In 2007, oil revenues accounted for more than 81% of government revenues; hydrocarbons represented 97% of total exports. United States Department of State, Bureau of African Affairs, “Equatorial Guinea: Background Note” (March 2009), 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/>.

⁴⁸ “Wealthy individuals were able to buy the licenses needed to operate and had the influence to squeeze out competitors....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.” Department of State 2006 Report.

⁴⁹ Senate 2004 Riggs Report, p. 103.

⁵⁰ Id. If accurate, the 20% mark-up would be less onerous than APEGESA’s reported take a few years earlier:

Independent sources confirm that APEGESA, in screening applicants for positions, excludes those whom it considers unfriendly or indifferent to the [ruling political party] PDGE. APEGESA reportedly keeps nearly two-thirds of employees’ wages. Oil workers earning \$47 per day reportedly receive only \$16; the remainder is kept by APEGESA, which is allegedly managed by the Minister of Mines and Energy. When several employees signed a petition complaining of this treatment, they were fired.

United States Department of State, Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices 1997* (January 30, 1998) available at <http://www.unhcr.org/refworld/type,ANNUALREPORT,,GNQ,3ae6aa3d2c,0.html>.

⁵¹ Alicia Campos Serrano and Placido Mico Abogo, *Labour and Trade Union Freedom in Equatorial Guinea* (2006), pp. 59-60, available at http://www.cpdsgq.org/images/stories/derechos_humanos/informetrabajoenglish.pdf. (Alicia Campos is a researcher and lecturer at the Universidad Autónoma de Madrid. Placido Mico is a lawyer and the Secretary General of the Convergencia para la Democracia Social, the major legal opposition party in Equatorial Guinea, and he holds the one opposition seat in the 100-member national Parliament.)

⁵² Department of State 2009 Report. See also an example of an October 4, 2005 expropriation decree monitored by the BBC from the Equatorial Guinea national radio, enacting the expropriation of an aggregate of 16,472.32 square metres to expand the President’s residence (“Peoples’ Palace”) in Malabo, as a “supreme, public and urgent necessity for the state at this time.” “Equatorial Guinea: Decree backs land seizure for expansion of ‘Peoples’ Palace,” BBC Mon AF1 AFEauwaf 221205/mm, from Radio Nacional de Guinea Ecuatorial, Malabo, broadcast at 0600 gmt, December 16, 2005.

⁵³ See Decreto No. 22/1984 of February 20, 1984 (“transferring to the State of the Republic of Equatorial Guinea legal title over all these abandoned properties” (Justice Initiative translation)), available at <http://faolex.fao.org/docs/pdf/eqg9409.pdf>.

⁵⁴ The US Department of Justice has identified “sources [who] have informed investigators that Teodoro Nguema OBIANG [the President’s son, Teodorin], in his official capacity, has instituted a large ‘revolutionary tax’ on timber, but insisted that the payments be made directly to him, either in cash or through checks to SOMAGUI FORESTAL, a forestry company owned by Teodoro Nguema OBIANG.” Department of Justice, Criminal Division, Memorandum to The Central Authority of France re Request for Assistance in the Investigation of Teodoro Nguema OBIANG and his associates (September 4, 2007), p. 5, available at <http://documents.nytimes.com/investigating-teodoro-nguema-obiang#p=1>.

⁵⁵ See, e.g., Amnesty International, “Equatorial Guinea: New Wealth Driving People from their Homes,” AFR 24/007/2009 (October 5, 2009) (“In many cases written title was nonexistent, although land had been in the hands of a family for generations.”).

⁵⁶ Department of State 2009 Report.

⁵⁷ See, e.g., Serge Enderlin and Serge Michel, “Sous les tropiques du satrape de Malabo,” *Le Temps* (Geneva) (July 23, 2003) (the reporters visited a village in which “[s]eventy-five people live...in pathetic poverty. The regime chased them away from their fishing village, [which had been] requisitioned for a methanol factory. No compensation, no apology. ‘They never asked us anything,’ says the village head, an old man with gapped teeth and peeling skin. ‘Just one day, the government told us to clear out.’”) (Justice Initiative translation), available at http://www.letemps.ch/Page/Uuid/c4914b3c-b042-11dd-b87c-1c3fffea55dc/Sur_les_routes_de_lor_noir_IX._Sous_les_tropiques_du_satrape_de_Malabo.

⁵⁸ The US Senate investigation of Riggs uncovered, for example, a transaction involving the sale by Mobil Oil Corporation of a 15% stake in a joint oil trading business, Mobil Oil Guinea Ecuatorial (MOGE), to President Obiang’s holding company, Socio Abayak, S.A., in 1998 and 1999, for an aggregate of \$2,300.

Dividends declared by MOGE in 2001, 2002 and 2003 resulted in payments for Abayak of approximately \$10,500 in each of those years. By 2004, Abayak's MOGE investment was worth \$645,000. ExxonMobil was unable to explain to the Senate investigators why Abayak had been brought into the investment, or whether Abayak or Mobil had proposed it. A related December 23, 1997 Mobil internal memorandum suggests that legal or political, rather than business considerations motivated inclusion for the President's company. Under the heading "LEGAL REQUIREMENTS AND ADVANTAGES, Capital Structure," the memo says that "Mobil has to be in partnership with local Guineans. Abayak, a local company will be our partner, with 15% share." Responses to Supplemental Questions for the Record Submitted to Exxon-Mobil, including Attachments (no date, presumably 2004), Exhibit 54, in Money Laundering and Foreign Corruption: Enforcement and effectiveness of the PATRIOT ACT, Hearing Before the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, United States Senate, 108th Cong., 2nd Sess. (July 15, 2004), pp. 834-40, available at <http://www.access.gpo.gov/congress/senate/pdf/108hrq/95501.pdf>. As the President's flagship holding company, Abayak was not, of course, just *any* "local company."

Marathon Oil Company told the Senate Riggs investigators that it had been told by a representative of the "state-owned" Guinea Equatorial Oil & Gas Marketing Ltd. (GEOGAM) that President Obiang, through Abayak, owned a 75% interest in GEOGAM (the other 25% being held by the state.). GEOGAM, in turn, was a 20% owner of a liquid petroleum gas facility on Bioko Island, and a 10% owner of a methanol plant there. The liquid petroleum venture paid dividends to GEOGAM totaling more than \$87,000 in 2002. The methanol company paid dividends to GEOGAM totaling over \$4 million between 2002 and 2004. Senate 2004 Riggs Report, pp. 9, 50, 107, 108.

⁵⁹ In 2009, "[m]ost ministers continued to moonlight and conduct businesses they conflated with their government responsibilities. For example, the minister of justice had his own private law firm, and the minister of transport and communications was director of the board and owned shares in the parastatal airline and the national telephone company.... In October 2008 the government began disbursing funds for social projects under the social development fund (SDF), a mechanism developed jointly with a foreign donor designed to enhance the transparency of social spending in line with international development norms.... One minister reportedly ignored the bids of companies responding to an open solicitation and selected a company he owned, although his company had not submitted a bid; the minister claimed his company was eligible to accept SDF money from the account he controlled." Department of State 2009 Report.

The 2004 Riggs investigation uncovered a company called Nusiteles, G.E., established in 2000 "as an E.G. telecommunications company intended to establish telephone and computer services within Equatorial Guinea. It is jointly owned by a number of parties, including the E.G. President through Abayak, the E.G. Minister of Foreign Affairs, the E.G. Director of National Security, the E.G. Minister of Justice and Religion, and International Decision Strategies, a Virginia corporation." Senate 2004 Riggs Report, p. 50. According to Riggs' files, Teodorin, the President's oldest son (and Minister of Forestry) had been granted, through his solely owned monopoly Grupo Sofana and its affiliate Somagui Forestal, "exclusive rights of exploiting and exporting timber in Equatorial Guinea.... After oil, timber exports are a leading source of foreign exchange in Equatorial Guinea." *Id.*, p. 49.

⁶⁰ For example, Senate investigators uncovered two accounts that Riggs had managed "to provide educational funding for E.G. students. Riggs records indicate that, from 2001 until 2003, more than 100 E.G. students received funding to study abroad, often in the United States, many of whom appeared to be children or relatives of wealth or powerful E.G. officials. A February 2002 letter reports that only five of the E.G. students were maintaining the required 'B' grade average." Senate 2004 Riggs Report, pp. 59-60.

⁶¹ The President's holding company, Abayak, "was and perhaps still is [as of 2004] the only construction company in Equatorial Guinea, an importer of construction-related goods, and a participant in real estate deals on behalf of the E.G. President and his wife." *Id.*, p. 49.

The Senate Riggs investigators found that ExxonMobil's Equatorial Guinea subsidiary was leasing building and land on the 50-acre "Abayak Compound," with total lease payments ranging from \$137,000 per year (in 1996) to \$185,000 per year (in 2001). Until 2001, the lessor was the President's wife; after which the lessor became Abayak. " *Id.*, pp. 100-101.

Marathon has paid or agreed to pay the E.G. President over \$2 million for the purchase of land." *Id.*, p. 102.

Amerada Hess paid Equatoguinean officials and their relatives nearly \$1 million for building leases. Of 28 leases Hess identified to the investigators, 18 were properties leased from “persons connected to the government or the Obiang family.” *Id.*, p. 101.

“Hess and ExxonMobil...told the Subcommittee that they buy their security services through Sociedad Nacional de Vigilancia (Sonavi), a company owned by the President’s brother, Armengol Ondo Nguema. These companies told the Subcommittee staff that Sonavi has a monopoly on security services in E.G., and Hess told the Subcommittee that Sonavi’s rates were not negotiable as they are driven by E.G. law. Between January 2000 and May 2004, Hess paid a total of about \$300,500 to Sonavi.” (Four other oil companies told the Subcommittee that they were not required to deal with Sonavi.) *Id.*, pp. 102-104.

⁶² In 2009, Equatorial Guinea tied with Burundi, Guinea, Haiti, Iran and Turkmenistan for a ranking of 168 out of 180, available at

http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table.

⁶³ In one example, Hess told Subcommittee staff that it had been served with a court order in 2003 instructing it to stop paying rent to its landlord, a fourteen-year-old boy related to the President, and should make rental payments to another Equatoguinean citizen that the court had declared had documented that he was the legitimate property owner. Hess complied, but a few months later a government minister inquired why Hess had stopped making payments on the lease, explaining that the boy was his Godson. “When Hess informed the Minister of the court order, the Minister called the judge who had issued the court order. According to Hess, while on the telephone with the Minister, the judge rescinded the court order, and Hess started paying the relative for the lease again.” Senate 2004 Riggs Report, p. 101 and note 345.

⁶⁴ “Because of quasi-mandatory collection of dues and other contributions, the ruling party had greatly disproportionate funding available, including for gifts for potential voters.” Department of State 2009 Report.

Bribery can take the form of providing strategic political appointments – with opportunities for self-dealing such as described above – or lucrative jobs and/or other business opportunities to political loyalists or family members. “The ruling PDGE party ruled through a complex arrangement built around family, clan, and ethnic loyalties. Indirect pressure for public employees to join the PDGE continued....[T]eaching positions were available only to PDGE members....Opposition party members continued to report that they had been discriminated against in hiring, job retention, scholarship, and obtaining business licenses. During the year individuals contended government pressure precluded opposition members from obtaining jobs with foreign companies....By law hydrocarbon industry workers received salaries many times higher than those in other sectors.... Opposition party members claimed businesses found to have hired employees with direct links to families, individuals, parties, or groups out of favor with the government were often forced to dismiss employees or face recrimination. During the year the government reportedly warned the spouse of an opposition party leader to join the PDGE (presumably to embarrass the opposition leader) or lose her position. The spouse refused to join the PDGE and was fired....judicial corruption was widely reported.” Department of State 2009 Report.

See also, “Détournement de 24 millions CFA au ministère des sports en Guinée-Equatoriale,” *Afrique Avenir/APA* (October 27, 2009) (suspected involvement of Secretary of State for Sports, Ruslan Obiang Nsue, in diversion of CFA 24 million [\$50,363] of government funds intended for use in promoting the African Cup of Nations games to be co-hosted by Equatorial Guinea and Gabon in 2012; the Secretary of State for Sports is a son of the President), available at

<http://www.afriqueavenir.org/2009/10/27/detournement-de-24-millions-cfa-au-ministere-des-sports-en-guinee-equatoriale/>.

As of February 4, 2010, no criminal proceedings had been announced and Ruslan Obiang continued to be Secretary of State for Sports. “Diarte extends contract with Equatorial Guinea,” Soccerway.com/AFP (February 4, 2010), available at

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