

UPR Submission
Report on Equatorial Guinea
December 2009

Introduction

In this submission, EG Justice focuses on substandard living conditions in Equatorial Guinea, making special reference to the state's neglect of individual rights to health, education, water, sanitation, and freedom from torture and inhumane treatment.

1. The Republic of Equatorial Guinea is a small Sub-Saharan African nation composed of a mainland and five inhabited islands. Equatorial Guinea gained independence from Spain in 1968, ending 190 years of colonial rule. That same year, Equatorial Guinea became a member of the United Nations.
2. In the mid to late-1990s vast natural gas and oil reserves were discovered in Equatorial Guinea. Since then, Equatorial Guinea has become one of the richest nations in Sub-Saharan Africa with an estimated GDP of \$25 billion (over \$27,000 PPP). Despite this sudden economic growth most of the wealth has not reached the majority of Equatoguineans, almost two-thirds of whom live on less than one dollar a day.
3. In 1997, the Equatoguinean government committed itself to allocating 40 percent of all oil revenue to the social sector. Due to the government's ineffective budgetary structure, neither the amount of funds in the national coffers (raised through exploitation of natural resources, commerce and taxation) nor the amounts allocated to specific sectors and programs can be verified, audited or evaluated. Equatorial Guinea's lack of budgetary transparency enables the government and its officials to operate in a climate of secrecy, thereby enabling corruption and systemic problems to continue unchecked.
4. Until recently calls for greater economic and governmental transparency went unheeded by the Equatoguinean government. By presidential decrees in 2005 and 2007 the government took the initial steps to establish and appoint committee members needed to implement measures required by the Extractive Industries Transparency Initiative (EITI).¹ In 2008 Equatorial Guinea became a candidate country for the EITI. Petroleum accounts for 90 percent of the economy, therefore the government's attempt to become an EITI compliant country signals a positive shift in policy towards greater transparency. However, this shift fails to amount to the reform desperately needed to enable Equatoguineans to have public access to government legislation and budgetary information. Increased governmental transparency and public access to this information will enable Equatoguineans to better enforce their rights by holding the government

¹ The Extractive Industries Transparency Initiative "supports improved governance in resource-rich countries through the verification and full publication of company payments and government revenues from oil, gas and mining." <http://eitransparency.org/eiti/summary>, last accessed 30 March 2009.

accountable for protecting and promoting the fundamental rights guaranteed by the state constitution and by international treaties ratified by the state.

5. While the Equatoguinean economy burgeons from the extraction and sale of oil, the government continues to emphasize infrastructure development over its constitutional duty to utilize the state's natural resources to progressively, according to the maximum available resources, eradicate need and poverty.

Legal Framework

6. Equatorial Guinea's constitution affirms the state's rights and obligations under international treaties, and enshrines the state's primacy over exploration and exploitation of all natural resources whilst committing these resources to eradicate poverty.

International Human Rights Obligations

7. Equatorial Guinea is not a member of the UN Human Rights Commission. It has, however, ratified: International Covenant on Economic, Social and Cultural Rights; International Convention on Civil and Political Rights; Convention on the Elimination of All Forms of Discrimination against Women; Convention on the Rights of the Child; and all associated optional protocols. Notwithstanding the obligations imposed by its ratification of these treaties and its constitutional reaffirmation of its treaty obligations, the government of Equatorial Guinea continues to neglect its people's rights to primary health, education, water and sanitation, and the right to be free from torture and other cruel, inhuman or degrading treatment.

Right to Primary Health

8. The mortality rate of children under the age of five has steadily climbed since 1990² in spite of constitutional requirement that the state to promote primary health care and the government's surging revenue from natural resource exploitation. The Committee on the Rights of the Child noted this increase with concern, and since its 2004 review,³ the child mortality rate has only continued to rise.

9. Like, many Sub-Saharan nations, malaria continues to devastate Equatorial Guinea causing 38 percent of infant deaths and 24 percent of under-five deaths. In 2004 the Equatoguinean government, with the help of corporate sponsors, implemented a five-year malaria eradication program. The government has deemed this tri-part program (which includes spraying against malaria-carrying mosquitoes, providing medical treatment to malaria-infected individuals, and training doctors to diagnose malaria in patients) a success. However, the state still does not recommend intermittent malaria treatment for pregnant women, nor do 99 percent of children

² UNICEF, "Maternal, Newborn & Child Survival: Equatorial Guinea", January 2009.

³ Committee on Rights of the Child, "Consideration of Reports Submitted by State Parties Under Art. 44 of the Convention – Concluding Observations: Equatorial Guinea", CRC/C/15/Add.245 (3 November 2004).

under age-five sleep under insecticide-treated nets, which continues to place pregnant women and their fetuses, infants and children at significant risk for contracting malaria.

10. Equatorial Guinea is the third largest petroleum producer in Sub-Saharan Africa, yet 20 percent of the nation's children under-five suffer from chronic malnourishment. Equatorial Guinea leads its neighboring states in the percentage of children under-five who are severely chronically malnourished. The government stated its commitment to allocating 40 percent of oil revenues to the social sector⁴ and is adding a limited food subsidy to the 2009 budget to help with the rising cost of food.⁵ However, government social sector budget primarily focuses on development of the nation's infrastructure, with only 2.6 percent of 2007's the public investment program budgeted for health, less than that 3.2 percent for the presidency. This small amount of spending on critical social needs demonstrates that the Equatoguinean government is not doing enough to meet its obligations under the state constitution and the CRC.

11. In 2005 the government spent seven percent of its total budget on health. This spending has decreased to 2.6 percent of the public investment program budget in 2007. With increasing child mortality rates, a reduction in health spending indicates that Equatorial Guinea is likely in violation of its CRC Art. 24 obligations.

Right to Water and Sanitation

12. 57 percent of the total population of Equatorial Guinea does not have access to improved drinking water source. Without direct access to improved drinking water, the majority of Equatoguineans remain at risk for waterborne health risks arising from contact with untreated water.

13. 51 percent of Equatoguineans have access to improved sanitation facilities; a rate that has not changed since 1990, despite the significant (oil-induced) increase in GDP per capita. This stagnation suggests a failure by the state to meet its obligations progressively according to its maximum available resources.

Right to Education

14. Education is fundamental for the alleviation of poverty and the development of human capital in Equatorial Guinea. Yet only 33 percent of Equatoguinean children reach the last grade of primary school.

15. Between 1999 and 2002 there was a marked increase in the number of children enrolled in primary school, which tracked the rising GDP, until enrollment numbers plummeted in 2003, reaching their lowest in the last decade.

⁴ *Id.*

⁵ International Monetary Fund, "Republic of Equatorial Guinea: 2008 Article IV Consultation", <http://www.imf.org/external/pubs/cat/longres.cfm?sk=22829.0>, (25 March 2009), accessed 30 March 2009.

16. Children who are malnourished and lack access to basic necessities are less likely to attend school and to complete their education. As greater governmental resources are allocated to providing for basic needs like food, health and sanitation, children will have an increased likelihood of completing their primary education instead of not enrolling or dropping out in order to meet their and their families' basic needs.

Right to be Free from Torture and other Cruel, Inhuman or Degrading Treatment

17. Individuals who are taken into police and gendarmerie custody face the threat that they may be tortured or suffer cruel, inhuman or degrading treatment by the police. The Special Rapporteur on Torture found Equatoguinean police systemically use torture to encourage the accused to cooperate with authorities.⁶

18. Torture becomes pervasive when perpetrators are not held accountable for their illegal actions. In Equatorial Guinea victims fear reprisal for reporting their abuse while in custody and the torturers are rarely punished for their heinous acts.

19. Additionally, in clear violation of international norms, women and children in police or gendarmerie custody are not separated from the adult males prison population making them extremely susceptible to violence and sexual abuse.

Recommendations

20. To continue implementing required governmental structures to achieve EITI “compliant country” status.

21. To extend the EITI transparency structure to the entire governmental budgetary process.

22. To implement the IMF’s suggested reforms to the entire budgetary process, with special focus on the stages of procurement, audit, and evaluation.

23. To disburse funds allocated for human capital development.

24. To allocate a greater portion of social spending to health, water, sanitation and education.

25. To continue the Malaria Eradication Program.

26. To extend the Malaria Eradication Program to include:

⁶ Manfred Nowak, “Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Right, Including the Right to Development: Preliminary note of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment – Mission to Equatorial Guinea”, A/HRC/10/44/Add.1 (23 January 2009).

- (a) providing insecticide-treated netting for use by children under five-years of age;
- (b) recommending and providing intermittent preventative malaria treatment for pregnant women.

27. To improve access to clean water and sanitation in both urban and rural areas.

28. To implement the recommendations made by Manfred Nowak, the Special Rapporteur on Torture, to the government of Equatorial Guinea concerning torture and inhuman treatment by the state's military and police.