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## “Manna From Heaven”?

How Health and Education Pay the Price for Self-Dealing  
in Equatorial Guinea





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in Equatorial Guinea**

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# “Manna From Heaven”?

## How Health and Education Pay the Price for Self-Dealing in Equatorial Guinea

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Equatorial Guinea is one the smallest countries in Africa, with a population of around 1 million and a total landmass of just over 28,000 square kilometers.





## Summary

The president of Equatorial Guinea, Teodoro Obiang Nguema Mbasogo, once described the discovery of oil in the 1990s off the coast of the small Central African nation as “manna from heaven,” the Biblical life-saving bread that God sent Israelites as they wandered in the desert. Ravaged by almost six centuries of colonialism followed by an eleven-year brutal dictatorship, the country was one of the world’s poorest and most poorly governed in 1979 when Obiang deposed his uncle and took power.

The discovery of oil in 1991 had the potential to change the fortunes of Equatorial Guinea, and it did, in many ways. Before the discovery of oil the country’s total income was US\$132 million, or \$330 per capita. Within the next decade per capita gross domestic product (GDP) rose significantly, comparable to that of many industrialized nations—peaking in 2012 at \$19 billion (\$24,304 per capita). However, oil production has been in decline since 2012, and oil is expected to run dry by 2035 unless new reserves are found.

Suddenly the small country of about one million people occupying 28,050 square kilometers had a great but fleeting opportunity to deliver exemplary social services to its citizens in line with its human rights obligations. Obiang raised expectations, repeatedly saying he would prioritize health services and education, but budgetary allocations to health and education have in fact been dismal: in 2011, the most recent year for which there is data, the government spent three percent of its budget on education and less than two percent on health, according to the International Monetary Fund (IMF). Forty-five other countries in Equatorial Guinea’s per capita GDP range spent at least four times as much on health and education during the same period. Instead the country invested heavily in large-scale infrastructure projects, which comprised 82 percent of its total budget in 2011, an approach the IMF and World Bank have repeatedly criticized.

Obiang, the world’s longest-serving president, justifies the huge investment in infrastructure as part of a strategy to lay the groundwork for a modern economy. Undoubtedly this investment has improved the country’s transportation infrastructure, which includes a network of more than 2,000 kilometers of roads, five airports, and eight ports, as well as several modern hospitals and a national university campus. But, according to the IMF, such

an approach “contribut[es] to low provisions for health and education service delivery.” It also found that “costs and wastage have been high” for infrastructure projects, “because of limitations in oversight and pressure for prestige projects.”

This report shows how the government of Equatorial Guinea has for two decades paved the way for this reality, squandering the promise afforded by its discovery of oil by grossly underspending on social welfare and overspending on wasteful and corruption-riddled infrastructure projects. In the process, it has not fulfilled its human rights obligations to progressively realize the right to affordable and decent health care and education for its people. The report describes how, though upper middle-income on paper, Equatorial Guinea faces severe challenges that commonly affect low-income countries, especially in health and education. It documents how companies, fully or partially owned by the president, members of his family, or senior government officials, have been awarded large public contracts. In some cases, businesspeople allege that they were encouraged by government officials to submit inflated contracts so that the officials could collect considerable kickbacks.

In addition, this research adds to a significant body of work on corruption in Equatorial Guinea, including numerous international investigations that have uncovered evidence of high-level corruption. A 2004 United States Senate investigation into Riggs Bank, a Washington, DC-based commercial bank, for example, revealed direct transfers of millions of dollars from accounts holding the country’s oil wealth into accounts believed to be controlled by the president. Money-laundering investigations into the president’s eldest son, who was appointed vice president in June 2016, allege how within a period of about five years, he spent \$110 million in the United States and €175 million (US\$189 million at current exchange rate) in France. The French prosecutor alleged that €110 million was transferred from Equatorial Guinea’s public treasury to Teodorin’s personal accounts, part of which funded his French spending spree.

There is an ongoing trial in Spain based on evidence that senior government officials purchased mansions in the country with funds transferred from the Riggs Bank oil account. In Italy, the financial police, when investigating one of the largest construction companies operating in the country, found millions of dollars linked to a network of international bank accounts owned by the president and his son.

All of this contributes to the government's woeful underinvestment in health and education, at great human cost.

## Neglecting the Right to Health

With the discovery of oil, Equatorial Guinea had a great opportunity to improve healthcare by investing in the provision of potable water, adequate sanitation, infection control, and other key determinants of health, as well as in the strengthening of its public healthcare system.

For two decades it has largely failed to seize this chance due to underinvestment in the social sector, when compared to other countries in its income bracket, and misspending on capital projects, such as the sophisticated new La Paz hospitals in Malabo and Bata that appear to be almost exclusively for the benefit of elites—rather than on primary healthcare that benefits most citizens.

While a lack of data makes it hard to fully assess Equatorial Guinea's performance on key health indicators, available data suggest that despite having far superior resources compared to other countries in the region, there has been little progress. For example:

- Equatorial Guinea ranks 138 out of 188 countries in the United Nations Development Programme's (UNDP) Human Development Index, a measure of social and economic development. Its score is similar to those of Ghana and Zambia, despite boasting a per capita income that is more than five times as high.
- More than half of Equatorial Guinea's population lacks access to safe drinking water in the vicinity, a rate that has not changed since 1995.
- Vaccination rates for children have fallen dramatically since the late 1990s and are among the worst in the world. For example, the reported rate for tuberculosis vaccination for newborns and infants was 99 percent in 1997; 64 percent in 2014; and 35 percent in 2015, the last year for which data is available.

Additionally, a 2011 household survey studies found that one in four children are physically stunted due to poor nutrition, and two-thirds are anemic, as are half of women. The World Bank estimates that 60 percent of deaths are the result of communicable diseases or preventable maternal, prenatal, or malnutrition-related illnesses. Maternal mortality is one health indicator on which Equatorial Guinea has apparently made progress

at a greater rate than most other countries in the region, with such deaths down from 1,050 per 100,000 live births in 1995 to 342 in 2015, according to the United Nations.

Despite being considered an upper middle-income country, Equatorial Guinea's healthcare system continues to suffer from many of the ailments that typically afflict healthcare systems in low-income countries: inadequate staffing, long waiting times, stock-outs of basic medications and medical supplies, and frequent misdiagnoses. Doctors, nurses and patients told Human Rights Watch that Malabo General Hospital required out-of-pocket payment up front for any service, and that those who are unable to pay upfront are regularly turned away. "If people [in critical condition] don't have money, they die," a doctor who worked in the General Hospital in Bata said.

With the limited funds allocated to the health sector, the government has heavily invested La Paz, the two modern hospitals in Malabo and Bata staffed largely by foreigners. Both hospitals are well-equipped and charge fees that are well beyond what ordinary Equatoguineans can afford to pay.

## Neglecting the Right to Education

Government neglect of education is reflected in the poor condition of facilities and quality of services, as well as outcomes that frequently lag behind regional averages and, in some cases, are even worse than the situation prior to the oil boom. For example:

- In 2012 42 percent of primary school-aged children—46,000 children—were not in school, the seventh worst enrollment rate in the world, mostly topped by war-torn countries.
- Half of children who begin primary school never complete it, and less than one-quarter who do go on to middle school.
- Late starts and high repetition rates mean that the ages in any given class can vary widely. In 2012 only 57 percent of students were in the correct grade for their age, a ten percentage point decline from 2000, according to the *United Nations Educational, Scientific and Cultural Organization (UNESCO)*, a specialized UN agency.

Equatoguinean law provides for free primary school, in line with international human rights law, which also requires Equatorial Guinea to work toward eliminating fees for secondary school as available resources allow. Yet local partners and education specialists said that public primary schools charge at least some fees to enroll.

Many teachers are poorly trained or have no training at all, leading to poor quality in public schools. Since 2006 many teachers have received training through a 10-year program jointly funded by the government and Hess Oil, which operates in the country. According to UNESCO's data, just under half of primary school teachers had some kind of training in 2011.

Equatorial Guinea has invested only a tiny fraction of its budget in its education system, and the bulk of the money spent on education has gone to the university level. A confidential 2016 government report allocated 64 percent of the budget for a multiyear "Education for All" program to higher education, even though it only represents only 2 percent of students, according to the World Bank.

## **Overspending and Self-Dealing on Infrastructure**

Government underfunding of health and education stands in marked contrast to lavish spending on large-scale infrastructure projects, many of which are of questionable social utility and risk being a key conduit for corruption and mismanagement. Human Rights Watch found evidence that senior government officials have stakes in companies that receive public construction contracts, including the president and his family.

After spending huge sums of money on buildings in both the island capital of Malabo and the largest city, Bata, which is located on the mainland and functions as an alternate capital, the government is now constructing a new administrative capital, Oyala, in the middle of the jungle. Although the total cost of Oyala is not known, it is expected to account for half of all public investment in 2016, according to an unpublished report by the IMF. Local content rules that require all companies operating in the country to have at least 35 percent local ownership appear to have been misused to steer business to companies that serve primarily to fill the pockets of politically connected people. The IMF notes the high spending on Oyala in the context of "limited movement on structural reforms, and weak governance and corruption [that] remain a serious impediment."



After having spent hundreds of millions of dollars on government buildings in the capital of Malabo and economic center of the mainland, Bata, Equatorial Guinea is pouring billions of dollars into building a new administrative capital, Oyala, in the middle of the jungle. The IMF estimated that spending on Oyala would consume half the national budget in 2016. Above is a satellite image of the city under construction. Satellite imagery © 2017 NASA

A US State Department cable made public by WikiLeaks alleged that the country's sole cement importer, Abayak, is "partially owned by the president and first lady." An Italian businessman, Roberto Berardi, founded a construction company with the president's eldest son and putative successor, Teodoro Nguema Obiang Mangue ("Teodorin"), who was then the minister of forestry but was appointed vice president in 2016. Berardi wrote in a formal statement that Teodorin did not contribute any capital or time to the company, and his sole function was to secure subcontracts from lucrative public projects awarded to ABC Construction, at least partly owned by the first lady.

A US Department of Justice investigation, which ultimately settled in 2014, into alleged money laundering by Teodorin revealed allegations that he directed one of the largest construction companies operating in Equatorial Guinea to submit grossly inflated bills to the government, many of the funds from which were then transferred to his personal account.





Many residential neighborhoods, including the one photographed above in Malabo, receive little or no government investment despite the massive outlays in public infrastructure for government buildings and other prestige projects. © 2016 Human Rights Watch

The US investigation settled in October 2014 when Teodorin agreed to forfeit \$30 million — approximately the value of his mansion in Malibu, California—to be given to a charitable organization and used for the benefit of the Equatoguinean people. A French court investigated Teodorin’s spending more than €175 million euro on a Paris mansion, fleet of luxury cars, designer goods, and other extravagances. Teodorin maintains that the money came from legitimate businesses, but on May 25, 2016, the three judges presiding over the case found sufficient evidence of suspected money laundering and diversion of public resources to order Teodorin to stand trial, expected to take place on June 19, 2017.

By squandering enormous wealth the government has already missed opportunities to invest in health and education. The long-term decline and inevitable demise of the oil sector now leaves the government very little time to correct course and invest significantly

and sustainably in these sectors. The fall in oil production and historically low oil prices have already caused Equatorial Guinea's GDP to shrink by 29 percent between its high in 2012 and 2016; the IMF expects future contraction.

To meet its human rights obligation to progressively realize its citizens' rights to affordable and decent health care and education, the government should immediately shift investment priorities and undertake comprehensive reform to stem corruption, regulate conflicts of interest, and make the public procurement process transparent and competitive.

Given the country's small size even modest social investment could go a long way. It is not too late to take urgent measures that would put the country's oil wealth to work for the good of all Equatoguineans, but the window of possibility is closing fast.



# Recommendations

## To the Equatorial Guinean Government

- Regularly publish full accounts of projected and actual government revenues and expenditures. Classify expenditures by function, including health and education.
- Conduct credible and independent investigations into allegations of misuse of public funds.
- Increase investment in public health, the healthcare system, education services, and infrastructure that will benefit majority of the population. Take urgent steps to ensure that these services are accessible and available to all, and that all are provided timely care by qualified medical staff.
- Ensure that healthcare services are affordable for all Equatoguineans.
- Guarantee free primary school for all in line with international human rights standards and take steps to eliminate school fees for secondary school.
- Institute and enforce laws that clearly define, regulate, and make transparent conflicts of interest between government officials and their private businesses in line with international best practices.
- Institute and enforce laws to ensure a competitive and transparent public procurement process, including open bidding and names of companies awarded contracts, as well as their beneficial owners and the amount of and purpose of each contract awarded. Such rules should also extend to companies awarded subcontracts for public projects.
- Ratify the United Nations Convention against Corruption and the African Union Convention on Preventing and Combating Corruption.
- Ensure independence of the auditing body established in the 2011 constitutional reform and credibly investigate claims of corruption, including against senior government officials.

## To the International Monetary Fund

- Include expenditures on health and education, as well as analysis and recommendations on public financial management, in annual Article IV

reports that assess the economic and financial developments of Equatorial Guinea. Include sources for all social indicators and articulate any identified methodological concerns relating to the data. Do not include unreliable social data.

- Encourage and assist Equatorial Guinea to improve transparency and quality of information in government budgets and to reform its public financial management to bring it in line with international standards.
- Encourage and assist Equatorial Guinea in establishing mechanisms for financial accountability, including an independent Court of Auditors, a body mandated by the 2011 constitutional reforms.
- Press Equatorial Guinea to meet all necessary requirements to join the Extractive Industries Transparency Initiative and safeguard the right of media and civil society to speak out against corruption and human rights abuses.

### **To the World Bank**

- Regularly undertake and publish a Public Expenditure Review on Equatorial Guinea, including detailed information on the health and education sectors.

### **To Private Investors**

- Conduct due diligence to determine whether any existing or potential business relationships, including through subcontracts, benefit government officials or close members of the president's family. Where possible, terminate or avoid such relationships. Where no viable alternative exists, ensure that the relationship is transparent and does not benefit from undue influence.
- Ensure all company procurement is done through an open and transparent bidding process.

### **To Foreign Governments**

- Investigate potential money laundering or other financial crimes by Equatorial Guinean officials that are under domestic jurisdiction.

- Institute and/or enforce rules requiring the publication of all beneficial owners of companies registered within your territory to mitigate the risk of money laundering and other financial crimes.
- Institute and/or enforce rules requiring financial institutions and sellers to conduct due diligence into the source of funds for transfers or purchases over specified amounts to mitigate the risk of money laundering and other financial crimes.

## Methodology

This report examines Equatorial Guinea's spending on health and education and the impact of chronic underfunding. It also looks at large-scale infrastructure projects, the public financial management system governing such projects, and allegations of self-dealing by senior government officials and members of the presidential family.

Equatorial Guinea has by far the world's largest gap between per capita wealth and score on the United Nations Human Development Programme's (UNDP) Index that measures social and economic development. The country's oil wealth puts it in the league of those countries with sufficient resources to invest in social services, including health and education, and to progressively realize economic and social rights in line with its regional and international human rights obligations.

In researching this report Human Rights Watch reviewed publicly available reports of international financial institutions, as well as one unpublished draft document; national budget documents for all years between 2003 and 2016 except 2012 and other government documents; documents related to investigations into alleged money laundering by a senior Equatoguinean official being conducted by the United States Department of Justice; international and domestic data on health and education; and other documents.

Due to the absence of credible, comprehensive, and current government data, Human Rights Watch relied on a range of sources, using the most up-to-date data available while also privileging, where possible, data collected through surveys or studies over projections based on mathematical models. In some cases there are discrepancies in the data reported by different institutions. In the case of discrepancies regarding financial data Human Rights Watch relied on International Monetary Fund (IMF) figures, as it is based on information obtained and analyzed by IMF experts working in the country rather than solely on government submissions.

Where available, we have included health data from a 2011 household survey conducted by ICF International, along with more recent data from international institutions based on projections or government submissions to these institutions. Given the government's poor

record of data collection the household survey should be viewed as more reliable. For education data we used international and government data, noting any differences between the two sources.

Human Rights Watch staff conducted field research for 10 days in Malabo and Bata in 2016, interviewing a total of 35 people. For security reasons we were unable to interview a larger number of people. Interviewees included nurses, employees of international institutions active in the country's health sector, former patients at the General Hospitals in Malabo and Bata, teachers, and education specialists employed by international institutions active in the country. In addition Human Rights Watch conducted phone or in-person interviews with three IMF experts and an Equatoguinean budget specialist; an Equatoguinean lawyer; a specialist on the Extractives Industry Transparency Initiative; a specialist for the transparency non-governmental organization (NGO) Publish What You Pay; US government officials; lawyers and representatives of organizations involved in corruption-related legal actions against Equatoguinean officials; and others. A Spanish translator facilitated some of the interviews.

Human Rights Watch withheld the identity of some of the interviewees for fear of possible reprisals; the report indicates where pseudonyms were used. All interviewees freely consented to be interviewed, and Human Rights Watch explained to them the purpose of the interview, how the information gathered would be used, and did not offer any remuneration.

Human Rights Watch wrote letters to some of the companies mentioned in the report, but did not contact others because they are defunct, have no publicly available correspondent or email address, or are only mentioned fleetingly in the report. We also wrote letters to La Paz hospitals in Malabo and Bata and shared the preliminary findings of the report with the Equatorial Guinean Embassy in Washington, DC and requested relevant information from the Ministries of Health, Education, Finance and Budget, and Planning and Development. The embassy confirmed receipt and agreed to pass along to the relevant ministries. We have not received any response to these letters.

The findings of this report are based overwhelmingly on the documentary evidence and basic indicators described above, which provide tangible examples of the systemic problems this report describes.

Note of currency conversion: this report used an exchange rate of 622 Central African Franc (CFA francs) per US dollar for current rates, the exchange rate on February 21, 2017. Sums in CFA francs for past years were calculated based on the rate on December 31 of that year.

# I. Background

## Before Oil: Colonialism, the Macías Dictatorship, and Obiang’s Coup

### *Colonialism & the Macías Dictatorship*

Colonized by Spain until 1968, Equatorial Guinea is the only independent Spanish-speaking country in Africa. Portugal ceded the territory to Spain in a land swap treaty in 1777, but Spain’s early activity there was sporadic and it did not exercise full control until the early twentieth century.<sup>1</sup> In the final decades of its rule Spain began to more intensively exploit Equatorial Guinea’s exceptionally rich soil to cultivate cocoa and coffee. The large colonial plantations relied heavily on workers from neighboring countries, primarily Nigeria, who often worked under abysmal conditions.<sup>2</sup>

As a result of this history, when Equatorial Guinea gained independence in 1968, it had significantly less developed administrative institutions and infrastructure than other countries in the region.<sup>3</sup> Its per capita income was one of the highest in sub-Saharan Africa, but its economy depended almost entirely on a couple of cash crops cultivated by a foreign workforce.<sup>4</sup> The country also lacked a developed legal system or local law, and the constitution at independence designated Spanish law to fill the gap.

Following independence Francisco Macías Nguema became Equatorial Guinea’s first president. The 11 years of Macías’ rule were marked by political violence and fiscal mismanagement that ruined the economy and many state institutions.<sup>5</sup> Following a coup

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<sup>1</sup> Spain largely neglected the area for the first 40 years following the treaty, then leased it to Great Britain from 1817 to 1843. At that point Spain started to take a greater interest in economically exploiting the territory but faced tough resistance from the people living there. Many missionaries died of disease. *Spanish Guinea*, British Foreign Office Handbook (London: HMSO, 1920). See also Ibrahim K. Sundiata, *Equatorial Guinea: Colonialism, State Terror, and the Search for Stability* (Oxford: Westview Press, 1990), p. 25. In 1907, only 404 Europeans lived in what was then called Spanish Guinea. *Ibid.*, p. 32.

<sup>2</sup> Cocoa exports rose from a total of 900 tons in 1900 to nearly 40,000 by 1968, the year of the country’s independence. By 1960 there were 35,000 Nigerians working in Spanish Guinea, compared to a total native population of around 213,000, as well as 6,000 Europeans. Randall Fegley, *Equatorial Guinea: An African Tragedy* (New York: Peter Lang Publishing, 1989), pp. 42, 44.

<sup>3</sup> See, for example, *Spanish Guinea*, p. 34.

<sup>4</sup> World Bank, “Report and Recommendation of the President of the International Development Association to the Executive Directors on a Proposed Development Credit of SDR 9.1 Million to the Republic of Equatorial Guinea for a Cocoa Rehabilitation Project,” January 18, 1985, p. 1.

<sup>5</sup> See Arturo Artucio, *The Trial of Macías in Equatorial Guinea: The Story of a Dictatorship* (International Commission of Jurists and the International University Exchange Fund, 1979); Sundiata, *Equatorial Guinea: Colonialism, State Terror, and the Search for Stability*, pp. 63-74; Fegley, *Equatorial Guinea: An African Tragedy*, pp. 37-110.

attempt in 1969, Macías suspended all civil liberties and outlawed political parties other than the ruling party. Those suspected of political disloyalty—usually members of the political, intellectual, or cultural elite—were routinely arrested, tortured, or killed, frequently following real or claimed coup attempts.<sup>6</sup> Macías also had little tolerance for education and intellectuals.<sup>7</sup> Describing himself as the “Unique Miracle,” he outlawed private education, shut down all newspapers, banned the collection of statistics—and even went so far as to prohibit the use of the word “intellectual.”<sup>8</sup>

On August 3, 1979, Teodoro Obiang Nguema Mbasogo, the vice-minister of the armed forces at the time and Macías’ nephew, successfully led a coup to overthrow his uncle. By that time, one-third of the population of 300,000 had gone into exile and at least another 20,000 were believed to have been killed.<sup>9</sup> The economy had collapsed and nearly all public administrative activity had ceased.<sup>10</sup> There were virtually no basic services, such as electricity, banking, postal services, transportation, or telephone lines.<sup>11</sup> There were no universities and most secondary and vocational schools had shut down.<sup>12</sup> Macías kept what little revenues the state had in his home in Mongomo, paying himself millions of dollars in salary and squirreling away suitcases full of cash into his foreign accounts.<sup>13</sup>

It is hard to overstate the devastation wrought by centuries of colonialism followed by Macías’ reign of terror, and its long shadow is still evident in the country’s severely limited administrative capacity, abysmal social indicators, and repressive political system. This history, however, in no way excuses present-day human rights abuses, including the neglect of economic and social rights. On the contrary, the government should work to counter the ill effects of colonial rule by actively promoting transparency, accountability, and the rule-of-law, and by investing in health and education.

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<sup>6</sup> Ibid.

<sup>7</sup> Fegley, *Equatorial Guinea: An African Tragedy*, pp. 106-07.

<sup>8</sup> Ibid., pp. 78-80; Artucio, *The Trial of Macías in Equatorial Guinea*, p. 11.

<sup>9</sup> Artucio, *The Trial of Macías in Equatorial Guinea*, p. 2; Fegley, *Equatorial Guinea: An African Tragedy*, p. 266.

<sup>10</sup> Sundiata, *Equatorial Guinea: Colonialism, State Terror, and the Search for Stability*, pp. 42, 91; Fegley, *Equatorial Guinea: An African Tragedy*, p. 92.

<sup>11</sup> Artucio, *The Trial of Macías in Equatorial Guinea*, p. 14.

<sup>12</sup> Ibid., p. 17.

<sup>13</sup> Ibid., pp. 35-39.



## *President Obiang's Government*

President Obiang is the world's longest-serving non-royal ruler. When he first came to power, he pledged to rule democratically and respect human rights.<sup>14</sup> Following the coup, the state began once again to carry out its basic functions; schools reopened and public utilities were restored. As time passed, some social indicators, including life expectancy and child mortality, began to improve.<sup>15</sup> Nevertheless, in many respects, the coup did not lead to fundamental change in governance and respect for human rights. The United Nations was sufficiently concerned about the human rights situation in the country that it maintained an independent expert for Equatorial Guinea for 20 years.<sup>16</sup>

Until the discovery of oil off the coast of Equatorial Guinea, the economic situation did not markedly improve under Obiang and the country remained one of the poorest in Africa. In 1991, the year that oil production began but had yet to make any significant economic impact, the total GDP was US\$132 million—equal to \$330 per capita.<sup>17</sup> The country did, however, begin to receive large amounts of foreign aid, thanks to improved relations with foreign countries, including the United States and Spain.<sup>18</sup> But government corruption undermined the efficacy of some of aid-funded projects, such as the World Bank Coffee Cocoa Rehabilitation Project.<sup>19</sup> The \$9.3 million project, which was implemented between 1985 and 1990, was intended to provide coffee and cocoa farmers with credit and strengthen their capacity as a means of reviving the country's once lucrative cocoa

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<sup>14</sup> Fegley, *Equatorial Guinea: An African Tragedy*, p. 175

<sup>15</sup> For example, average life expectancy rose from an abysmal 43 years in 1979 to 50 by 1995 and under-5 mortality dropped from 217 per 1,000 in 1983, the first year for which there is data, to 171 in 1995. World DataBank, "World Development Indicators: Equatorial Guinea," "Life Expectancy at Birth" and "Mortality Rate, under-5," <http://databank.worldbank.org/data/reports.aspx?source=2&country=GNQ> (accessed February 23, 2017).

<sup>16</sup> An independent expert was first appointed in 1982, and the title and mandate of the monitor changed until the post was abolished by an evenly split vote in the UN Human Rights Commission in 2002. See Human Rights Watch, *Well Oiled: Oil and Human Rights in Equatorial Guinea*, July 2009, [https://www.hrw.org/sites/default/files/reports/bhro709web\\_o.pdf](https://www.hrw.org/sites/default/files/reports/bhro709web_o.pdf), p. 15.

<sup>17</sup> World Bank, "Equatorial Guinea: Public Expenditure Review (PER)," January 2010, p. I, <https://openknowledge.worldbank.org/bitstream/handle/10986/3011/516560ESWoGQoPoodisclosedo120130110.pdf?sequence=1&isAllowed=y> (accessed February 24, 2017).

<sup>18</sup> Equatorial Guinea received virtually no foreign aid throughout the 1970s. Aid began to trickle in as soon as Obiang came to power, steadily climbing to \$70 million in 1990, when it began to taper off due to the discovery of oil. OECD Statistics, "Aid (ODA) Disbursements to Countries and Regions," <http://stats.oecd.org/index.aspx?datasetcode=TABLE2A#> (accessed February 23, 2017). In 1984, for example, the Gross National Product was \$67 million and foreign aid and loans were estimated at \$30 million. Robert Klitgaard, *Tropical Gangsters: One Man's Experience with Development and Decadence in Deepest Africa* (Basic Books, 1990), p. 27.

<sup>19</sup> *Ibid.*, p. 61.

production.<sup>20</sup> Robert Klitgaard, an IMF official living in Equatorial Guinea at the time the project was ongoing, wrote in a book about his work that the government abused the program by nationalizing the choicest cocoa farms in anticipation of the loans that would be made available to farmers, and then transferring them to members of the ruling elite, including the president. Many of these new cocoa farmers never repaid the loans they took out, which they used to fund lavish lifestyles rather than invest in cocoa farming.<sup>21</sup>

## The Era of Oil: Political Repression, Corruption, and Lack of Transparency

The discovery of oil transformed the country within a few years from one of the world's poorest to boasting a per capita GDP on par with many industrialized nations. The Texan oil company Walter International first began to produce oil from the Alba field in 1991, but the meteoric rise of Equatorial Guinea's GDP began with Mobil's (now ExxonMobil) discovery of the 1.1-billion-barrel Zafiro oilfield in 1995. Production began the following year, propelling the annual growth rate to double—even triple—digits as billions of dollars poured into the state's coffers.<sup>22</sup> It is difficult to put an exact figure on the value of the oil contracts as they are not made public. As a partial measure the World Bank estimates that the state took in \$25 billion in oil revenue between 2000 and 2008.<sup>23</sup> According to a 2015 budget document obtained by Human Rights Watch, the state took in an additional \$20 billion in hydrocarbon revenue from 2009 to 2013.<sup>24</sup>

This massive influx of resources has not translated into significant improvement in living conditions for the majority of the population. Despite having the highest per capita gross national income of any African country, Equatorial Guinea ranks 138 out of 188 countries in the United Nations Human Development Programme's (UNDP) Index that measures social and economic development. This gap between wealth and human development score is by far the world's largest. Section III of this report details the conditions of the health and education sectors.

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<sup>20</sup> World Bank, "Projects & Operations: Coffee Cocoa Rehabilitation Project—Equatorial Guinea," <http://projects.worldbank.org/P000638/coffee-cocoa-rehabilitation-project?lang=en> (accessed February 23, 2017).

<sup>21</sup> Klitgaard, *Tropical Gangsters*, p. 61.

<sup>22</sup> World Bank DataBank, "World Development Indicators: Equatorial Guinea," "GDP Per Capital Growth (Annual %), 1995-2005."

<sup>23</sup> World Bank, "Equatorial Guinea: Public Expenditure Review (PER)," January 2010, p. i.

<sup>24</sup> Equatorial Guinea, 2015 Budget Law, p. 1. The 2012 International Monetary Fund Article IV report puts oil revenue from 2007-2011 at \$5 billion annually, which is higher than what is recorded in the 2015 budget document on file. IMF, Republic of Equatorial Guinea: 2012 Article IV Consultation Staff Report, March 28, 2013, p. 5, <http://www.imf.org/external/pubs/ft/scr/2013/cr1383.pdf> (accessed February 24, 2017).

Human Rights Watch documented in its 2009 report *Well Oiled: Oil and Human Rights in Equatorial Guinea* how pervasive corruption, nepotism, mismanagement, and political repression, as well as unaccountable and non-transparent governance, contributed to large amounts of oil revenue being siphoned off by the ruling elite while the population remained mired in poverty. The persistence of these problems despite shrinking government resources due to the decline in oil production and prices threatens to erode the already weak public health and education systems.

### *Political Repression*

Obiang retained Macías' prohibition on political activity, citing the dire economic situation, until 1991 when he lifted the ban.<sup>25</sup> But the arrest of political opponents continued under Obiang, especially following real or claimed coup attempts.<sup>26</sup> Obiang has also installed close family members, including his sons, in key government positions and holds full control over the country's bank accounts, blurring the line between the public purse and his family's personal pockets.

The constitution, enacted in 1982 and last amended in 2012, reserves considerable power for the president.<sup>27</sup> For example, the president is the first magistrate and appoints all Supreme Court judges without parliamentary oversight, compromising the independence of the judiciary.<sup>28</sup> In 2011 Obiang initiated a process of constitutional reform, the results of which were widely criticized as further consolidating presidential power and undermining accountability.<sup>29</sup> However, the reform also included a presidential term limit of two consecutive seven-year terms, the introduction of a bicameral legislature, and the establishment of a Court of Auditors and Ombudsman to foster transparency and accountability in governance.<sup>30</sup> The Court of Auditors has yet to be established, and the

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<sup>25</sup> See Artucio, *The Trial of Macías in Equatorial Guinea*, p. 6, for original justification for barring political activities, and Equatorial Guinea's 1991 Constitution, article 1, for introduction of "multipartism," [https://www.constituteproject.org/constitution/Equatorial\\_Guinea\\_1995.pdf](https://www.constituteproject.org/constitution/Equatorial_Guinea_1995.pdf) (accessed February 23, 2017).

<sup>26</sup> Human Rights Watch, *Well Oiled: Oil and Human Rights in Equatorial Guinea*, p. 11.

<sup>27</sup> Equatorial Guinea Constitution (2012), <http://www.guineaecuatorialpress.com/imgdb/2012/LEYFUNDAMENTALREFORMADA.pdf> (accessed April 24, 2017). See Fegley, *Equatorial Guinea: An African Tragedy*, p. 210-11; Sundiata, *Equatorial Guinea: Colonialism, State Terror, and the Search for Stability*, pp. 76-77.

<sup>28</sup> Equatorial Guinea Constitution (2012), arts. 92 and 98.

<sup>29</sup> See, for example, "Equatorial Guinea: A Move to Consolidate Power," Human Rights Watch news release, November 11, 2011, <https://www.hrw.org/news/2011/11/11/equatorial-guinea-move-consolidate-power>.

<sup>30</sup> Ibid. and Government Press, "Summary of the Constitutional Reform," October 31, 2011, <http://www.guineaecuatorialpress.com/noticia.php?id=2039> (accessed February 23, 2017).

Ombudsman's office was established in 2015.<sup>31</sup> Another amendment eliminates a maximum age limit of 75 years for presidential candidates—setting the stage for the then 69-year-old Obiang to continue to run for president.

The US State Department and others have long documented the harassment and arrest of opposition leaders and members in advance of elections, as well as rampant procedural violations and fraud on election day, including voter intimidation, opening of ballots, and voting on behalf of children and the deceased.<sup>32</sup> Similar problems plagued the most recent presidential elections, held on April 24, 2016. The election date, which was eight months before the official end of Obiang's term, was announced by presidential decree only six weeks earlier. Obiang declared victory with 93.7 percent of the vote.

Obiang ran in the elections after declaring that the constitutional amendment limiting presidents to two consecutive seven-year terms is not retroactive.<sup>33</sup> The opposition parties maintained that the early election date violated a constitutional provision that says elections should be held no earlier than 45 days before the end of the president's term.<sup>34</sup> The parties boycotted the elections citing harassment, procedural irregularities, the absence of an independent electoral body, and lack of media access.<sup>35</sup> Human Rights Watch, the United States embassy, and others criticized the restrictive atmosphere prior to elections, including reports that the military surrounded the headquarters of a political opposition party and that the country's leading independent group promoting good

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<sup>31</sup> Government Press, "Installation of the Office of Ombudsman," August 28, 2015, <http://www.guineaecuatorialpress.com/noticia.php?id=6863> (accessed February 23, 2017).

<sup>32</sup> See, for example, US Department of State, "Country Reports on Human Rights Practices for 2010: Equatorial Guinea," <https://www.state.gov/documents/organization/160119.pdf>, p. 17-18 (accessed February 24, 2017); US Embassy in Malabo, "Equatorial Guinea: Concerns Regarding the Political Environment in Equatorial Guinea Before and After the April 24<sup>th</sup> Election," April 27, 2016, <https://malabo.usembassy.gov/news-events/latest.html> (accessed February 28, 2017); Human Rights Watch, *Well Oiled*, pp. 11-15; "Joint Statement Urging a Halt of Pre-Election Civil Society Crackdown in Equatorial Guinea," Human Rights Watch, March 30, 2016, <https://www.hrw.org/news/2016/03/30/joint-statement-urging-halt-pre-election-civil-society-crackdown-equatorial-guinea>. For a report documenting legal and practical limitations on civil society, see EG Justice, "Disempowered Voices: The Status of Civil Society in Equatorial Guinea," March 3, 2011, <http://www.egjustice.org/es/node/666> (accessed February 23, 2017).

<sup>33</sup> Transcripts: CNN's Amanpour Interview with President Teodoro Obiang of Equatorial Guinea, October 5, 2012, <http://edition.cnn.com/TRANSCRIPTS/1210/05/ampr.01.html> (accessed February 23, 2017).

<sup>34</sup> Equatorial Guinea Constitution (2012), art. 36.

<sup>35</sup> EG Justice, "Opposition Party Boycotts Presidential Elections," April 18, 2016, <http://www.egjustice.org/post/opposition-party-boycotts-presidential-elections> (accessed February 23, 2017). For a list of incidents of political repression related to the elections, see Human Rights Watch, *World Report 2017* (New York: Human Rights Watch, 2016), Equatorial Guinea chapter, <https://www.hrw.org/world-report/2017/country-chapters/equatorial-guinea>.

governance was suspended, making it unable to act as a domestic observer.<sup>36</sup> The embassy noted that its election day observers witnessed cases of voter intimidation, violation of voting secrecy, and other irregularities.<sup>37</sup>

### *Lack of Transparency*

Transparent governance that gives the public access to their government's administrative decisions such as on income, budgets, and public procurement is fundamental to holding governments accountable and fighting corruption. However, as a recent report by the IMF notes, in Equatorial Guinea "even the most basic data are very hard for the public to access."<sup>38</sup>

### **Failed Extractive Industries Transparency Initiative Bid**

The government publishes scant information on its income or spending.<sup>39</sup> One exception is a report released in 2010 as part of its failed bid to join the Extractive Industry Transparency Initiative (EITI), a voluntary standard requiring government to publish payments they receive from oil and mining companies, as well as other information.<sup>40</sup> Equatorial Guinea was accepted as an EITI candidate in February 2008, in what was supposed to be a hopeful step toward transparency and civil society participation in overseeing the country's resources. While the EITI does not require governments to publish information on spending, they must work in a national multi-stakeholder group along with industry and civil society to decide on objectives for EITI implementation.

The government published its first report on oil revenues just before its deadline for becoming EITI-compliant on March 9, 2010, leaving no time for an external validator to

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<sup>36</sup> "Joint Statement Urging a Halt of Pre-Election Civil Society Crackdown in Equatorial Guinea," Human Rights Watch, March 30, 2016; US Embassy in Malabo, "Ambassador's Corner: Thoughts on the Democratic Process in Equatorial Guinea," May 4, 2016, <https://malabo.usembassy.gov/ta-050416.html> (accessed February 23, 2017); US State Department Daily Press Briefing, Mark Toner, Deputy Spokesperson, April 27, 2016, <https://video.state.gov/detail/videos/category/video/4866119970001/?autoStart=true> (accessed February 28, 2017).

<sup>37</sup> US Embassy in Malabo, "Ambassador's Corner: Thoughts on the Democratic Process in Equatorial Guinea," May 4, 2016, <https://malabo.usembassy.gov/ta-050416.html> (accessed February 23, 2017).

<sup>38</sup> IMF, Republic of Equatorial Guinea: 2012 Article IV Consultation Staff Report, p. 19.

<sup>39</sup> See Transparency International, Corruption by Country: Equatorial Guinea, <http://www.transparency.org/country/GNQ> (accessed February 23, 2017). The country ranks in the bottom one percent in the NGO's transparency ranking.

<sup>40</sup> EITI website, "Who We Are," <https://beta.eiti.org/about/who-we-are> (accessed February 23, 2017).

review it as required.<sup>41</sup> The government requested an extension from the EITI board, but under EITI rules, extensions are only given in the case of “exceptional and unforeseeable” circumstances beyond the control of the candidate country.<sup>42</sup> The board denied the request because it found the delay unjustified. An EITI specialist with the NGO Publish What You Pay who was closely involved in the process told Human Rights Watch that the EITI board was also influenced by restrictions on civil society.<sup>43</sup>

The president has since affirmed that he remains committed to transparency and the EITI. After protracted delays, a national EITI steering committee, which includes representatives from government, oil companies, and civil society, was re-established in 2015 with the goal of re-applying for membership. However, the process stalled in March 2016 when the minister of internal affairs ordered the suspension of one of the civil society groups on the steering committee.<sup>44</sup> The committee finally met again in November 2016 and February 2017, but restrictions on civil society remain a point of contention.<sup>45</sup>

### **Available Financial Information**

The government released some general budget information for the first time in 2015, leading the International Budget Partnership, an independent group that partners with civil society to use budget analysis and advocacy to improve governance and reduce poverty, to raise the country’s score from zero to four out of one hundred on its measure for budget openness.<sup>46</sup> The measure scores countries based on a 140-question survey on public access to key budget documents in line with international best practice.

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<sup>41</sup> EITI, “Intensive Validation Activity as Deadlines Approach,” December 10, 2009, <https://eiti.org/es/node/4002> (accessed February 23, 2017); Human Rights Watch interview with Asmara Klein, EITI Programme Officer, Publish What You Pay, Barcelona, August 17, 2016.

<sup>42</sup> Letter from Dr. Peter Eigen, EITI Chairman, to H. E. Teodoro Obiang, April 29, 2010.

<sup>43</sup> Human Rights Watch interview with Asmara Klein, August 17, 2016.

<sup>44</sup> “Joint Statement Urging a Halt of Pre-Election Civil Society Crackdown in Equatorial Guinea,” Human Rights Watch, March 30, 2016.

<sup>45</sup> Government press, “Third Meeting of the EITI/ITIE-GE National Commission,” November 16, 2016, <http://www.guineaecuatorialpress.com/noticia.php?id=8878> (accessed February 23, 2017).

<sup>46</sup> The global average is 45, with nearby São Tomé e Príncipe scoring 29, Nigeria 24, and Sierra Leone 52. See International Budget Project, Open Budget Survey 2015: Equatorial Guinea, <http://www.internationalbudget.org/wp-content/uploads/OBS2015-CS-Equatorial-Guinea-English.pdf> (accessed February 23, 2017). The budget information released in 2015 is available on the website of the government press and titled, “The Senate studies the Amending Budget for 2015,” April 10, 2015, <http://www.guineaecuatorialpress.com/noticia.php?id=6425> (accessed February 23, 2017).

International financial institutions such as the IMF have also produced some financial information on Equatorial Guinea. The IMF generally holds annual meetings with each of its member countries to provide its assessment of the country's economic health and recommendations for improvement. As part of this process it produces a report with summaries of its findings and the government's responses, called Article IV reports, which it makes public unless the government objects. Since 2003 the IMF published such reports for Equatorial Guinea except for the years covering 2004, 2009, 2010, 2011, and 2014.<sup>47</sup> In 2010 the World Bank released a detailed Public Expenditure Review of Equatorial Guinea, which includes invaluable data and analysis on government spending. Human Rights Watch has also been able to obtain government budgets for nearly every year since 2000, but these documents are not publicly available.

Even beyond government budget information, very little official government business is made public. Brief and vague summaries of meetings and events are sometimes published on the government's official webpage, but there are no protocols of parliamentary or other official meetings. Nor is there a centralized legal database housing all the country's laws and executive decrees, making it difficult to find many laws.<sup>48</sup> Human Rights Watch was unable to obtain a copy of the education law, for example, placing some restrictions on our analysis of the education sector.

In many cases, basic financial and social data is not even collected, hampering the government's ability to implement effective policies. A representative of the IMF who provides technical assistance to Equatorial Guinea on revenue administration told Human Rights Watch the absence of data is the "main weakness" for improving tax and customs collection. "We don't have any idea how much global revenue is collected and where it goes. This blind spot makes it very hard to work with them on tax collection."<sup>49</sup>

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<sup>47</sup> IMF, "Republic of Equatorial Guinea and the IMF: Article IV Staff Reports," <http://www.imf.org/external/country/gnq/index.htm?type=9998#top>. There is no publicly available information to determine for which of these five years the IMF did not produce a report and for which the government objected to its publication.

<sup>48</sup> There are some unofficial online legal databases, but to the best of Human Rights Watch's knowledge, none are comprehensive. Some laws are available for purchase at the specific government buildings, but many are not publicly available. For example, Human Rights Watch observed around 40 law pamphlets available for sale during a visit to the Delegation for Foreign Affairs in Bata, Equatorial Guinea's largest city. We were told that the corruption law was not available because it was under parliamentary review. Laws may also be requested from the president's office, but requests do not always yield a response. For example, the World Bank notes in one report that it was unable to obtain certain relevant laws essential to its analysis. See World Bank, "Equatorial Guinea: Public Expenditure Review (PER)," January 2010, p. 38.

<sup>49</sup> Human Rights Watch phone interview, name withheld, July 26, 2016.

### Poor Socio-economic Data Collection

The government collects very little reliable socio-economic data, impeding assessments of indicators such as health, education, and poverty. The lack of reliable social and economic data presents a serious obstacle not only to making informed policy decisions, but also to assessing the social impact of these decisions, including budget allocations. The 2015 IMF report notes a “critical shortage of macroeconomic and socio-demographic data” leading to “considerable uncertainties regarding demographic data—and in turn social indicators.”<sup>50</sup>

Even the size of the population is uncertain: international figures put the 2015 population at 845,000 but the government claims it was 1.2 million for that year, revised downwards from the government’s estimate of 1.6 million in 2012.<sup>51</sup> The IMF has long pressed the government to improve its transparency and data collection not only to improve governance and accountability, but also because “the lack of published data could impede prospective foreign investors.”<sup>52</sup> Ironically, the president has hidden behind this deficiency to defend his government from criticism, claiming that critics are using outdated information.<sup>53</sup>



Equatorial Guinea has no comprehensive online legal database or library, but hard copies of many laws can be purchased at certain government offices. Above are law pamphlets available for sale at the Delegation for Foreign Affairs in Bata. © 2016 Human Rights Watch

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<sup>50</sup> IMF, Republic of Equatorial Guinea: 2015 Article IV Consultation Staff Report, September 15, 2015, p. 19, <http://www.imf.org/external/pubs/ft/scr/2015/cr15260.pdf> (accessed February 24, 2017).

<sup>51</sup> World Bank Data: Equatorial Guinea, <http://data.worldbank.org/country/equatorial-guinea> (accessed February 24, 2017); Government Press, “Preliminary Results of the 2015 Population Census,” September 24, 2015, <http://www.guineaecuatorialpress.com/noticia.php?id=6943> (accessed February 24, 2017). For the government’s previous figure, see IMF, 2015 Article IV Staff Report on Equatorial Guinea, p. 4.

<sup>52</sup> IMF, Republic of Equatorial Guinea: 2015 Article IV Consultation Staff Report, p. 4. See also IMF, Republic of Equatorial Guinea: 2012 Article IV Consultation Staff Report, p. 17.

<sup>53</sup> See, for example, Transcripts: CNN’s Amanpour Interview with President Teodoro Obiang of Equatorial Guinea, October 5, 2012, <http://edition.cnn.com/TRANSCRIPTS/1210/05/ampr.01.html> (accessed February 23, 2017).



The government has taken some positive steps in recent years to address its acute statistical data weakness. It legally established the Equatorial Guinea National Statistics Office (INEGE) in 2001, although it only became active in the last few years and inaugurated its offices in May 2016. However, it is difficult to assess the reliability of the data generated by the office. For example, INEGE reported to the UN and IMF that poverty declined from 77 percent in 2006 to 44 percent in 2011 and that extreme poverty fell from 33 percent to 14 percent in those years.<sup>54</sup> Both institutions published those findings, although an IMF staff member who worked on the publication told Human Rights Watch that he discussed this data “with the resident UN agencies, and we agreed there are significant methodological weaknesses.”<sup>55</sup> These reservations were not included in the 2016 IMF report in which this data appears, which rather positively notes that a “high quality National Statistical Development strategy has been developed.” However, the previous year, the IMF found that the agency had “relatively few experienced staff.”<sup>56</sup> In a positive step, the government subscribed in 2016 to the IMF’s General Data Dissemination System (GDDS), which sets out standards for the quality, scope, and dissemination of national statistical data.<sup>57</sup> Authorities had resisted IMF recommendations to subscribe to the system for years, making it one of only two countries in sub-Saharan Africa not to do so.<sup>58</sup>

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<sup>54</sup> Equatorial Guinea’s National Report About the Millennium Development Goals (2015), p. 15; IMF, Republic of Equatorial Guinea: 2016 Article IV Consultation Staff Report, p. 36.

<sup>55</sup> Email from IMF staff member, name withheld, to Human Rights Watch, December 2, 2016.

<sup>56</sup> IMF, Republic of Equatorial Guinea: 2015 Article IV Consultation Staff Report, p. 21; IMF, Republic of Equatorial Guinea: 2016 Article IV Consultation Staff Report, p. 19.

<sup>57</sup> IMF, Republic of Equatorial Guinea: 2016 Article IV Consultation Staff Report, p. 19.

<sup>58</sup> The other country is Eritrea. IMF, Republic of Equatorial Guinea: 2014 Article IV Consultation Staff Report, p. 19; IMF, Republic of Equatorial Guinea: 2014 Article IV Consultation Staff Report, p. 19.

## II. Under-Investment in Health and Education

Equatorial Guinea's health care and education systems are plagued by problems common across poor and developing countries, except that technically, Equatorial Guinea has not been a poor nation since its oil boom began two decades ago. The country stands out for the vast gap between its available resources and the amount that it spends on addressing these problems. This is reflected in health and education outcomes far below other countries in its wealth bracket, and in many cases trailing averages even for poor countries. Public spending is examined in this section, while outcomes are addressed in the following section.

Equatorial Guinea has a human rights obligation to use its public resources, largely derived from oil wealth, to progressively improve the country's woeful health and education systems, as well as to increase access to basic services, such as potable water and sanitary facilities. Yet, despite pledges to prioritize social spending, the government spends a relative pittance on health and education. Instead it pours most of its resources into large-scale construction projects such as government buildings and transportation infrastructure, some of which have minimal social value. The neglect of health and education violates Equatorial Guinea's human rights obligations toward its citizens.

Equatorial Guinea's window of opportunity to invest in improving the social conditions of its population and diversifying its economy to prepare for a post-oil era is quickly closing. Production is already in decline, made worse by historically low oil prices. This has precipitated a sharp drop in the state's income that is expected to continue for the foreseeable future. Having hit its peak in 2012, the GDP shrunk in the past 4 years; it decreased by 7.4 percent in 2015 and the IMF expects it to further contract by 9.9 percent in 2016.<sup>59</sup> According to the World Bank, known oil reserves are expected to be depleted by 2035.<sup>60</sup>

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<sup>59</sup> IMF, "IMF Board Concludes 2016 Article IV Consultation with the Republic of Equatorial Guinea," September 8, 2016, <http://www.imf.org/en/News/Articles/2016/09/08/PR16399-Republic-of-Equatorial-Guinea-IMF-Executive-Board-Concludes-2016-Article-IV-Consultation> (accessed February 24, 2017); World Bank DataBank, "World Development Indicators: Equatorial Guinea," "GDP" and "PPP (constant 2011 international dollar)."

<sup>60</sup> IMF, Republic of Equatorial Guinea: 2007 Article IV Consultation Staff Report, May 14, 2008, p. 12 <http://www.imf.org/external/pubs/ft/scr/2008/cro8156.pdf> (accessed February 24, 2017).

## Lack of Budget Transparency

It is impossible to comprehensively analyze Equatorial Guinea's budgets because of the paucity of available data and the fundamental weaknesses of the budgets themselves. Equatorial Guinea does not publish government budgets, although, as noted in the previous section, in 2015 it made some general information available for the first time. Human Rights Watch was able to obtain numerous documents related to budgets; however, their usefulness for bringing transparency and accountability to government expenditures is limited because they are apparently incomplete and do not disaggregate and classify spending by function.

It appears that government budgets in Equatorial Guinea do not capture all spending and in many cases there is no accounting of how much money is actually spent. As one World Bank report put it: "The public budget does not record all public spending and the amount of extra-budgetary spending is difficult to evaluate."<sup>61</sup> An IMF advisor who provides technical assistance to Equatorial Guinea's revenue administration told Human Rights Watch: "We don't have any idea how much global revenue is collected and where it goes."<sup>62</sup>

The budgets also do not classify spending by function (e.g., defense, transportation, health, education). Functional classification is standard practice for government budgets, and the IMF considers it essential for supervising budget implementation, analyzing allocation of resources among sectors, and tracking poverty-reducing expenditures.<sup>63</sup> Instead the budget is divided into capital and current expenditures. Capital spending includes investments in assets such as buildings, roads, and airports, whereas current (also known as recurrent) spending includes salaries and other goods and services for a particular year. The budget divides current expenditures into approximately 180 line items, but capital expenditures, which comprise the bulk of the budget, are recorded in one lump sum. The absence of functional classification in Equatorial Guinea's budgets not only makes analysis difficult, it also points to underlying "weaknesses in monitoring and control mechanisms," according to the IMF.<sup>64</sup>

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<sup>61</sup> World Bank, "Equatorial Guinea: Public Expenditure Review (PER)," January 2010, p. 38.

<sup>62</sup> Human Rights Watch phone interview, IMF Fiscal Affairs Department, Revenue Administration, July 26, 2016.

<sup>63</sup> IMF, *Budget Classification*, December 2009, p. 3, <https://www.imf.org/external/pubs/ft/tnm/2009/tnm0906.pdf> (accessed February 24, 2017).

<sup>64</sup> IMF, Republic of Equatorial Guinea: 2012 Article IV Consultation Staff Report, p. 15.

While these deficiencies make it challenging to quantify total expenditures in the social sector and compare them with social spending by other countries in the region, it is possible to draw some conclusions based on the available information. Economists sometimes use current expenditures as a measure for assessing a budget's ability to deliver quality social services.<sup>65</sup> A 2010 World Bank Public Expenditure Review on Equatorial Guinea and regularly published IMF reports provide additional windows into the country's finances, as do budget documents on the country's public investment program (PIP).<sup>66</sup> The PIP consists almost entirely of construction projects, and, unlike the general budget, the PIP is classified by function. The four categories of social, public administration, production, and infrastructure are further subdivided, offering the most precise information available on health and education spending. Taken together, these documents offer a compelling, if fragmentary, picture of government spending on health, education, and infrastructure.

## Neglecting Health and Education in Favor of Infrastructure Projects

In 1997, shortly after the start of the oil boom, the government convened a development conference where it committed 40 percent of public expenditure to the social sector, with 15 percent dedicated to education and science and 10 percent to health.<sup>67</sup> The government never came even close to realizing this commitment and replaced it a decade later with a new two-phase plan, called Horizon 2020, with a declared aim of turning Equatorial Guinea into an emerging economy by 2020. On paper, the focus of the first phase, which ended in 2013, was to transform the country's economic base by investing in infrastructure, good governance, social welfare, and human capital, while the ongoing second phase is supposed to build the pillars of a diversified economy by improving the business climate,

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<sup>65</sup> See, for example, World Bank, "Equatorial Guinea: Public Expenditure Review (PER)," January 2010, p. 24.

<sup>66</sup> The IMF has published three Article IV reports on Equatorial Guinea—in 2013, 2015, and 2016—since the release of the World Bank's 2010 Public Expenditure Review (PER). Human Rights Watch also obtained a copy of the 2011 and 2012 public investment projects (PIP) budgets, as well as the 2015 and 2016 general budgets, which include some information on expenditures since 2009. (The data covered in the PIP is generally from the year prior to publication, while the IMF reports is from two years prior.)

<sup>67</sup> See state submission to Committee on the Rights of the Child, CRC/C/11/Add. 26, January 28, 2004. In its submission the state admits: "The 10 % of the general State budget allocated to health by the National Economic Conference has not been disbursed to the sector" and that "For various reasons the Government's efforts are not yet sufficient to meet the education and survival needs of children from poor families" (paragraph 131), <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhspWF7dyE4l9U8mmAPSFwafAa%2fWWvnzsCo3EPefyLMA%2fZCrD9ioW8xFdiOxxzTbleUvGKiYZyxKA3%2fg%2fZGUWu8vW9Sn1dHLRpGYpp%2bFY%2bZMIC> (accessed February 24, 2017).

investing in human capital, and developing alternative industries such as agriculture, fishing, and tourism.<sup>68</sup>

In practice significant investments in the social sector did not materialize; instead the government has poured the majority of its resources into infrastructure projects. Capital expenditures typically makes up around one-quarter to one-third of a country's budget (the average is 30 percent for sub-Saharan Africa), and the rest of the budget is spent on current expenditures.<sup>69</sup> Equatorial Guinea's spending on capital investments, which averaged US\$4.2 billion, or 81 percent, from 2009 to 2013, is the mirror image of the norm.<sup>70</sup>

Between 2009 and 2013 Equatorial Guinea took in an average of \$4 billion per year in resource revenue and \$400 million in tax revenue and other income, and spent an average of around \$5.2 billion annually.<sup>71</sup> In absolute terms Equatorial Guinea spent more than \$20 billion on capital investments in those five years—and possibly additional spending not recorded in its budgets. In contrast, in 2011 the government spent roughly \$140 million (or 3 percent of its total expenditures) on education and \$92 million (2 percent) on health, according to the IMF.<sup>72</sup> Similarly, in 2008 it spent \$60 million (2 percent) of its budget on education and \$90 million (3 percent) on health.<sup>73</sup>

The IMF notes that Equatorial Guinea's spending on health and education "is substantially below other high-income countries, even those with lower per capita GDP."<sup>74</sup> On average countries with a per capita GDP on par with Equatorial Guinea spent around 14 percent of their budgets on each education and health; in a comparison of around 45 countries within

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<sup>68</sup> Equatorial Guinea Ministry of Planning, Economic Development, and Public Investments, "Guinea Ecuatorial 2020: Agenda para la Diversificación de las Fuentes del Crecimiento," November 2007 [on file with Human Rights Watch].

<sup>69</sup> IMF, Republic of Equatorial Guinea: 2015 Article IV Consultation Staff Report, September 2015, p. 38.

<sup>70</sup> Based on government figures in the 2015 Budget Law, p. 4 (some of these figures are also available in the IMF's 2012 and 2014 Article IV staff reports). Human Rights Watch converted from local currency based on exchange rates on December 31 of each year and calculated the averages of the available information. See Table below.

<sup>71</sup> *Ibid.* Non-hydrocarbon government revenue consists mostly of taxes raised from rents and utilities; a value-added tax on goods and services; and import and export licenses, as well as property rentals and sales; administrative fees; and concessions, such as for telecommunications and airports. See, for example, Republic of Equatorial Guinea, Presentation of the General Budgets of the State, 2016 [on file with Human Rights Watch].

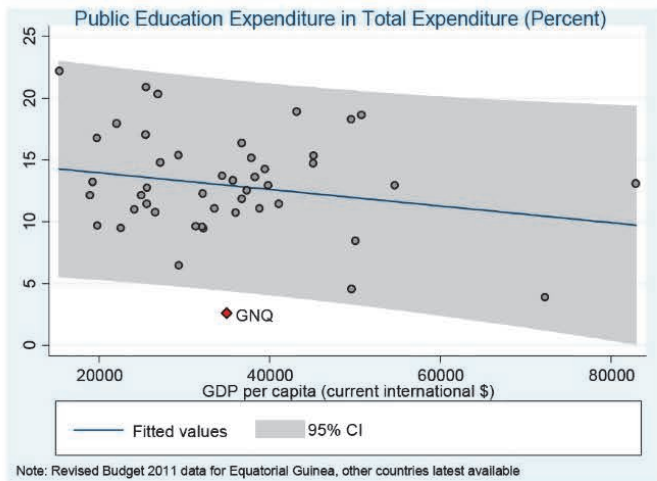
<sup>72</sup> The raw numbers are calculated by Human Rights Watch based on percentages appearing in graphs in IMF, Republic of Equatorial Guinea: 2012 Article IV Consultation Staff Report, March 2013, p. 8. Note that a UNICEF worldwide survey of health expenditures has a higher number, but this is likely based on data provided by the government data and may refer to budget allocation rather than actual expenditures. The IMF data is based on the institution's expert analysis and more reliable.

<sup>73</sup> World Bank, "Equatorial Guinea: Public Expenditure Review (PER)," January 2010, pp. 91-92.

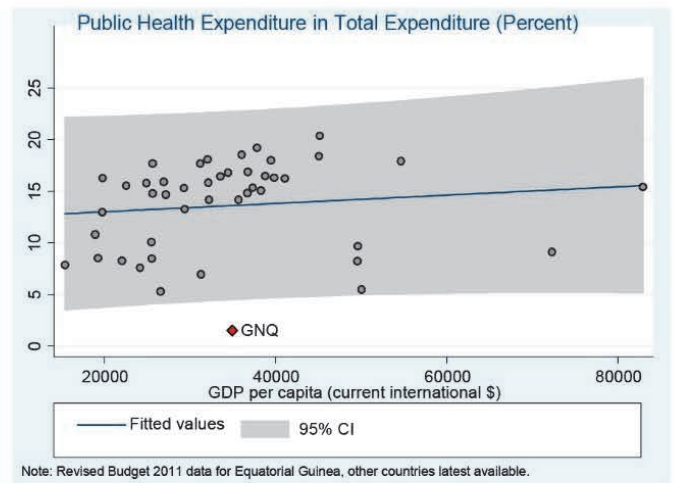
<sup>74</sup> IMF, Republic of Equatorial Guinea: 2012 Article IV Consultation Staff Report, March 2013, p. 8.

Equatorial Guinea's broad per capita GDP bracket, no other country spent less than 5 percent on either category.<sup>75</sup>

*Budget provision for education is substantially below other high income countries, even those with lower per capita GDP*



*Spending plans for health are also substantially below other high income countries*



Sources: Equatoguinean authorities; and IMF staff estimates and projections.

According to an unpublished draft of the IMF's 2016 report, the situation remains the same despite transitioning, in 2014, to the second phase of Horizon 2020:

To date, there has been limited movement on structural reforms, and weak governance and corruption remain a serious impediment. However, large-scale prestige projects are still ongoing, of which the new capital city at Oyala is expected to account for roughly half of public investment during 2016.<sup>76</sup>

One explanation for the persistently high amount of infrastructure spending may be that Equatorial Guinea established a “golden rule” that dedicates all oil revenue to physical investments and tax income to current expenditure, according to the World Bank.<sup>77</sup> The logic of this principle, as stated by the World Bank, is to ensure that oil revenues are used

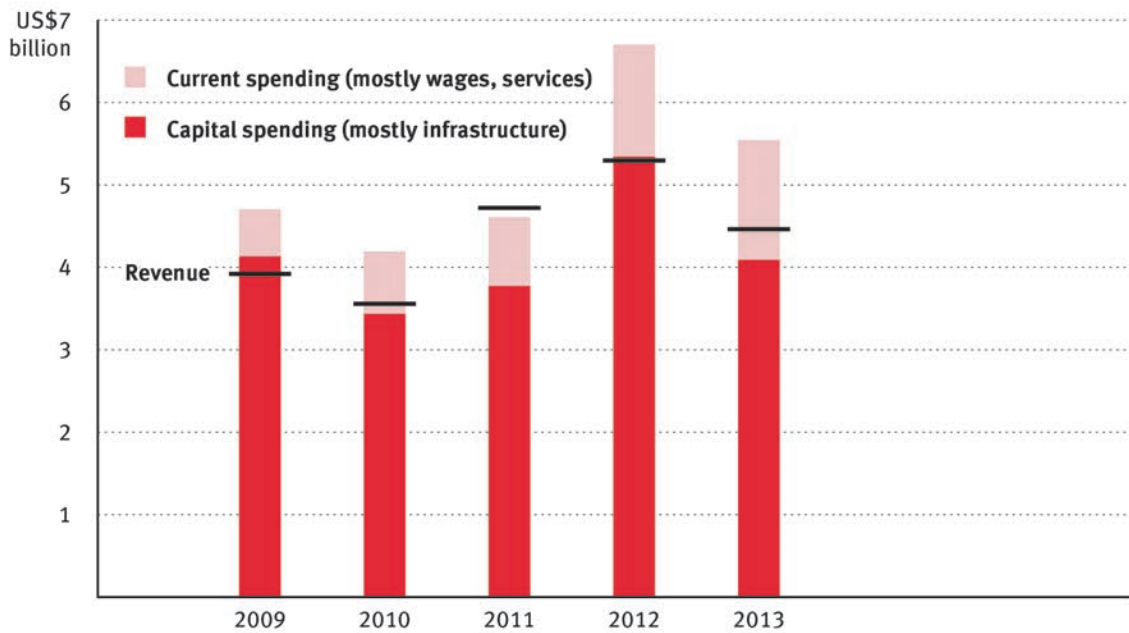
<sup>75</sup> Ibid. UNESCO recommends that 20 percent of a government's budget go toward education. UNESCO, “Education for All Global Monitoring Report: Policy Paper 12,” March 2014, <http://unesdoc.unesco.org/images/0022/002270/227092E.pdf> (accessed February 24, 2017).

<sup>76</sup> Unpublished draft of IMF, Republic of Equatorial Guinea: 2012 Article IV Consultation Staff Report, p. 12 [on file with Human Rights Watch]. The published version retains the first sentence, but removes the reference to Oyala comprising half the 2016 budget in the second sentence.

<sup>77</sup> World Bank, Equatorial Guinea Public Expenditure Review (PER), January 2010, p. 12.

for the benefit of future generations.<sup>78</sup> It is not clear when Equatorial Guinea established this rule and in any case it is not strictly followed, since capital spending frequently exceeds annual oil revenues, forcing the government to dip into previous years' oil proceeds, and current expenditure often exceeds tax revenues. However, it does appear to largely shape the government's budgets.<sup>79</sup>

## Total Government Revenue and Spending, 2009 – 2013



Source: 2015 Equatorial Guinea Budget Law

From a human rights perspective, there is nothing inherently problematic about investing heavily in new construction; many of the projects were needed to modernize an extremely underdeveloped country. Moreover, some of this spending—albeit only a small fraction—paid for vital health and education infrastructure, including a national university campus and modern hospitals.

<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

But, in the case of Equatorial Guinea, overspending on infrastructure is a problem for two reasons. First, as documented in this section, the government’s extreme emphasis on capital investments comes at the expense of the social sector, including health and education. Second, as documented in the following section, these capital investments appear to be plagued by significant levels of corruption and mismanagement due in part to rules and practices governing public contracts that enable self-dealing by government officials.

In 2016, the IMF concluded that high spending on infrastructure led to low social spending:

Expenditure composition is currently 2:1 in favor of capital spending, whereas it is the inverse in other CEMAC [Gabon, Cameroon, the Central African Republic (CAR), Chad, the Republic of the Congo] countries, contributing to low provisions for health and education service delivery. Budget allocations should be better aligned with the national development program’s social priorities.<sup>80</sup>

This echoes repeated World Bank and IMF criticisms of Equatorial Guinea’s massive spending on physical investment as not financially or socially sustainable, a concern that has become more pronounced since the onset of the oil crisis. The World Bank has said Equatorial Guinea’s golden rule “does not provide an adequate macroeconomic framework” and may lead to overinvestment.<sup>81</sup> It has also found that “despite the considerable public outlays, the budget structure does not favor social investment” and “social sector spending is too low to address the needs of the country’s poor population.”<sup>82</sup>

## Health and Education Spending

Available data on government spending on health and education is very limited. The World Bank’s 2010 Public Expenditure Review for Equatorial Guinea, mostly based on 2008 data, offers the most recent (and perhaps only) publicly available comprehensive analysis on government spending on these sectors.<sup>83</sup> However, more recent data from IMF reports and

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<sup>80</sup> IMF, Republic of Equatorial Guinea: 2016 Article IV Consultation Staff Report, p. 11.

<sup>81</sup> World Bank, “Equatorial Guinea: Public Expenditure Review (PER),” January 2010, p. 12.

<sup>82</sup> *Ibid.*, i, 29.

<sup>83</sup> The World Bank plans to release an update to this report in mid-2017.



confidential government budget documents suggest that trends detailed in the World Bank report persist.

## 2008

In 2008 the government was projected to take in \$4.7 billion in revenue, \$4.4 billion of which came from oil, according to the IMF.<sup>84</sup> The same year, its total executed budget was \$2.8 billion.<sup>85</sup> It spent \$90 million (3.2 percent) on the health sector, although only \$17.7 million went to current spending.<sup>86</sup> The World Bank notes that while total health expenditures increased significantly since 2004, the additional funds went mostly to capital investments, “resulting in a very low current per capita public expenditure of €16 (FCFA 10,600) that fails to meet the population’s health care needs.”<sup>87</sup> Indeed it found that current expenditure was so low that user fees were needed to supplement the budget for salaries of health officials.<sup>88</sup> In other words the personnel costs were passed on to the patients using the system.

Another problem the World Bank found was that there was “excessive” spending on administration and “hospital treatments that do not meet the needs of the general population.”<sup>89</sup> Based on its review of health outcomes and government expenditures, the World Bank concluded:

Unlike most countries of Sub-Saharan Africa, Equatorial Guinea has the financial means to improve the health of its population. However, the concentration of expenditure on [capital] investments has yet to produce any visible impacts, either in improved health conditions or in the quality and quantity of health services.

To correct this problem, it recommended that “infrastructure in the health sector must be complemented by a large increase in human capital.”<sup>90</sup>

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<sup>84</sup> Calculated based on IMF, Republic of Equatorial Guinea: 2007 Article IV Consultation Staff Report, p. 35.

<sup>85</sup> World Bank, “Equatorial Guinea: Public Expenditure Review (PER),” January 2010, p. 137

<sup>86</sup> *Ibid.*, pp. 91-2.

<sup>87</sup> *Ibid.*, p. 92.

<sup>88</sup> *Ibid.*, p. 93.

<sup>89</sup> *Ibid.*

<sup>90</sup> *Ibid.*, p. x.

The government spent even less on education than on health in 2008. Total spending was \$60 million (2.14 percent).<sup>91</sup> In the five years between 2004 and 2008, only seven percent of government expenditures went to education, according to the World Bank report. As the World Bank notes, this is significantly below the percentages allocated by other countries in the region such as Uganda and Tanzania (30 percent), Ghana (25 percent), or Cameroon, Congo, and Gabon (16 percent).<sup>92</sup> Put another way, Equatorial Guinea's public expenditure on education hovered around one percent of its GDP for those five years, which is one of the lowest shares in the world.<sup>93</sup> In contrast middle-income countries spent an average of 4.3 percent of GDP, and the average spending in sub-Saharan Africa was 3.9 percent.<sup>94</sup>

The imbalance between capital and current expenditures was not as extreme in the education sector as it is in health, but it still skewed heavily in favor of infrastructure. Of the US\$60 million of public money spent on education in 2008, \$25 million went to current expenditures and \$35 million to capital.<sup>95</sup> The relatively higher current spending, however, is largely due to the nearly \$12 million spent on scholarships for university students to study abroad and on sports federations, rather than on improving teacher salaries or quality of education at the primary and secondary levels.<sup>96</sup> Spending greatly favored higher education despite the fact that it represents only two percent of the student population: the government spends \$410 per primary student as opposed to \$11,435 per student in higher education, among the most unequal ratios in the region, according to the World Bank.<sup>97</sup>

As in the health sector, allocation decisions in education disfavor personnel salaries. According to the World Bank report, teachers who finished secondary school earned \$175 per month, those with a teaching certificate earn \$232, and those with a university degree \$296. The report also finds that some 40 percent of teachers are considered "volunteers" and are paid directly by parents rather than by the state. The report also points to a "huge

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<sup>91</sup> Ibid., p. 137.

<sup>92</sup> Ibid., p. 71.

<sup>93</sup> UNESCO's data is incomplete and does not include Equatorial Guinea, but the lowest percentage recorded for 2008 for the approximately 80 countries for which data available is 1.29 percent (Central African Republic), and the next lowest is 2.04 percent (Lebanon), <http://data.uis.unesco.org/?queryid=181> (accessed February 24, 2017).

<sup>94</sup> World Bank, "Equatorial Guinea: Public Expenditure Review (PER)," January 2010, p. 71.

<sup>95</sup> Ibid., p. 137.

<sup>96</sup> Ibid., p. 72.

<sup>97</sup> Ibid. Between 2004 and 2008, Equatorial Guinea spent an average of nearly 40 percent of its budget on higher education, whereas the average of 10 neighboring countries was 22 percent. Based on Human Rights Watch's calculations of World Bank data. Ibid.

disparity” between education sector salaries, with managerial staff earning seven times more than teachers. Based on its analysis the World Bank concluded that “public financing of the [education] sector is insufficient given the dire needs” and that “authorities need to increase recurrent expenditures to the sector (rather than capital spending) to ensure a stable source of financing to train and hire more teachers.”<sup>98</sup>

### *2010 and 2011*

Spending on health and education did not significantly change in 2010, although there was a slight overall decline in capital spending relative to current, going from 81 percent of the budget in 2008 to 75 percent in 2014.<sup>99</sup>

Budget documents for public investment projects in 2010 and 2011 obtained by Human Rights Watch indicate that the portion of capital expenditures devoted to the social sector remained in the same low range as in previous years. In 2011 Equatorial Guinea earned \$4.8 billion in revenues, \$4.4 billion of which came from the hydrocarbon sector. The government’s total expenditures for the year were \$4.6 billion. As already noted only around \$140 million (3 percent) of its budget went to education and roughly \$92 million (2 percent) to health.<sup>100</sup>

By June 2011 only 1.3 percent (\$18.6 million) of the PIP budget went to education and 1.8 percent (\$27 million) to health.<sup>101</sup> This is in line with spending between 2005 and 2008 when 1 to 3 percent of capital spending went to health and 0.5 to 4 percent went to education. In comparison, during the same period, a quarter of the PIP budget (\$365.7 million) was spent on airports, roads, and urban infrastructure. These numbers, dismal as they are, were better than the previous year: in the first three months of 2010, only 0.4 percent (\$3.3 million) of the PIP budget went to education and 2.7 percent (\$20 million) to health. In comparison, during the same period, 23.6 percent of the PIP budget (\$175 million) was spent on airports, roads, and urban infrastructure.<sup>102</sup>

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<sup>98</sup> Ibid., p. x.

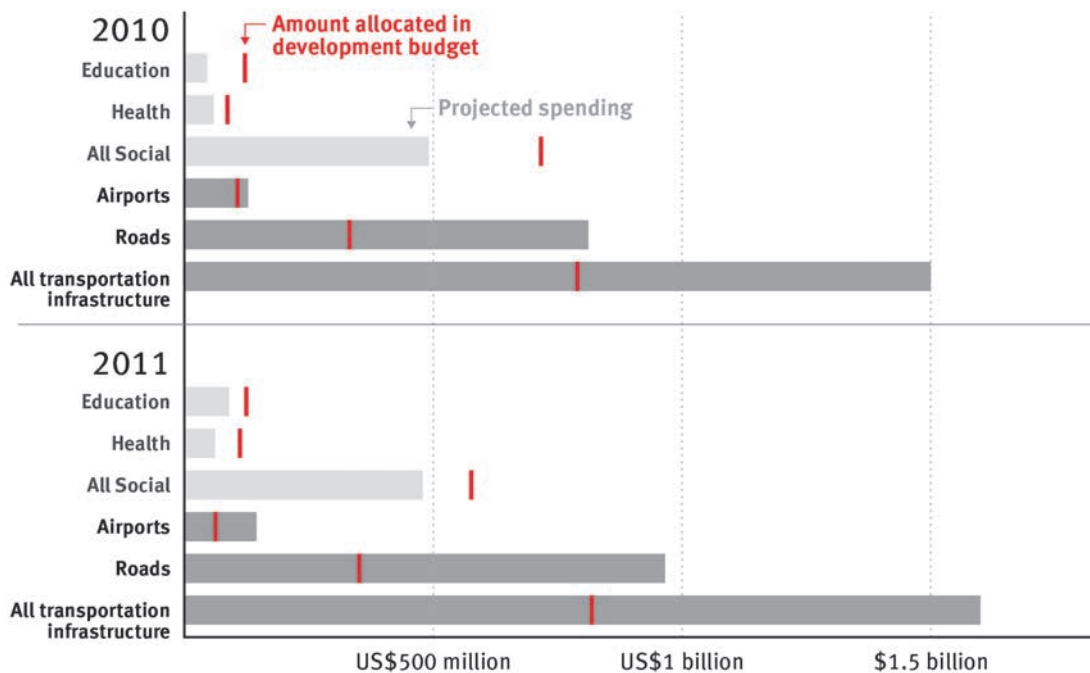
<sup>99</sup> Equatorial Guinea, 2014 and 2015 Budget Laws.

<sup>100</sup> IMF, Republic of Equatorial Guinea: 2012 Article IV Consultation Staff Report, p. 8; see footnote 72 above.

<sup>101</sup> Conversions based on value of CFA franc on June 30, 2011.

<sup>102</sup> Conversions based on value of CFA franc on June 30, 2010.

## Government Investment in Social Sector vs. Transportation Infrastructure



Source: Confidential Government Public Investment Program documents

Moreover, the projected annual spending on health and education both years was significantly less than the amounts approved by law, while it nearly doubled for spending on airports, roads, and urban infrastructure. The 2011 Budget Law approved between \$100 million and \$125 million each for education, health, and potable water, but by June 30 the government had only spent a combined \$60 million on all three categories. At the same time it had already spent over \$80 million on sports, overspending its total approved budget for the year, and expenditures on airports, roads, and urban infrastructure were projected to climb from an approved \$783 million to nearly \$1.5 billion. According to the IMF only 3 percent of capital expenditures ultimately went to health and education in 2011, while 50 percent went to airports, roads, and urban infrastructure.<sup>103</sup>

The differences between approved and actual spending in the social sector were likely even wider in 2010. The law approved \$687.8 million, but by the end of March, only 7.4 percent of that had been spent and the revised projected total for the year was decreased

<sup>103</sup> IMF, Republic of Equatorial Guinea: 2012 Article IV Consultation Staff Report, p. 12.

by roughly a third to \$465 million. Education suffered in particular: \$123.7 million was approved for the sector, but by the end of March only 2.6 percent had been spent, and the revised projection for the year was \$43.8 million, approximately one-third the approved amount. On the other hand, as in 2011, the 2010 Budget Law approved \$756 million for spending on airports, roads, and urban infrastructure, but that number was projected to rise to nearly \$1.5 billion by the end of the year. Human Rights Watch was not able to obtain documents reflecting total PIP expenditures for 2010.

### *2014 to 2016 and the Looming Economic Crisis*

Only limited data is available on social spending for years subsequent to 2011. The IMF's 2016 Article IV report states that 14 percent of the investment budget was allocated to the social sector, a term it does not define, and it does not include data for actual expenditures, which in previous years fell far short of allocations.<sup>104</sup> In the first half of 2014 6.2 percent of the investment budget was allocated to health, education, and sanitation—totaling \$827 million out of a total investment budget of \$13.3 billion.<sup>105</sup> The IMF also notes that “current spending remains low ... with relatively low provisions for education and health.”<sup>106</sup>

A confidential 2016 government report written in collaboration with the World Bank includes budget information for the government's flagship multi-year health and education programs—“Education for All” and “Health for All”—although it is not clear which years or what portion of the total education budget these cover. According to the report, the government spent \$37 million on completed “Education for All” projects, with another \$1.18 billion worth of projects underway (and approximately the same amount allocated for future projects). The distribution of the spending, however, is in line with priorities of previous years: only 1 percent is dedicated to teaching and the rest to “access and infrastructure”—21 percent (\$262 million) to building and renovating preschools, primary, and secondary schools, and 64 percent for higher education (\$800 million).<sup>107</sup> The total

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<sup>104</sup> IMF, Republic of Equatorial Guinea: 2016 Article IV Consultation Staff Report, pp. 35-36. The social sector classification in the government's PIP budget includes health, education, housing, potable water, electricity, sports, and culture; it is unclear whether the IMF's use of the term reflects this classification.

<sup>105</sup> IMF, Republic of Equatorial Guinea: 2015 Article IV Consultation Staff Report, p. 12. Note that the execution rate for projects was only 39 percent and in previous year, social projects had lower execution rates than other sectors.

<sup>106</sup> *Ibid.*

<sup>107</sup> Ministry of Economy, Planning, and Public Investment, Asistencia Técnica para el Fortalecimiento de los Sistemas de Inversión Pública y Monitoreo al PNDES Horizonte 2020, Informe Annual 2016, p. 18 [on file with Human Rights Watch].

value of “Health for All” projects that have been completed or are underway, according to the report, was similarly \$1.23 billion (with another \$475 million planned).<sup>108</sup>

The 2015 and 2016 government budgets on file with Human Rights Watch together include actual expenditures for 2009 to 2014, as well as allocations for 2015 and 2016.<sup>109</sup> Given the poor classification system described previously in this report, their usefulness is mostly limited to comparing overall current and capital expenditures. Even though, as noted, current expenditures are broken down into around 180 line items, most descriptions are too vague or broad to categorize social spending. Based on Human Rights Watch’s calculation line items that explicitly relate to education make up 0.8 to 3.1 percent of current spending for 2009 to 2014, while the range for health is 1.8 to 3.6 percent.<sup>110</sup> The amended budget for 2015 and projected budget for 2016 were slightly above this range, with roughly 4 percent of current spending allocated to health and education each for both years, although actual spending on the social sector has often been less than allocated amounts.<sup>111</sup>

Government officials have pledged that the new phase of Horizon 2020 will dedicate more resources to the social sector. In May 2016 President Obiang said his “top priorities right now are health services and education.”<sup>112</sup> But there is a real risk that the impending economic crisis caused by low oil prices and slowing oil production will negatively impact government spending on these sectors. From January 2014 to 2015 the price of oil halved from \$100 per barrel to \$50, forcing the government to amend its 2015 budget. The cuts were wide-ranging, but the hardest hit item by far was university scholarships, which were slashed by 60 percent in 2015.<sup>113</sup> At the time the US-based Equatoguinean human rights organization EG Justice reported that students in Malabo and Bata peacefully protested the cuts, but the police dispersed them with tear gas. According to EG Justice, around 100

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<sup>108</sup> *Ibid.*, p. 22.

<sup>109</sup> The amended 2015 budget is on file with Human Rights Watch.

<sup>110</sup> The percentages for health spending are only slightly below what the World Bank reported in previous years: 3.1 percent of current expenditures in 2008 and 5.1 in 2004. World Bank, “Equatorial Guinea: Public Expenditure Review (PER),” January 2010, p. 92.

<sup>111</sup> According to the Equatoguinean organization Centro de Estudios Guineaecuatoorianos’ analysis of the 2015 amended budget, only 2.67% of current expenditures were allocated to health and 2.09% to education, [http://cesge.org/index.php?option=com\\_content&view=article&id=92:presupuesto-guinea-ecuatorial-2015&catid=41:economia&Itemid=56](http://cesge.org/index.php?option=com_content&view=article&id=92:presupuesto-guinea-ecuatorial-2015&catid=41:economia&Itemid=56) (accessed February 24, 2017).

<sup>112</sup> Talk Africa, Interview with Equatorial Guinea president Teodoro Obiang Nguema Mbasogo, May 29, 2016, <https://www.youtube.com/watch?v=qMfu-6RrVao> (accessed February 24, 2017).

<sup>113</sup> Equatorial Guinea, 2015 Amended Budget Law [on file with Human Rights Watch].

students were arrested, 56 of whom were detained for 10 days without charge. The Ministers of Education and National Security allegedly questioned some students about the political party behind their protests before police officers beat them with batons.<sup>114</sup>

## Spending on Unproductive Investments

The IMF has found that the outsized and opaque budgets for infrastructure projects have led not only to low social spending but also to excessive spending and investments with minimal development value. In 2013, for example, it noted that “costs and wastage have been high because of limitations in oversight and pressure for prestige projects.”<sup>115</sup> The following year it similarly concluded that “some of the largest projects have limited economic payoff.”<sup>116</sup> More specifically, it found: “The infrastructure investment program has also included projects with a weak impact on social indicators, including sports facilities and a new administrative capital city at Oyala.”<sup>117</sup>

The staggering amount of money that has poured into Oyala makes it a prime example of investments with dubious benefits. Equatorial Guinea’s official capital is Malabo, located on Bioko island, but the government operates six months a year out of Bata, the country’s largest city located on the mainland. To accommodate what are effectively dual capitals, the government built gleaming new buildings to house the various ministries in each city. Yet around five years ago, the government began to build a new capital city in the middle of the jungle, some 65 kilometers (40 miles) from the president’s hometown of Mongomo, in effect pouring billions of dollars into a third capital for a country with a population of around one million.

In a 2012 media interview Obiang cited security as the justification for building the new capital. He said that Malabo and Bata’s location on the water make him vulnerable to a coup.<sup>118</sup> According to the IMF’s 2015 report planned spending on Oyala was \$8 billion—making up almost a quarter of the total multiyear public infrastructure program budget of

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<sup>114</sup> EG Justice, “Crackdown of Peaceful Student Protestors,” April 7, 2015, <http://www.egjustice.org/post/crackdown-peaceful-student-protestors> (accessed February 24, 2017).

<sup>115</sup> IMF, Republic of Equatorial Guinea: 2012 Article IV Consultation Staff Report, p. 19.

<sup>116</sup> IMF, Republic of Equatorial Guinea: 2014 Article IV Consultation Staff Report, p. 4.

<sup>117</sup> *Ibid.*, p. 13.

<sup>118</sup> BBC, “Hardtalk,” December 19, 2012.

\$36 billion.<sup>119</sup> An unpublished draft of the IMF’s most recent report concludes that it is expected to account for half of all government expenditures in 2016.

This bias in favor of infrastructure has also led to inefficient health and education spending, according to the IMF and World Bank. Spending in these sectors is not only too low, it also disproportionately favors capital investments—such as hospital buildings, administrative offices, and university campuses—over current spending on items such as salaries and trainings for doctors and teachers, medicine, and textbooks. Out of a total planned multiyear public investment budget of \$36 billion, \$2.5 billion (7 percent) was allocated to health, education, and sanitation.<sup>120</sup> While the government has only executed a part of the planned projects, the IMF found that the bias in favor of infrastructure has led to uneven progress in health and education:

While development indicators that depend on infrastructure, e.g. access to water and electricity, have improved markedly, low overall spending on health and education delivery has led to vaccination and primary school completion rates that have fallen well short of the achievement of other SSA [sub-Saharan African] countries with much lower per capita incomes. In the face of significantly reduced oil revenues, the authorities need to shift limited resources to health and education sector [sic].<sup>121</sup>

This finding reflects past IMF and World Bank conclusions. In 2015 the IMF recommended that budget allocations be “overhauled” in line with development priorities, “notably health and education.”<sup>122</sup> The World Bank noted in 2010 that the government’s “current expenditures are insufficient to provide meaningful public social services.”<sup>123</sup>

The huge sums of money spent on infrastructure—and the paltry sums used for health and education—must also be viewed in the context of evidence indicating that government officials have amassed enormous wealth from public contracts.

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<sup>119</sup> IMF, Republic of Equatorial Guinea: 2015 Article IV Consultation Staff Report, p. 12.

<sup>120</sup> *Ibid.*, p. 12.

<sup>121</sup> IMF, Republic of Equatorial Guinea: 2016 Article IV Consultation Staff Report, p. 5. While access to water has improved in urban areas, it has declined in rural areas; as a result, national figures remain virtually unchanged since 2000. See notes 135 and 136.

<sup>122</sup> IMF, Republic of Equatorial Guinea: 2014 Article IV Consultation Staff Report, p. 12.

<sup>123</sup> World Bank, Equatorial Guinea Public Expenditure Review (PER), January 2010, p. 24.



### **III. The Human Cost of Underfunding Health and Education**

Ordinary Equatoguineans pay a heavy price for their government's failure to invest in health and education.

Equatorial Guinea was undoubtedly burdened by the legacy of extreme poverty and brutality of the Macías dictatorship, which ended 38 years ago but gutted the country's institutions and left it with few qualified doctors and teachers. This should have been all the more reason for the government to invest a significant part of its oil revenues in the social sector, particularly in health and education. While the country has improved on some key health indicators, such as maternal mortality rates, available education indicators show no significant improvements. On many health and education indicators Equatorial Guinea has merely kept pace with general improvements across the African continent, despite its massive resource advantage. Incredibly, some indicators, such as vaccinations and net primary school enrollment rates, have worsened since the start of the oil boom.

#### **Health**

##### *Health Data*

As noted above, Equatorial Guinea does not routinely collect or publish data on health or other indicators, complicating a comprehensive assessment of its performance. Yet a review of available data and estimates—from UN reports and a 2011 household survey—suggests that despite a massive increase in resources, progress on most health indicators has been limited and often falls below other, poorer countries in the region, and in some cases health indicators have actually worsened.

Indicator	Equatorial Guinea's Performance	Context
<b>Life expectancy</b>	57.6 (2014)	In 2014 Equatorial Guinea's life expectancy trailed the sub-Saharan African average of 58.6 years by 1 year, while it was slightly above the regional average in 1995 when the oil boom started. Average life expectancy in upper middle-income countries was 74.4 in 2014. <sup>124</sup>
<b>Human Development Index</b>	138 (2015)	Equatorial Guinea ranks 138 out of 188 countries, making it the country with the largest gap between its per capita wealth and the state of human development. Its score is almost identical to that of Ghana and Zambia, despite boasting a per capita income that is more than five times as high. <sup>125</sup>
<b>Infant mortality (per 1,000 births)</b>	65 (2011, DHS) <sup>126</sup> ; 68.2 (2015, WB) <sup>127</sup>	Equatorial Guinea's infant mortality rate has consistently been higher than the average for sub-Saharan Africa, decreasing at a similar pace as the rest of the continent. In 2015 the average for sub-Saharan Africa was 56.4 (World Bank) and 15.2 for upper middle-income countries. <sup>128</sup>
<b>Under-5 Mortality (per 1,000 births)</b>	113 (2011, DHS) <sup>129</sup> ; 94.1 (2015, WB) <sup>130</sup>	At the start of the oil boom, Equatorial Guinea's under-5 mortality was slightly lower than the average for sub-Saharan Africa, but since 2003 it has consistently failed to keep pace with regional progress. In 1995 its rate was estimated at 171.2 deaths per 1,000 births, compared to a sub-Saharan Africa average of 173.2; in 2015 World Bank data estimated 94.1 deaths per 1,000 births, compared to a region-wide average of 83.2. The household survey suggests the actual number is higher than World Bank projections. <sup>131</sup>

<sup>124</sup> Life expectancy statistics and regional averages estimated by World Bank, data available at World Bank DataBank, "Health Nutrition and Population Statistics," <http://databank.worldbank.org/data/reports.aspx?source=health-nutrition-and-population-statistics> (accessed December 1, 2016).

<sup>125</sup> United National Development Programme, "Human Development Report 2015," 2015, [http://hdr.undp.org/sites/default/files/2015\\_human\\_development\\_report\\_1.pdf](http://hdr.undp.org/sites/default/files/2015_human_development_report_1.pdf), (accessed December 6, 2016), p. 49.

<sup>126</sup> Ministerio de Sanidad y Bienestar Social (República de Guinea Ecuatorial), Ministerio de Economía, Planificación e Inversiones Públicas (República de Guinea Ecuatorial) and ICF International, "Equatorial Guinea Demographic and Health Survey 2011," 2012, p. 97, <http://dhsprogram.com/pubs/pdf/FR271/FR271.pdf> (accessed February 27, 2017).

<sup>127</sup> World Bank DataBank, "Health Nutrition and Population Statistics."

<sup>128</sup> United National Development Programme, "Human Development Report 2015," [http://hdr.undp.org/sites/default/files/2015\\_human\\_development\\_report\\_1.pdf](http://hdr.undp.org/sites/default/files/2015_human_development_report_1.pdf), (accessed December 6, 2016), p. 49.

<sup>129</sup> "Equatorial Guinea Demographic and Health Survey 2011," p. 97.

<sup>130</sup> World Bank DataBank, "Health Nutrition and Population Statistics."

<sup>131</sup> Under-5 mortality rate estimates developed by the UN Inter-agency Group for Child Mortality Estimation, data available at World Bank DataBank, "Health Nutrition and Population Statistics."

<b>Maternal Mortality (per 100,000 live births)</b>	308 (2011, DHS) <sup>132</sup> ; 342 (2015, WB) <sup>133</sup>	Equatorial Guinea's progress on this indicator has significantly outpaced that of the sub-Saharan African region. In 1995 Equatorial Guinea's rate of 1,050 deaths per 100,000 live births was among the worst in the region. By 2015 its rate was well below the average for sub-Saharan Africa (547), although still significantly higher than the average for upper middle-income countries (54). <sup>134</sup>
<b>Access to improved water (% of households)</b>	56% (2011, DHS) <sup>135</sup> ; 47.9% (2015, WB) <sup>136</sup>	The rate of access to improved drinking water in Equatorial Guinea has not improved over the last 20 years, hovering around 50% throughout that period. In 1995 Equatorial Guinea's score on this indicator was similar to the average for the sub-Saharan African region; by 2015 the regional average had increased to 67.6%, according to the World Health Organization (WHO). <sup>137</sup>
<b>% of infants between 12-23 months completely vaccinated</b>	27% (2011, DHS) <sup>138</sup>	Equatorial Guinea's vaccination rates for children have fallen dramatically since the late 1990s and are among the worst in the world. For example, the reported rate of tuberculosis vaccination for newborns and infants was 99 percent in 1997; 64 percent in 2014; and 35 percent in 2015, the last year for which data is available. <sup>139</sup>
<b>% of children under 2 that received no vaccines at all</b>	25% (2011, DHS) <sup>140</sup>	The percentage of children under two that have received no vaccines is among the highest in the region. For comparison, the rates were 5% in Cameroon (2011, DHS); 4% in Gabon (2012, DHS); 21% in Nigeria (2013, DHS); and 3% in São Tomé and Príncipe (2009, DHS). <sup>141</sup>

<sup>132</sup> "Equatorial Guinea Demographic and Health Survey 2011," p. 229.

<sup>133</sup> World Bank DataBank, "Health Nutrition and Population Statistics."

<sup>134</sup> Estimates developed by the WHO/UNICEF Joint Monitoring Programme for Water Supply and Sanitation, <http://www.wssinfo.org/>. Data available at World Bank DataBank, "Health Nutrition and Population Statistics."

<sup>135</sup> "Equatorial Guinea Demographic and Health Survey 2011," p. 11.

<sup>136</sup> World Bank DataBank, "Health Nutrition and Population Statistics."

<sup>137</sup> Estimates developed by the WHO/UNICEF Joint Monitoring Programme for Water Supply and Sanitation, <http://www.wssinfo.org/>. Data available at World Bank DataBank, "Health Nutrition and Population Statistics."

<sup>138</sup> "Equatorial Guinea Demographic and Health Survey 2011," p. 125.

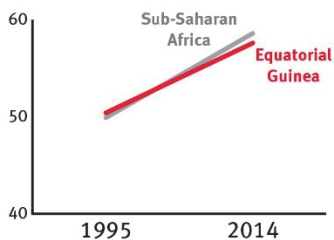
<sup>139</sup> World Health Organization, "WHO vaccine-preventable diseases: monitoring system. 2016 global summary: Equatorial Guinea," last updated December 1, 2016, [http://apps.who.int/immunization\\_monitoring/globalsummary/coverages?c=GNQ](http://apps.who.int/immunization_monitoring/globalsummary/coverages?c=GNQ) (accessed February 27, 2017).

<sup>140</sup> "Equatorial Guinea Demographic and Health Survey 2011," p. 128.

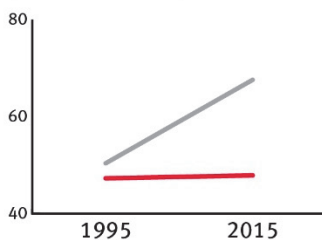
<sup>141</sup> Institut National de la Statistique (INS), Ministère de l'Économie de la Planification et de l'Aménagement du Territoire (République du Cameroun), Ministère de la Santé Publique (Yaoundé, Cameroun) and ICF International, "Cameroon Demographic and Health Survey 2011," 2012, <http://dhsprogram.com/pubs/pdf/FR260/FR260.pdf>, (accessed December 1, 2016), p. 140; Ministère de l'Économie, de l'Emploi et du Développement Durable (République Gabonaise), Ministère de la Santé (République Gabonaise), Direction Générale de la Statistique (Libreville, Gabon) and ICF International, "Gabon Demographic and Health Survey 2012," 2013, <http://dhsprogram.com/pubs/pdf/FR276/FR276.pdf>, (accessed December 1, 2016), p. 139; National Population Commissions (Federal Republic of Nigeria) and ICF International, "Nigeria Demographic

## Health Indicators

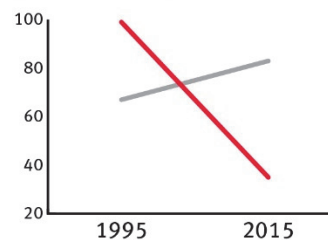
**Life expectancy**



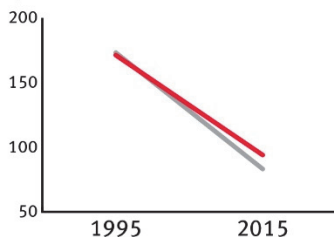
**Access to improved water source**  
(% of households)



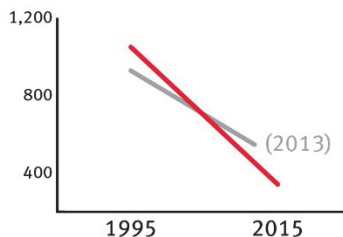
**Tuberculosis vaccination**  
(% of newborns)



**Under-5 mortality**  
(per 1,000 births)



**Maternal mortality**  
(per 100,000 births)



Sources: World DataBank, Health Nutrition and Population Statistics; WHO, African Health Observatory

The above data and estimates tell a clear story: Equatorial Guinea is an upper middle-income country that performs worse than many low-income countries on numerous key health indicators.

Nearly six in ten people die from communicable diseases or maternal, prenatal, or nutrition conditions.<sup>142</sup> Equatorial Guinea’s performance on vaccinations is illustrative of the failure of the government to invest in its population’s health. A senior employee of a humanitarian agency active in the country told Human Rights Watch that UNICEF supported Equatorial Guinea’s vaccination program in the 1990s, when the vaccination rate for polio and DPT was over 80 percent.<sup>143</sup> When oil money started filling the country’s coffers toward the end of that decade, UNICEF discontinued its financial support since the Equatoguinean

and Health Survey 2013,” 2014, <http://dhsprogram.com/pubs/pdf/FR293/FR293.pdf>, (accessed December 1, 2016); Instituto Nacional de Estatística (INE) (São Tomé e Príncipe), Ministério de Saúde (São Tomé e Príncipe) and ICF Macro, “São Tomé and Príncipe Demographic and Health Survey 2008-2009,” 2010, <http://dhsprogram.com/pubs/pdf/FR233/FR233.pdf>, (accessed December 1, 2016), p. 133.

<sup>142</sup> World Bank DataBank, “Health Nutrition and Population Statistics,” 2012.

<sup>143</sup> Human Rights Watch interview, senior employee of humanitarian agency, 2016.

government was supposed to step in. It did not, however. Between 1998 and 2000 vaccination rates for, among others, polio and DPT dropped to around 40 percent. Overall the rates have worsened since the start of the oil boom for every vaccine that the World Health Organization (WHO) tracks.<sup>144</sup>

In the last few years, after a slight recovery, vaccination rates declined further and fell dramatically from 2014 to 2015, the most recent year for which data is available. According to a 2011 household health survey, one quarter of children under 2 receive no vaccines at all and only one quarter of children received all recommended vaccinations.<sup>145</sup> The vaccination rate for tuberculosis in 2015 (35 percent) was the second-lowest rate in the world.<sup>146</sup> Measles vaccination similarly dropped from an 82 percent high in 1997 to 43 percent in 2014 to 26 percent in 2015. Even before this last 17-point drop in 2015, Equatorial Guinea had the second-worst rate in the world, besting only Central African Republic. Polio vaccination rates were the worst in the world at 27 percent in 2015, having fallen from a high of 64 percent in 1997; Somalia has the second worst rate at 42 percent. The decline in vaccination rates tracks the overall decline in Equatorial Guinea's economy, raising concerns about how expected continuing economic contraction may harm public health programs.

The government's failure to improve access to safe drinking water over the last 20 years is similarly egregious. While the lack of access is especially severe in rural areas, many neighborhoods in Malabo and Bata—the capital and economic center—also rely on contaminated water from wells or the river, creating tough choices for ordinary Equatoguineans. For example, Arturo, a father of two who lives in Malabo and works in an administrative position for an international agency, told Human Rights Watch that he cannot afford to boil the river water before drinking it: “We prefer to save the money to use the gas for cooking rather than [for] boiling water.”<sup>147</sup> The health risks of contaminated water and poor sanitation are particularly high for children. Researchers conducting a

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<sup>144</sup> For Equatorial Guinea's immunization coverage, see “WHO vaccine-preventable diseases: monitoring system. 2016 global summary: Equatorial Guinea.” For a comparison with all the countries the WHO tracks, see [http://apps.who.int/immunization\\_monitoring/globalsummary/timeseries/tscveragebcg.html](http://apps.who.int/immunization_monitoring/globalsummary/timeseries/tscveragebcg.html) (accessed February 27, 2017).

<sup>145</sup> “Equatorial Guinea Demographic and Health Survey 2011,” p. 128.

<sup>146</sup> “WHO vaccine-preventable diseases: monitoring system. 2016 global summary: Equatorial Guinea.” Sweden made a policy decision to only vaccinate certain groups of babies for tuberculosis resulting in the lowest rate.

<sup>147</sup> Human Rights Watch interview with Arturo (not real name), Malabo, 2016.

health survey in 2011 found that one in five children under five had experienced diarrhea in the two weeks prior to their visit and nearly one in three had had a fever.<sup>148</sup>

### *Lack of Access to Affordable Health Care*

Equatorial Guinea's government is obliged under international law to ensure access to healthcare services that are affordable to all. In practical terms credible efforts to meet this obligation are also an indispensable part of any successful government effort to progressively realize the right to health over time.<sup>149</sup> International human rights law is not prescriptive on how countries should achieve this, but the Committee on Economic, Social and Cultural Rights (CESCR), the body of independent experts that monitors implementation of the International Covenant on Economic, Social and Cultural Rights by states party to the convention, has clarified that:

Payment for health-care services, as well as services related to the underlying determinants of health, has to be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups. Equity demands that poorer households should not be disproportionately burdened with health expenses as compared to richer households.

Since 2005 the World Health Assembly has urged countries to introduce health financing systems that provide for “sharing risk among the population and avoiding catastrophic health-care expenditure and impoverishment of individuals as a result of seeking care.”<sup>150</sup> The Sustainable Development Goals, a UN-led universal call to action to end poverty, protect the planet, and ensure that all people enjoy peace and prosperity by 2030, call for the introduction of universal health coverage, which would ensure access to quality essential health services and protect patients against catastrophic health expenditure.<sup>151</sup>

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<sup>148</sup> “Equatorial Guinea Demographic and Health Survey 2011,” p. 135.

<sup>149</sup> See Section V. V. Equatorial Guinea's Human Rights Obligations.

<sup>150</sup> World Health Assembly (WHA) resolution 58.33, <http://apps.who.int/medicinedocs/documents/s21475en/s21475en.pdf> (accessed February 27, 2017).

<sup>151</sup> UN, “Sustainable Development Goals: Goal 3,” <http://www.un.org/sustainabledevelopment/health/> (accessed February 27, 2017).

## Equatorial Guinea's Health System

The Ministry of Health and Social Welfare oversees the administration of Equatorial Guinea's public health system. The ministry's budget is determined by the Ministry of Finance and Budget, although the Ministry of Planning and Development oversees the implementation of capital spending, which comprises most of the budget.

In 2009, the most recent year for which there is data, there were 45 publicly funded health centers, which provide basic medical services, and 18 hospitals (12 district; 4 provincial; and 2 regional). Rural areas are often served by smaller health posts, which are not necessarily staffed by doctors but can administer basic tests. Although public hospitals and health centers are generally the cheapest option for receiving health care, they still charge user fees, and research by Human Rights Watch indicates that the system does not provide for any mechanism to waive or reduce fees for the poor.<sup>152</sup>

The state also subsidizes employer-based social security insurance called INSESO (Instituto Nacional de Seguridad Social), which covers around 60,000 people.<sup>153</sup> INSESO operates its own network of hospitals and health centers and falls outside the purview of the Ministry of Health. The insured and their minor children receive 50 percent discounts to access INSESO's services, which reportedly provide better quality care than the public system. INSESO is funded through a combination of employer and employee contributions and public funds; its expenses make up a significant amount of the budget's current expenditures even though it covers a relatively small percentage of the population.<sup>154</sup>

There is no data on the extent of private health care use, but the World Bank in 2010 noted that "given the lack of public sector coverage, private sector involvement is extensive."<sup>155</sup> Many charge fees that are considerably higher than the public sector, putting them out of reach of most Equatorial Guineans. However, there are also lower-cost clinics that are funded by foreign aid; most are run by the Catholic church.

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<sup>152</sup> Human Rights Watch interviews with Mariana (not real name), doctor in General Hospital in Bata until 2015, Madrid, 22016; Alonso (not real name), doctor in private clinic formerly employed in General Hospital in Bata, Bata, 2016; Jimena and Sofia (not real names; joint interview), nurses in General Hospital in Malabo, Malabo, 2016; research director, EG Justice, 2016.

<sup>153</sup> World Bank, "Equatorial Guinea: Public Expenditure Review (PER)," January 2010, p. 91. There is no more recent available data.

<sup>154</sup> "There is a clear inequality in the health care coverage for INSESO's subscribers in comparison to the rest of the population since INSESO finances 43 percent of total recurrent health expenditure, which only benefits 60,000 members (or approximately 10 percent of the population) who therefore receive a higher per capita health expenditure than the rest of the population." Ibid.

<sup>155</sup> Ibid., p. 89.

Many of the doctors, nurses, and patients interviewed by Human Rights Watch said that those for whom the public option is too costly simply have no access to health care. A nurse at the General Hospital in Malabo said that even women in labor who cannot pay in advance will be turned away.<sup>156</sup> She recalled how one patient who had complications during childbirth that required treatment only available at La Paz Hospital, a publicly funded hospital discussed in more detail below, died after being unable to pay for the necessary medical care. Another nurse in the same hospital confirmed that they turn away patients every day because they are unable to pay, adding that some patients' conditions worsen while waiting for treatment and trying to get the money together.<sup>157</sup> Expressing her exasperation at the system, she said: "I would understand if this were a private hospital—but this is public!"

A doctor who worked in the General Hospital in Bata had the same experience: "If people [in critical condition] don't have money, they die," she said.<sup>158</sup> One interviewee told Human Rights Watch that when he is sick, he usually stays home because he doesn't have the money to pay.<sup>159</sup> He said that when he can afford it, he prefers a private clinic because he doesn't believe the General Hospital provides quality care. But, he added, a consultation at the clinic costs 7,000 CFA francs (US\$11.25). "If right now I had to pay that kind of money, I would die," he said, laughing incredulously.

The government has heavily invested in two modern, well-equipped hospitals that were built with public funds but charge fees that put them out of reach for most Equatoguineans. These two hospitals, the crown jewels of the country's health system, are in Malabo and Bata, both called La Paz, and are staffed almost entirely by foreigners.<sup>160</sup> Multiple sources told Human Rights Watch that the hospitals are privately owned but are at least partially government

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<sup>156</sup> Human Rights Watch interview with Jimena, nurse, Malabo, 2016.

<sup>157</sup> Human Rights Watch interview with Isabella (not real name), nurse, Malabo, 2016.

<sup>158</sup> Human Rights Watch interview with Mariana, doctor in General Hospital in Bata until 2015, Madrid, 2016.

<sup>159</sup> Human Rights Watch interview with Jose (not real name), private primary school teacher, Malabo, 2016.

<sup>160</sup> Human Rights Watch was unable to find official documentation regarding the full amount and extent of public funding, but government communications make clear that the hospitals were built with public money, and two medical staff there said they are paid by the government. Government Press, "The delegations attending the APU sessions visit Malabo and its surrounding areas," December 3, 2010, <http://www.guineaecuatorialpress.com/noticia.php?id=1133> (accessed February 27, 2017) and "The President of the Republic Visits the Infrastructure Works in the City of Malabo," October 5, 2010, <http://www.guineaecuatorialpress.com/noticia.php?id=939> (accessed February 27, 2017). Two medical staff at La Paz Malabo and a senior official at a humanitarian agency also said it was at least partially funded by the government. Human Rights Watch interviews, Malabo, 2016.



funded.<sup>161</sup> “The line between public and private health care—like for everything else—is very thin in Equatorial Guinea,” a senior employee of a humanitarian agency, told Human Rights Watch.<sup>162</sup> Two medical professionals at La Paz also described the hospital as private, although they said that the government pays their salaries.<sup>163</sup>

La Paz charges fees for services including delivery that make it unaffordable to most Equatoguineans, according to several people interviewed.<sup>164</sup> Patients who arrive at the emergency room at La Paz are expected to pay 30,000 CFA francs (US\$49) prior to service, a doctor who works in a private clinic in Bata told Human Rights Watch. One member of the medical staff at La Paz Malabo told Human Rights Watch that the hospital would not turn away urgent cases, such as trauma, even if they could not pay upfront, although they would still be billed. Non-emergency patients who cannot pay upfront are denied service at La Paz, they said.<sup>165</sup>

In some cases, the government apparently subsidizes payment for services at La Paz Hospital—a system that may help some patients but does not satisfy the requirement of equitable access under the right to health. Human Rights Watch was unable to determine how often and in which cases the government grants such letters. A number of people interviewed said that they were reserved for the politically connected. One medical staff member at La Paz said that he frequently receives patients with such letters, but most are either senior government officials or connected to them. He gave one example of a well-off foreign employee of a member of the presidential family receiving subsidized treatment.

A number of people who are not politically connected told Human Rights Watch that La Paz was only for the elite. When asked whether he had tried to request subsidized treatment at La Paz, a father who earns roughly \$300 per month and has two children who suffer from a

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<sup>161</sup> Human Rights Watch interviews with Geraldo (not real name), senior employee of a humanitarian agency, Malabo, 2016; Mariana, doctor in General Hospital in Bata until 2015, Madrid, 2016; Rafael and Daniel (not real names; separate interviews), medical staff at La Paz Malabo, Malabo, 2016; Jimena and Sofia (joint interview), nurses, Malabo, 2016.

<sup>162</sup> Geraldo also said that the health clinics Guadalupe in Malabo and Bata are publicly funded but privately owned by the First Lady.

<sup>163</sup> Human Rights Watch interviews with Rafael and Daniel (separate), medical staff at La Paz Malabo, Malabo, 2016.

<sup>164</sup> Fee amounts are based on interviews with doctors and patients because Human Rights Watch did not receive a response to letters requesting this information from La Paz Bata and Malabo. Human Rights Watch interviews with Geraldo, senior employee of a humanitarian agency, Malabo, 2016; Alonso, doctor in private clinic, Bata, 2016; Andres (not real name), school director, Bata, 2016; Cristian (not real name), Malabo, 2016; Diego (not real name), Malabo, 2016; Alphonso (not real name), Bata, 2016.

<sup>165</sup> Human Rights Watch Interview with Rafael, medical staff at La Paz Malabo, Malabo, 2016.

costly blood disorder said: “It’s a hospital that’s here, but we don’t consider it to be here,” he said. An elderly woman who has worked in government services since 2005 said that her family spent two years applying for such assistance for her grandchild, who has cerebral palsy and requires CT scanning only available at La Paz, but has yet to receive any help. “It depends on who you are, on whether you have government connections,” she said. Two people—including the La Paz staff member—said that in any case the government has stopped issuing or honoring these letters in recent years due to the economic crisis. Moreover, the barrier to accessing La Paz in Malabo is not only financial. Unlike the General Hospital, which is centrally located, La Paz is situated in an enclave of the island called Sipopo, which can be difficult to reach since it is separated from the city by a tollbooth and police checkpoint. The location reinforces the impression that the hospital was built to serve the elite rather than the broader community; besides a few houses belonging to the members of the president’s family, the enclave has no residential space for Equatoguineans.<sup>166</sup>

### *Inadequate Quality of Care*

Despite having vastly greater resources, Equatorial Guinea’s healthcare system continues to be troubled by many challenges that are common in low-income countries. The doctors, nurses, patients, and foreign professionals with whom Human Rights Watch spoke all stressed that poor quality of care is a major problem. Interviewees raised a lack of qualified staff, frequent misdiagnoses, long waits, and stock-outs of medicines and medical supplies as key concerns about the quality of care. According to the WHO, “a large part of ... health clinics [in rural areas] are not functional given the lack of personnel, equipment, and essential medicine required to provide effective services.”<sup>167</sup> The dismal health indicators described above would seem to bear this out.

Several of the people we interviewed said they were reluctant to seek treatment at the General Hospital in Bata or Malabo out of fear of being misdiagnosed, preferring to meet

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<sup>166</sup> For example, Sipopo is home to 52 luxury villas that the government built, along with a conference center and golf course, to house the heads of state when it hosted a week-long African Union summit in 2011. Government Press, “Inauguration of the City of Sipopo,” June 10, 2011, <http://www.guineaecuatorialpress.com/noticia.php?id=1643> (accessed February 27, 2017).

<sup>167</sup> WHO African Health Observatory, “Health System Outcomes: Equatorial Guinea,” [http://www.who.int/profiles\\_information/index.php/Equatorial\\_Guinea:Health\\_system\\_outcomes](http://www.who.int/profiles_information/index.php/Equatorial_Guinea:Health_system_outcomes) (accessed February 27, 2017).

the higher fees being charged by private clinics if they could afford them.<sup>168</sup> One doctor who works in a private clinic said he frequently sees patients who have been misdiagnosed at public hospitals. As an example he recounted a patient who was diagnosed at the General Hospital with liver cancer but turned out to have a liver abscess: “That’s the situation: the doctors [in the General Hospital] can’t tell the difference between liver cancer and an abscess,” the doctor said. Another doctor who works at La Paz Malabo said that when patients are transferred in critical condition from the General Hospital, he often thinks to himself that they would have been better off had they never been treated.<sup>169</sup>

Low salaries likely contribute to the inability of the public healthcare system to attract qualified staff. Interviewees said that local doctors are paid around 200,000 CFA francs (US\$322) monthly and nurses earn 120,000 CFA francs (US\$193).<sup>170</sup> In its 2010 Public Expenditure Review on Equatorial Guinea, the World Bank noted: “The low wages earned by public sector workers with medical training prompt young people in these professions to emigrate to other countries.”<sup>171</sup> Salaries for foreign staff—and particularly staff in La Paz Hospital Malabo—are significantly higher. One medical staff member there said he earns twice what he would earn in his home country, where the average monthly salary for his field is almost \$4,500.<sup>172</sup> He said that cleaners at the hospital make 150,000 CFA francs, or more than a nurse in a public hospital.

Several interviewees told Human Rights Watch that extremely—and sometimes dangerously—long wait times are common at the General Hospital in Malabo.<sup>173</sup> One interviewee who took his son who had typhoid and malaria to the General Hospital in Malabo told Human Rights Watch that he waited four hours for service.<sup>174</sup>

An obstetrician told Human Rights Watch of a tragic incident that had occurred the morning of our interview to illustrate the conditions of the public hospital system. A

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<sup>168</sup> Human Rights Watch interviews with Jose (not real name), teacher, Malabo, 2016; Cristian (not real name), teacher, Malabo, 2016; Alphonso (not real name), teacher, Bata, 2016.

<sup>169</sup> Human Rights Watch Interview with Daniel, medical staff at La Paz Malabo, Malabo, 2016.

<sup>170</sup> Human Rights Watch interview with Isabella, nurse, Malabo, 2016; Interview with Mariana, doctor in General Hospital in Bata until 2015, Madrid, 2016.

<sup>171</sup> World Bank, “Equatorial Guinea: Public Expenditure Review (PER),” January 2010, p. 88.

<sup>172</sup> Human Rights Watch interview with Daniel, medical staff at La Paz Malabo, Malabo, 2016.

<sup>173</sup> Human Rights Watch interviews with Mariana, doctor in General Hospital in Bata until 2015, Madrid, 2016; Isabella, nurse in General Hospital, Malabo, 2016; Andres, school director, Malabo, 2016; Diego (not real name), Malabo, 2016.

<sup>174</sup> Human Rights Watch interview with Diego, teacher, Malabo, 2016.

pregnant woman named Maria had come to his private clinic the previous night, after she had already been in labor for more than a day. She had never been to a prenatal check-up and did not know if she was full term. She began the delivery at home with a mid-wife, but had complications, so the mid-wife sent Maria to the General Hospital in Bata, Equatorial Guinea’s largest city. There, she waited all day but did not see a doctor, he said. When she left after the hospital closed and came to the doctor’s clinic, it was already too late. Her baby died in the morning, hours after delivery.<sup>175</sup>

## Education

The physical condition of many schools in Equatorial Guinea—from crumbling buildings overcrowded with student benches to unsanitary facilities and a lack of drinking water—is a visible symptom of the government’s neglect of the sector. But the problems in the sector go far deeper: high rates of children who never started school, dropped out, or had to repeat multiple grades; unaffordability of even primary education; and low rates of teacher certification, etcetera. Some education indicators, such as rate of children not enrolled in primary school, have in fact deteriorated since the start of the oil boom.

Under international human rights law, Equatorial Guinea’s government is obliged to provide free primary education and to progressively realize the right to education more broadly—meaning an improvement over time in the availability and quality of education.<sup>176</sup> Available data suggest that Equatorial Guinea has not met its minimum obligations despite its vast oil wealth. Interviews with teachers, parents, students, and educational specialists reinforce that view and offer insight into the human cost of that reality.

A telling sign about the poor quality of public schools is how assiduously parents try to avoid them. According to a 2015 government report to UNESCO, more than half of students attend private schools.<sup>177</sup> The report does not offer any reasons for this. One parent told Human Rights Watch that he sent his children to private schools even though he could not even afford to use cooking gas to boil drinking water at home.<sup>178</sup>

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<sup>175</sup> Human Rights Watch Interview with Alonso, doctor in private clinic, Bata, 2016.

<sup>176</sup> See Section V. V. Equatorial Guinea’s Human Rights Obligations.

<sup>177</sup> República de Guinea Ecuatorial, Ministerio de Educación y Ciencia, “Guinea Ecuatorial, Revisión Nacional 2015 de la Educación para Todos,” p. 9, <http://unesdoc.unesco.org/images/0023/002317/231718s.pdf> (accessed February 27, 2017).

<sup>178</sup> Human Rights Watch interview with Arturo (not real name), Malabo, 2016.

## Equatorial Guinea's Education System

Equatorial Guinea's education system is divided into three levels—pre-school, primary, and secondary—each of which lasts six years. Pre-school begins with nursery for one- to three-year-olds and transitions to kindergarten for children aged four to six. Children begin primary school at age 7 and are expected to graduate at 12. Students who achieve a Primary Studies Certificate may go on to secondary school (also called high school), while those who do not successfully complete their primary school exams have the option of pursuing vocational training. After graduating from secondary school students must take preparatory courses before applying to the National University of Equatorial Guinea, the country's sole university.

The Ministry of Education, Science and Sport is responsible for administering the public education system. A 2007 law makes pre-school and primary school compulsory and free. In reality, high percentages of students are too old for their grade, many drop out or never enroll, and all educators and parents interviewed told Human Rights Watch that schools charged fees. More than half of students attend private schools.

### *Missing Children and Repetition*

In 2012, the most recent year for which UNESCO has data on the country, 42 percent of children age 7 to 12 were not in primary school, the seventh worst rate in the world.<sup>179</sup> This is worse than before 2000, prior to the onset of oil wealth, when 33 percent of primary school age children were out of school.<sup>180</sup> Many children were never enrolled in primary school, and only half of those enrolled complete it. Remarkably the highest dropout rate is after first grade: in 2011, 12 percent of children left school after first grade and never re-enrolled, according to UNESCO.<sup>181</sup> Another 24 percent repeated first grade, so that only about two-thirds of the class moved on to second grade.<sup>182</sup>

While highest for first graders dropouts and repetition remain problems at every level. This, combined with late starts to education, means that the ages in any given class can vary widely. In 2015 only 56 percent of primary school students were in the correct grade

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<sup>179</sup> Reuters, "Liberia Tops UNICEF Ranking of 10 Worst Countries for Access to Primary School," September 1, 2016, <http://www.reuters.com/article/us-africa-education-idUSKCN1173PE> (accessed February 27, 2017).

<sup>180</sup> UNESCO data accessed via FHI360, Education Policy and Data Center (EPDC), <http://epdc.org/country/equatorialguinea> (accessed March 6, 2017).

<sup>181</sup> UNESCO data via FHI360, EPDC, <http://epdc.org/country/equatorialguinea> (accessed March 6, 2017).

<sup>182</sup> *Ibid.*

for their age—a 10 percent decline from 2000.<sup>183</sup> “In first grade, you can find kids ranging from 6 to 13 or 14. How do we deal with this?” Ignacio, an expatriate who is an education specialist working in the country, told Human Rights Watch.<sup>184</sup> Secondary school, which begins in the seventh grade, fares even worse, based on the little data available: less than one-quarter of secondary students are in the correct grade for their age.<sup>185</sup>

As Ignacio noted, the sad state of education is particularly unfortunate since the small size of the country’s population means that even a modest investment would go a long way. For example, the total number of out-of-primary-school children in 2012 was 45,885.<sup>186</sup> “You can practically fit them in one school bus,” he joked. Yet the government “has never invested in education in a substantial way, even though they could do it with pocket change.”<sup>187</sup>

### *Overcrowding and Dilapidated Schools*

The physical condition of schools is often a barrier to learning; 332 of 857 schools have no latrines at all, according to a 2015 government report to UNESCO, and 600 lack electricity.<sup>188</sup>

The development plan makes investment in educational infrastructure a priority, but, as discussed in the previous section, most funds are diverted to higher education.<sup>189</sup>

Seventy or eighty students per class was common in public high schools, a former public high school teacher, Cristian, said. Another teacher, Diego, told Human Rights Watch he once had 105 students in a class.<sup>190</sup>

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<sup>183</sup> Ibid.

<sup>184</sup> Human Rights Watch phone interview with Ignacio (not real name), education specialist, September 16, 2016.

<sup>185</sup> UNESCO data via FHI360, EPDC, <http://epdc.org/country/equatorialguinea> (accessed March 6, 2017).

<sup>186</sup> UNESCO Institute for Statistics, Equatorial Guinea: Education and Literacy, <http://uis.unesco.org/country/gq> (accessed April 12, 2017).

<sup>187</sup> Human Rights Watch phone interview with Ignacio (not real name), education specialist, September 16, 2016.

<sup>188</sup> República de Guinea Ecuatorial, Ministerio de Educación y Ciencia, “Guinea Ecuatorial, Revisión Nacional 2015 de la Educación para Todos,” p. 9.

<sup>189</sup> See footnote 107.

<sup>190</sup> Human Rights Watch interview with Diego, teacher, Malabo, 2016.



A bathroom at the high school, where there is no running water. ©2016 Human Rights Watch

Human Rights Watch visited both a recently renovated middle school and a high school that was in very poor condition. In the high school classrooms were tightly packed with around 40 to 50 double benches, and the ceiling panels were completely torn. There was no running water in the bathrooms; cobwebs covered the sinks and the latrines and floors were covered in excrement. There was no running water in the bathrooms; cobwebs covered the sinks and the latrines and floors were covered in excrement. The middle school had around 30 double benches per classroom and running water in the bathrooms. Human Rights Watch also visited a private primary school in Malabo. Conditions were somewhat better than at the public high school. Classrooms held around 25 double benches. There was no running water in the bathrooms, but they were clean and water was available in a well just outside the bathroom for washing hands.

### *Poor Teacher Training and Low Pay*

A number of teachers whom Human Rights Watch interviewed—all of whom worked in both public and private schools at some point—blamed the high dropout and repetition rates partly on low teacher pay, lack of accountability in schools, and minimal or no training. Teachers interviewed by Human Rights Watch said that salaries were so low and training so poor that teachers lack both the motivation and skills to meet the challenges of overcrowded classrooms, and the absence of any system of accountability exacerbates the problem. “If a student ends up with a teacher who doesn't have training, he's lost,” one public middle school teacher, Alphonso, said.<sup>191</sup>

Hernando, 19, who recently graduated from high school and transferred from a private to a public high school after his family moved out of Bata, described his experience:

First of all, many times the teachers didn't even show up. There were 70 kids in my class compared to around 30 in private school. There were no textbooks. The teacher had the book, used it to write on the board, and the class would copy it down. If you want to correct your work, you can. If not, not. They don't care at all.<sup>192</sup>

A low level of teacher training undermines the quality of education. A government report states that 59 percent of teachers have a professional degree, and, according to UNESCO, 49

percent of primary school teachers have training.<sup>193</sup> Alphonso said that he is among 5 of 13 teachers in his middle school who are certified.<sup>194</sup>

Both according to the international data and an education specialist interviewed by

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<sup>191</sup> Human Rights Watch interview with Alphonso (not real name), Bata, 2016.

<sup>192</sup> Human Rights Watch interview with Hernando, Bata, 2016.

<sup>193</sup> República de Guinea Ecuatorial, Ministerio de Educación y Ciencia, “Guinea Ecuatorial, Revisión Nacional 2015 de la Educación para Todos.”

<sup>194</sup> Human Rights Watch interview with Alphonso, Bata, 2016.



Human Rights Watch, there has been an improvement in teacher training since 2008, when a study found that only 30 percent of primary school teachers had the requisite training.<sup>195</sup>

But the extent and quality of training is also a problem. The same study found “that a high ratio [of teachers] had problems with written expression, spelling, and penmanship.”

Improved training is largely due to a program called el Programa de Desarrollo Educativo de Guinea Ecuatorial (PRODEGE), which is jointly funded by the oil company Hess and the government and fully implemented by US-based NGO FHI 360. Hess and the government contributed \$50 million toward the program (Hess pays the full amount and deducts it from what it owes to the government).<sup>196</sup> The ten-year program, which began in late 2006, has trained nearly 1,000 of around 3,500 primary school teachers during its first phase; its second phase focuses on secondary education.<sup>197</sup>



A classroom at an urban public high school. Each classroom held around 40 double benches. Teachers told Human Rights Watch that classes commonly had 70 to 80 students; one said he had 105 students in a class he taught the previous year. The teachers said that the physical conditions of the school were typical and that some schools, particularly in rural areas, fare worse. © 2016 Human Rights Watch

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<sup>195</sup> World Bank, “Equatorial Guinea: Public Expenditure Review (PER),” January 2010, p. 63.

<sup>196</sup> Human Rights Watch phone interview with John Gillies, Director of Global Learning, FHI360, September 16, 2016.

<sup>197</sup> Ibid. Total number of primary school teachers: FHI360, EPDC, [http://epdc.org/country/equatorialguinea/search?school\\_level=81-49-47-151-82-53-59-113-50-48-118-122-150-114-83-138-139-140-141-142-143-144-145-146-147-221-222-223-224-225-227-228-229-230&indicators=648-835-718-653-636-655&subnational=0&year\\_from=2010&year\\_to=2016](http://epdc.org/country/equatorialguinea/search?school_level=81-49-47-151-82-53-59-113-50-48-118-122-150-114-83-138-139-140-141-142-143-144-145-146-147-221-222-223-224-225-227-228-229-230&indicators=648-835-718-653-636-655&subnational=0&year_from=2010&year_to=2016) (accessed March 6, 2017).

While the educators with whom Human Rights Watch spoke about PRODEGE generally had a positive view of the program, some also said they found it troubling that this is the only well-resourced government education program since its model is unsustainable: the program ends in 2017 and there are no plans to continue it.<sup>198</sup>

### *Costs*

Equatorial Guinea's National Education Act mandates that public schools be free, in line with the government's human rights obligations. However, all educators and parents Human Rights Watch interviewed said that students are required to pay fees for enrollment, although the amounts they gave varied widely. The reason for the variation may be that the official cost is lower than what officials actually charge, Clara, an education specialist active across the country, told Human Rights Watch, and the amounts they demand can vary between schools.<sup>199</sup> Although Human Rights Watch was unable to verify fee amounts, a number of teachers Human Rights Watch interviewed believe that high school fees, particularly in secondary schools, contribute to high dropout rates.<sup>200</sup>

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<sup>198</sup> Human Rights Watch interview with Clara, Bata, 2016. John Gilies, Director of Global Learning, FHI 360, confirmed in an email to Human Rights Watch, November 28, 2016, that there were no plans to continue the program passed 2017.

<sup>199</sup> Human Rights Watch interview with Clara, Bata, 2016.

<sup>200</sup> Human Rights Watch interviews with Cristian, Malabo, 2016 and Diego, Malabo, 2016.

## IV. Self-dealing in Infrastructure Projects

The paltry resources Equatorial Guinea invests in its health and education systems can be partly explained by its unusually high spending on infrastructure, which consumes nearly all of its oil revenues, as documented in Section II of this report. Human Rights Watch findings suggest that such massive spending on infrastructure has led to corruption and at least some of those public funds have found their way into the pockets of top government officials and their relatives who own businesses that benefit richly from these public contracts.

In the five years between 2009 and 2013 Equatorial Guinea spent around US\$20 billion on infrastructure projects, or an average of around \$4 billion annually.<sup>201</sup> In contrast, neighboring Gabon, population 1.62 million with a similar overall GDP, earmarked \$1 billion for infrastructure in its 2015 budget.<sup>202</sup> Put another way, Equatorial Guinea spent around one-third of its GDP on infrastructure projects between 2008 and 2013, which is three times the regional average.<sup>203</sup>

Equatorial Guinea has inadequate laws regulating conflicts between government officials' private interests and public duties, and the enforcement of existing conflict of interest laws are at best spotty, as discussed in Section V of this report. In addition the procurement process for government contracts is informal and opaque. Local content laws require that a minimum 35 percent of all companies operating in the country be owned by Equatoguineans; these types of laws seek to ensure that domestic businesses benefit from investments by multinational businesses, but in Equatorial Guinea they seem to have fueled corruption and self-dealing. This section examines how the legal environment and opaque management of public finances provide fertile ground for foreign businesspeople to partner with powerful officials, whose companies may only exist on paper but who use their influence to secure large government contracts from which they profit. In addition, it appears that it frequently leads to inflated contract prices and approval for projects with

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<sup>201</sup> Based on Human Rights Watch calculations of general budget documents on file.

<sup>202</sup> Stevie Mounombou, "Loi de finances rectificative 2015 : Un budget de 2 651,2 milliards de francs," *Gabon Review*, April 13, 2015. <http://gabonreview.com/blog/loi-de-finances-rectificative-2015-un-budget-de-2-6512-milliards-de-francs/> (accessed February 27, 2017).

<sup>203</sup> World Bank, "Equatorial Guinea: Public Expenditure Review (PER)," January 2010, p. viii.



Equatorial Guinea has invested hundreds of millions of dollars in building highways, but most residential areas, even in the capital, remain unpaved. Rains often leave large pools of water on the unpaved roads, making driving difficult for residents. On the right is one of such residential neighborhoods in Malabo. On the left, is a six-lane highway leading to Sipopo, a €580 million enclave built in 2011 for the African Union Summit. Facilities in Sipopo are being used largely by visiting foreign dignitaries, expatriates at the enclave’s hospital, and military personnel. The villas in the background are among the 52 built for the use of each African head of state during the summit. (Left: © 2011 David Lewis/Reuters; Right: © 2016 Human Rights Watch)

little social value that are causing the wasteful diversion of resources away from the neglected social sector, which includes health and education.

Equatorial Guinea’s massive investment in public infrastructure has succeeded in transforming the physical landscape of the country to lay the groundwork for a modern economy. Prior to the oil boom the country had just 60 kilometers of paved road; it now has a road network of more than 2,000 kilometers across the country.<sup>204</sup> The government also built three new airports and modernized the two existing ones in Malabo and Bata, and extended eight seaports. Some investment went toward health and education: the government constructed or rehabilitated 62 primary schools and 65 health clinics and hospitals in the last decade.<sup>205</sup>

But this achievement does not mitigate the waste resulting from conflicts of interest and an opaque procurement process documented in this section, nor does it justify the

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<sup>204</sup> Republic of Equatorial Guinea, Ministry of Economy, Planning and Public Investment, “EG’s Strategic Plan: Horizon 2020,” <http://www.egindc.com/presentations/8-8-14/6.pdf> (accessed March 1, 2017).

<sup>205</sup> IMF, Republic of Equatorial Guinea: 2016 Article IV Consultation Staff Report, p. 35.

related neglect of health and education. Indeed, the IMF, World Bank, and others have repeatedly found that the impact of the infrastructure investments on improving social indicators and diversifying the economy is impeded by “deep-seated deficiencies in public financial management.”<sup>206</sup>

This section examines the pernicious self-dealing in Equatorial Guinea’s infrastructure sector. Court cases and other official documents reveal an extensive record of mismanagement and corruption in the sector involving enormous sums of public money that directly contribute to the government’s chronic and extreme underfunding of health and education. However, self-dealing is by no means limited to the infrastructure sector and appears to be deeply rooted in Equatorial Guinea’s political and financial systems. A 2009 US State Department cable made public by WikiLeaks explains what it calls Equatorial Guinea’s “peculiar financial management mechanisms” as a legacy of the government not having sufficient resources to pay salaries. Citing the Equatoguinean treasurer who served until 1993, the cable says that the government often compensated officials with “in-kind transfers” in the form of seized land, operating licenses, and import concessions. Officials were also only expected to work three days a week, and to devote the remainder of their time to earning a living. When oil revenues began to flow, this mix of official and private business proved enormously lucrative. According to the cable:

Most ministers continue to moonlight and conduct businesses that often conflate their public and private interests. The custom of simultaneously maintaining both official and private activities that became entrenched in the era of skinny cows has not been altered for the fat ones.<sup>207</sup>

## International Corruption Investigations

Equatoguinean officials have been under frequent scrutiny and investigation for money laundering and corruption, including in the US, Spain, France, and Switzerland. The findings of these investigations offer an invaluable window into the government’s financial system and high-level officials’ business dealings.

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<sup>206</sup> IMF, Republic of Equatorial Guinea: 2012 Article IV Consultation Staff Report, p. 15.

<sup>207</sup> US State Department Cable from US Embassy in Malabo, “Equatorial Guinea Raw, Paper 4: The Business of Corruption,” March 12, 2009.

### *US Senate Investigation and Spanish Criminal Case*

A subcommittee of the US Senate conducted one of the first investigations in 2003, when it scrutinized a Washington, DC bank for compliance with US money-laundering statutes. Equatorial Guinea was the largest client of Riggs Bank, which, between 1995 and 2004, operated 60 accounts belonging to the government, officials, and family members worth as much as \$700 million.<sup>208</sup> Withdrawals from an account that held deposits from American oil companies active in Equatorial Guinea (primarily ExxonMobil and Marathon) required the signature of President Obiang and either his son, Minister of Mines Gabriel Obiang Lima, or his nephew, Secretary of State for Treasury and Budget Melchor Esono Edjo.<sup>209</sup> Obiang was the sole signatory on two investment accounts, which were linked to a money market account from which any of these three individuals could authorize withdrawals. Between 2001 and 2004, these three accounts had combined balances of up to \$500 million.<sup>210</sup>

In 2004 the US Senate Permanent Subcommittee on Investigations concluded that Riggs Bank approved more than \$35 million in wire transfers from the government account into the accounts of two companies, Kalunga Co. and Apexside Trading, and the committee stated it had “reason to believe that at least one of these recipient companies is controlled in whole or in part by the E.G. President.”<sup>211</sup> The report found other suspicious transfers and unexplained large cash deposits into officials’ personal accounts. It also found that US oil companies made payments into a student scholarship fund, but “[m]any and perhaps all of these students were the children or relatives of E.G. officials.”<sup>212</sup> The US government imposed a \$25 million fine on Riggs Bank for “willfully violating its legal obligations to implement an adequate anti-money laundering program.”<sup>213</sup> The bank subsequently closed and merged with PNC Financial Services.

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<sup>208</sup> US Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs, *Money Laundering and Foreign Corruption: Enforcement and Effectiveness of the Patriot Act – Case Study Involving Riggs Bank* [US Senate Riggs Bank report], July 15, 2004, p. 38.

<sup>209</sup> *Ibid.*, p. 41.

<sup>210</sup> *Ibid.*, p. 43. See also Second Amended Complaint, *US v. One White Crystal-Covered “Bad Tour” Glove and Other Michael Jackson Memorabilia* (C.D. Cal. June 11, 2012), p. 10.

<sup>211</sup> US Senate Riggs Bank report, 2004, p. 3.

<sup>212</sup> Note that the US Senate report did not accuse any of the oil companies providing the scholarships of wrongdoing, nor did US law enforcement authorities. *Ibid.*, p. 104.

<sup>213</sup> *Ibid.*, p.17.

An investigation by a Spanish human rights organization, Asociación Pro Derechos Humanos de España (APDHE), found that at least five of the transfers from government accounts at Riggs Bank into the Kalunga account closely coincided with nine real estate purchases in Madrid, Gijón, and Las Palmas de Gran Canaria in the Canary Islands on behalf of Obiang, members of his family, and other close associates.<sup>214</sup> A total of \$26.5 million was deposited into the Kalunga account at Banco Santander from 2000 to 2003.<sup>215</sup>

In May 2008 APDHE filed a criminal complaint against 11 senior Equatoguinean government officials and family members in Spanish court for alleged money laundering. As part of the investigation, Spanish authorities arrested Vladimir and Julia Kokorev and their son Igor, who they allege registered Kalunga and opened its accounts as a front company for government officials.<sup>216</sup> Officials allege that the couple transferred large amounts of money from their accounts into those of senior Equatoguinean government officials, for example a \$2 million transfer to Fausto Abeso Fuma, Obiang's son-in-law and the aviation minister.<sup>217</sup>

The government press responded to these allegations as “unfounded” and “part of the usual attitude of many Western media and institutions, of denigrating and humiliating the African continent and leaders.”<sup>218</sup>

### *Teodorin Corruption Cases*

The outrageous spending habits of Obiang's eldest son, Teodoro Nguema Obiang Mangue (known as Teodorin), have made him a target of several international money-laundering investigations. Teodorin was appointed vice president in June 2016.<sup>219</sup> Many believe he is a favorite to succeed his father as president.

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<sup>214</sup> Criminal Complaint filed by Asociación Pro Derechos Humanos de España (APDHE), October 22, 2008, available at <https://www.opensocietyfoundations.org/litigation/apdhe-v-obiang-family> (accessed February 27, 2017).

<sup>215</sup> *Ibid.*, p. 9; see also US Senate Riggs Bank report, 2004, p. 54-55.

<sup>216</sup> José María Irujo, “The long hunt for the Kokorevs,” *El País*, September 23, 2015, [http://elpais.com/elpais/2015/09/23/inenglish/1443001757\\_417136.html](http://elpais.com/elpais/2015/09/23/inenglish/1443001757_417136.html) (accessed February 27, 2017).

<sup>217</sup> *Ibid.*

<sup>218</sup> Government Press, “Russia Condemns the False Information of Some Spanish Newspapers,” May 9, 2012, <http://www.guineaecuatorialpress.com/noticia.php?id=2626> (accessed February 27, 2017).

<sup>219</sup> Government Press, “Presidential Decree Naming Vice-President of the Council of the Republic,” June 22, 2016 <http://www.guineaecuatorialpress.com/noticia.php?id=8024> (accessed May 16, 2017).

## Corruption Allegations in the United States

Between 2004 and 2010, Teodorin, at the time a minister of forestry and agriculture and earning a salary of under \$100,000 a year, went on a \$110 million US shopping spree, purchasing a mansion in Malibu, California, a Gulf Jetstream airplane, a fleet of luxury cars, and, famously, a \$1 million assortment of Michael Jackson memorabilia including the white crystal-covered glove the pop star wore on his “Bad” tour.<sup>220</sup> The purchases set off alarm bells among US anti-money-laundering authorities, and in 2010 the US Senate Permanent Subcommittee on Investigations published a report detailing its reasons for believing they were bought with ill-gotten gains. The following year the US Department of Justice’s (DOJ) Anti-Kleptocracy Initiative filed a complaint to seize \$70.8 million worth of these assets, alleging that they were bought with the proceeds of foreign corruption in violation of US law.<sup>221</sup>

Interviews conducted over the course of the DOJ’s investigation offer a revealing window into how Teodorin used his official position to extort millions of dollars in “taxes” and kickbacks. The DOJ ultimately settled the case after Teodorin agreed to forfeit \$30 million in assets, which “will be given to a charitable organization to be used for the benefit of the people of Equatorial Guinea.”<sup>222</sup> Human Rights Watch research indicates that the money has yet to be distributed.

Rather than initiate its own investigation in the face of overwhelming evidence of Teodorin’s corrupt activities, the Equatorial Guinean government issued a statement condemning the US Senate report as “racist, xenophobic, arrogant, and segregationist.” It defended Teodorin by claiming that under Equatorial Guinean law, government ministers “are perfectly authorized to conduct business and other types of work on the margins of

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<sup>220</sup> US Senate Riggs Bank report, 2004, pp. 20, 97. See also Second Amended Complaint, *US v. One White Crystal-Covered “Bad Tour” Glove and Other Michael Jackson Memorabilia* (C.D. Cal. June 11, 2012), p. 20 and Attachment A-1.

<sup>221</sup> US Department of Justice, “Department of Justice Seeks to Recover More Than \$70.8 Million in Proceeds of Corruption from Government Minister of Equatorial Guinea,” October 25, 2011, <https://www.justice.gov/opa/pr/departement-justice-seeks-recover-more-708-million-proceeds-corruption-government-minister> (accessed February 27, 2017).

<sup>222</sup> US Department of Justice, “Second Vice President of Equatorial Guinea Agrees to Relinquish More Than \$30 Million of Assets Purchased with Corruption Proceeds,” October 10, 2014, <https://www.justice.gov/opa/pr/second-vice-president-equatorial-guinea-agrees-relinquish-more-30-million-assets-purchased> (accessed February 27, 2017).



their ministerial obligations.”<sup>223</sup> In court, Teodorin argued that anti-corruption laws that prohibit self-dealing by a “funcionario público” (or government official) apply only to civil servants and not to senior government officials.<sup>224</sup>

### Corruption Allegations in France and Switzerland

During the same years as his US spending spree Teodorin allegedly spent €175 million (US\$189 million at current exchange rate) in France on a mansion on the exclusive Avenue Foch in Paris, a collection of 26 luxury cars and 8 motorcycles, high-end art, luxury designer goods, hotels, and vintage wines.<sup>225</sup> Two French nongovernmental organizations, Transparency International France and Sherpa, filed a criminal case against Teodorin in 2008, alleging he had violated France’s anti-money-laundering laws. The three judges presiding over the case indicted Teodorin in March 2014, and two years later they ruled

that there was sufficient evidence for Teodorin to stand trial.<sup>226</sup> The trial, initially scheduled for January 2, 2017, has been set for June 19, 2017.

The case documents are sealed, but Human Rights Watch and the media were able to obtain some information related to the charges. The judicial decision ordering Teodorin to stand trial alleges that between 2004 and 2011, nearly €110 million (US\$119 million at current exchange rate) was transferred from the public treasury into accounts held by Teodorin. In particular, it alleges he used his forestry and construction companies, SOMAGUI, SOGAGE, and EDUM, to funnel money to France, although funds for many of the larger expenses passed through five Swiss companies established for that purpose.

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<sup>223</sup> Office of the Government Spokesperson, “The Government of Equatorial Guinea Regarding the Information Featured in the International Press about the Report, ‘Keeping Foreign Corruption Out of the United States: Four Case Histories,’” February 15, 2015.

<sup>224</sup> Claimant Motion to Dismiss Complaint for Forfeiture *In Rem*, p. 29, *US v. One Gulfstream G-V Jet Aircraft* (January 23, 2012, Case 1:11-cv-01874-ABJ). The Spanish authors of a leading criminal law treatise and a Spanish-English legal dictionary testified that the correct translation of “funcionario público” is “government official,” and would undoubtedly apply to members of government. Exhibit A, *Ibid*.

<sup>225</sup> Source document on file with Human Rights Watch. See also Simon Piel and Joan Tilouine, “‘Biens Mal Acquis’ : les dépenses astronomiques de Teodorin Obiang,” *Le Monde*, May 27, 2016, [http://www.lemonde.fr/afrique/article/2016/05/27/bien-mal-acquis-les-depenses-astronomiques-de-teodorin-obiang\\_4927959\\_3212.html](http://www.lemonde.fr/afrique/article/2016/05/27/bien-mal-acquis-les-depenses-astronomiques-de-teodorin-obiang_4927959_3212.html) (accessed February 27, 2017).

<sup>226</sup> For a timeline of the case see Transparency International France, “Biens mal acquis : les dates clefs pour comprendre,” March 2007, <https://transparency-france.org/project/biens-mal-acquis-dates-clefs-comprendre-2/> (accessed February 27, 2017). See also William Bourdon, Transparency International, “The legal right to fight corruption in France,” September 9, 2016, [https://www.transparency.org/news/feature/the\\_legal\\_right\\_to\\_fight\\_corruption\\_in\\_france](https://www.transparency.org/news/feature/the_legal_right_to_fight_corruption_in_france) (accessed February 27, 2017).



In December 2016, authorities seized a yacht reportedly worth \$100 million from Teodorin Obiang, the president's eldest son and vice president, as part of an ongoing Swiss investigation into money-laundering. © 2009 Madmack66 (Wikimedia Commons) <https://creativecommons.org/licenses/by/3.0/>

In response to the French prosecutor's decision to indict Teodorin the Equatorial Guinean government issued a statement on May 27, 2016, expressing its "repulsion" that the French prosecutor "does not value the institutional figure of our Second Vice-President" or recognize his immunity.<sup>227</sup> The following month, Equatorial Guinea filed a complaint with the International Court of Justice (ICJ) arguing that France was in breach of its obligation to respect Teodorin's immunity.<sup>228</sup> The complaint also claimed that the Equatorial Guinean government used the Avenue Foch mansion as a diplomatic mission, and as such similarly deserves official immunity. About a week after filing the complaint President Obiang promoted his son to be his vice president. On December 7, 2016, the ICJ dismissed Equatorial Guinea's claim that the French prosecution breached Teodorin's immunity,

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<sup>227</sup> Government Press, "Communique in answer to the French National Financial Prosecutor," May 27, 2016, <http://www.guineaecuatorialpress.com/noticia.php?id=7862> (accessed February 27, 2017).

<sup>228</sup> International Court of Justice Press Release No. 2016/18, June 14, 2016, <http://www.icj-cij.org/docket/files/163/19028.pdf> (accessed February 27, 2017).

finding it lacked jurisdiction.<sup>229</sup> However, it ordered France to respect the diplomatic protections of the mansion until it reached a final decision to determine its status.<sup>230</sup>

Switzerland opened a separate investigation into Teodorin in October 2016.<sup>231</sup> It seized 11 luxury cars in connection with the investigation, and Dutch authorities seized a \$100 million yacht allegedly belonging to Teodorin at the request of Swiss courts.<sup>232</sup>

## Self-Dealing in Public Infrastructure Contracts

Investigations by the US Department of Justice, France, and others exposed how government officials allegedly siphoned off millions of dollars in public money, oftentimes through shell companies that did not appear to do any actual work.<sup>233</sup> For instance, sources interviewed by US investigators pointed to Teodorin's road construction company SOCAGE (Sociedad de Carreteras de Guinea Ecuatorial) as an example of a minister-owned shell company whose sole purpose was to steal government money.

As part of separate case filed by a South African businessman in Johannesburg, Teodorin acknowledged in 2006 that SOCAGE's profits came from public contracts, which, he said, were also a source of wealth for other ministers. That South African businessman claimed he was owed money by the Equatoguinean government and sued to legally seize two Cape Town houses owned by Teodorin. The businessman argued that Teodorin, who was minister of forestry and agriculture at the time, bought the houses with money belonging to the government, and they therefore could be used to satisfy a debt the government

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<sup>229</sup> ICJ jurisdiction over contentious cases requires the consent of both state parties, either in the individual case or in a treaty governing the disputed issue. Equatorial Guinea argued that France consented by ratifying the UN Convention against Transnational Crime, but the ICJ concluded that the dispute does not arise out of the Convention. International Court of Justice, *Immunities and Criminal Proceedings (Equatorial Guinea v. France)*, December 7, 2016, para. 50.

<sup>230</sup> *Ibid.*, para. 92.

<sup>231</sup> "Swiss open probe into son of Equatorial Guinea's president," Associated Press, October 18, 2016, <http://bigstory.ap.org/article/d85c61812b7f4ddb6c33ec8c8347e6d/swiss-open-probe-son-equatorial-guineas-president> (accessed February 27, 2017).

<sup>232</sup> "Geneva Investigates Son of Equatorial Guinea's leader," TheLocal.ch, November 4, 2016, <http://www.thelocal.ch/20161104/geneva-opens-probe-against-son-of-equatorial-guineas-leader> (accessed February 27, 2017); Mfonobong Nsehe, "Dutch Authorities Seize \$100 Million Yacht Allegedly Owned by African Dictator's Son," *Forbes*, December 8, 2016, <http://www.forbes.com/sites/mfonobongnsehe/2016/12/08/dutch-authorities-seize-100-million-yacht-allegedly-owned-by-african-dictators-son/#570d7eb34c4a> (accessed February 27, 2017).

<sup>233</sup> The IMF defines "shell companies" as "legal structures that have little or no employment, operations, or physical presence in the jurisdiction in which they are created. They are typically used as devices to hold assets and liabilities, and do not undertake production." IMF Statistics Department, "Special Purpose Entities (SPEs) and Holding Companies," December 2004, <http://unstats.un.org/unsd/nationalaccount/AEG/papers/m2holdingcompanies.pdf> (accessed February 27, 2017).

allegedly owed him. In response Teodorin filed an affidavit defending his ownership over the homes, claiming that he bought them with money transferred from SOCAGE, which, he wrote, sourced the funds legally, even if the money originated from the public treasury:

Cabinet Ministers and public servants in Equatorial Guinea are by law allowed to own companies that, in consortium with a foreign company, can bid for government contracts and should the company be successful, then what percentage of the total cost of the contract the company gets, will depend on the terms negotiated between the parties. But, in any event, it means that a cabinet minister ends up with a sizeable part of the contract price in his bank account.<sup>234</sup>

While sources interviewed by US and French investigators mostly focused on Teodorin's companies as the subject of the investigations, according to sources these interviews and other documents indicate that self-dealing is widespread among senior government officials, including the president. The president acknowledged his "private interests" to US officials, according to the 2009 State Department cable made public by WikiLeaks.<sup>235</sup> "I have to take care of my family, so I maintain private interests on the side," he told them. The lack of transparency makes it impossible to quantify the value of public contracts to public officials and their family members, but fragments that offer clues have come to light.

Three IMF advisors who worked in Equatorial Guinea told US investigators that the practice of officials inflating public contracts for private gain is widespread. One IMF expert said:

The leaders of the country who are engaged in building roads, schools, airports and hospitals are not concerned for its citizens. All of these companies are performing these projects under control and being operated by a company which is owned by the President of EG. The perception that the President is attempted to transcend [sic] was he was developing the country

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<sup>234</sup> Affidavit, *Maseve Investments 7 v. Equatorial Guinea and Teodoro Nguema Obiang* (High Court of South Africa, No. 1407/2006, paras 11.2 and 11.2.1.

<sup>235</sup> US State Department Cable from US Embassy in Malabo, "Equatorial Guinea Raw, Paper 4: The Business of Corruption," March 12, 2009.

of EG, but ... the President and his family members are profiting personally because they have an ownership venture in all these companies.<sup>236</sup>

A second IMF economist similarly “believes that projects requiring public investment and expenditures are significant sources of corruption in EG. These projects include airports, harbors, buildings, and roadways.”<sup>237</sup> A third, hired to work on Equatorial Guinea’s fiscal policy, said he or she had seen indications that “substantial government contracts being awarded from the public treasury accounts maintained at the BEAC [Bank of Central African States] to companies owned by government ministers,” noting that the “largest company in EG is owned by President Obiang which is a construction company.”<sup>238</sup> That company was awarded a contract for a three-mile road between Malabo and the airport, according to the expert, but it took three years to complete because “it was in the best financial interest of the construction company to charge inflated prices and stay on the job longer so that both the company and the EG official would earn more money and collect more payments from the EG public treasury.”<sup>239</sup>

### *Abayak*

It is possible that the IMF fiscal expert was referring to Abayak, a large construction company that imports construction related-material and is involved in real estate. The US Senate investigation alleged that Abayak, “is controlled by the E.G. President who is also identified in Riggs KYC [Know-Your-Customer] documentation as the company’s president.”<sup>240</sup> Human Rights Watch obtained what appears to be Abayak’s certificate of incorporation, which states that the company was established on November 6, 1998, and

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<sup>236</sup> Exhibit 31 at 4, Second Amended Complaint, *US v. One White Crystal-Covered “Bad Tour” Glove and Other Michael Jackson Memorabilia* (C.D. Cal. June 11, 2012). The interview was conducted on May 2, 2012 with a macroeconomics professor who was hired by the IMF to prepare a macro fiscal model for Equatorial Guinea. The interview was based on notes the interviewee took during a visit to the country and which formed the basis for the IMF’s Article IV report, which investigators viewed.

<sup>237</sup> Exhibit 49 at 3, *Ibid.* Interview conducted on April 25, 2012, with economist who worked in Equatorial Guinea for the IMF as an economic advisor.

<sup>238</sup> Exhibit 30 at 6-7, *Ibid.* Interviews were conducted on October 18, 21, and 26, 2011, with an IMF fiscal policy expert for Equatorial Guinea

<sup>239</sup> *Ibid.*, p. 7.

<sup>240</sup> US Senate Riggs Bank report, 2004, p. 49.

grants the president 75 percent of the shares, the First Lady 15 percent, and Teodorin the remaining 10 percent.<sup>241</sup> According to the state department cable Abayak holds the single license to import cement into the country; it similarly described the company as “partially owned by the president and first lady.” Abayak is also involved in other sectors. For example, according to the US Senate investigation, “in 1998, ExxonMobil established an oil distribution business in Equatorial Guinea of which 85 percent is owned by ExxonMobil and 15 percent by Abayak S.A.”<sup>242</sup> The US Senate report also found that Abayak partially owns a telecommunication company and is the 75 percent owner of a company with a stake in gas and methanol facilities.<sup>243</sup>

According to a personal account by a high-level businessperson who owned various companies in Equatorial Guinea for more than a decade following the discovery of oil and enjoyed a close business relationship with the president, Abayak also owns a 12 percent share in Arab Contractors, one of the largest construction companies in the country. Sofona, a company owned by Teodorin, reportedly owns an 8 percent share.<sup>244</sup> The businessperson claims that they worked as a subcontractor on a



A billboard in Malabo, the capital, installed by the construction company Arab Contractors wishing the president and the people of Equatorial Guinea a happy new year. Arab Contractors has been awarded numerous lucrative public construction contracts in the country. There are credible allegations that the president has a 12 percent stake in the company through his company Abayak, and that his son and the vice president Teodorin has an 8 percent stake through his company Sofona. © 2016 Human Rights Watch

<sup>241</sup> Republic of Equatorial Guinea, Ministry of Justice and Culture, “Authorized Copy of Certificate of Incorporation for Abayak,” Malabo, November 6, 1998 [on file with Human Rights Watch].

<sup>242</sup> Ibid.

<sup>243</sup> Ibid. p 50.

<sup>244</sup> Confidential report on file with Human Rights Watch. For Teodorin’s ownership of Sofona, see, for example, Second Amended Complaint, *US v. One White Crystal-Covered “Bad Tour” Glove and Other Michael Jackson Memorabilia* (C.D. Cal. June 11, 2012), p. 38.

project awarded to Arab Contractors for 3,000 social housing units, worth a total of \$142.5 million. The businessperson's account also claims that the president and Teodorin have large stakes in Somagec, another large construction firm, although the exact size of their stake is not noted.

### *General Works and SOCAGE*

General Works was at one point in time one of the largest construction companies operating in Equatorial Guinea. It has been awarded dozens of public projects including constructing highways, bridges, public buildings, and military barracks.<sup>245</sup> According to US and Italian investigators, the company was a major conduit through which the president and his family profited from public contracts.<sup>246</sup> An Italian businessman, Igor Celotti, was CEO of General Works and a majority shareholder until a month before he died in an airplane crash on June 21, 2007. Suspecting foul play the Italian financial police launched an investigation into the presidential family's interests in the company following the crash.<sup>247</sup>

According to a declaration by the lead DOJ investigator in the US case, Roberto Manzanares, the Italian police found that a month before he died, Celotti transferred 45 percent of the company's shares to his wife and the remainder to members of the president's family without receiving compensation, giving them a controlling stake in the company.<sup>248</sup> The police believed that 45 percent of General Works' revenue "was funneled as kickbacks to [Teodorin]." Based on an analysis of Celotti's financial and banking records, the Italian police also concluded that Teodorin and his father jointly owned a "network of international bank accounts that contained stolen millions of dollars in government monies misappropriated from EG's treasury through General Work's government construction contracts."<sup>249</sup> Three construction executives who worked in

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<sup>245</sup> See Manzanares Declaration, Exhibit 6 at 57, Second Amended Complaint, *US v. One White Crystal-Covered "Bad Tour" Glove and Other Michael Jackson Memorabilia* (C.D. Cal. June 11, 2012). For a partial list of its projects, see <http://www.ge-proyectos.com/es/taxonomy/term/176> (accessed February 27, 2017).

<sup>246</sup> See Manzanares Declaration, p. 57.

<sup>247</sup> The Italian financial police told US investigators that they believed that the "circumstances surrounding this crash were suspicious." Manzanares Declaration, p. 57. Cellotti's Cessna went down while flying from Mongomo, Obiang's native city, to Bata, and only he and a Spanish pilot were on board. According to media accounts the pilot was virtually unscathed and disappeared immediately after the crash, and the Equatoguinean government failed to conduct a credible investigation into the incident. "Il giallo dell'italiano in affari con il dittatore," *La Stampa*, August 20, 2008, <http://www.lastampa.it/2008/08/20/italia/cronache/il-giallo-dellitaliano-in-affari-con-il-dittatore-nAqV8PiJulWIZw9cj35hP/pagina.html> (accessed March 2, 2017).

<sup>248</sup> Manzanares Declaration, p. 57.

<sup>249</sup> *Ibid.*

Equatorial Guinea independently confirmed to US investigators that Teodorin “used General Works as a vehicle through which to misappropriate tens of millions of dollars from EG’s public treasury,” one of whom also said that the president’s family “owned and controlled General Work.”<sup>250</sup>

In addition to profits the president and his family allegedly took in through any ownership of General Works, two former senior employees told US investigators that the company would routinely inflate the cost of the contract and then subcontract a part of the work to shell companies owned by Teodorin, including SOCAGE. One showed DOJ investigators a contract between General Works and SOCAGE and told them:

Even though Minister Obiang’s companies, like SOCAGE, would be listed as a purported subcontractor of General Works in performing various government construction projects, these companies did not actually exist (except on paper). These entities were vehicles through which Minister Obiang could steal and receive payment from the EG government (through General Works) pursuant to some kind of inflated and fraudulent public contract. The actual work described in these contracts, and which were supposed to be performed by Minister Obiang’s companies, were in actuality performed by General Works’ construction crews.

The source produced documents that, according to the investigators’ summary of the interview, “corroborate his/her version of what transpired.” The person also showed the investigators hundreds of original check stub banking records from General Works to Teodorin or his middleman, as well as bank records of two of Teodorin’s companies, SOCAGE and SOMAGUI.

The second former General Works employee told investigators virtually the same thing. Teodorin’s companies, the source said,

only existed on paper and had no real personnel or operations, did not have the ability to pave roads and therefore GW had to complete projects for them. These work projects were a means for Minister Obiang to steal

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<sup>250</sup> Ibid. The company is sometimes called General Work.



money from the E.G. treasury. GW provided kickbacks to Minister Obiang for various contracts, which were highly inflated at Minister Obiang's direction.... For instance... if the real cost of a construction project was 2 million dollars, Minister Obiang would instruct GW to prepare and submit a project invoice to the E.G. government for 10 million dollars so that he could receive a 'kick back' of 8 million dollars.<sup>251</sup>

Human Rights Watch has received reports that General Works was recently dissolved, but we were unable to confirm these reports or obtain more detailed information.

### *Eloba and ABC*

An Italian businessman, Roberto Berardi, described a business arrangement he allegedly had with Teodorin and Equatorial Guinea's First Lady Constanca Mangué, to gain access to public contracts. Teodorin and Berardi jointly owned a construction company, called Eloba Construcción. In 2013 Equatoguinean police arrested Berardi at Teodorin's behest, accusing him of embezzling money from Eloba.<sup>252</sup> Berardi was found guilty and sentenced to more than two years in prison. Berardi claims that the arrest was retaliation for confronting Teodorin over allegations in the US DOJ's money-laundering complaint that Teodorin used Eloba's account to funnel nearly \$1 million to the US. The legal battle led Berardi to shine light on what he claims were the inner workings of an Equatorial Guinea-based construction company that would under normal circumstances be guarded from public view.

On June 19, 2013, soon after Berardi was provisionally charged with embezzlement, he wrote a letter to his lawyer and the Italian embassy in Equatorial Guinea describing his business arrangement with Teodorin. According to the letter Berardi founded Eloba Construcción in 2008 in partnership with Teodorin, who held a 60 percent stake in the company even though he didn't contribute any capital or otherwise participate in its administration. Teodorin's role, rather, was to help secure public contracts, from which he and his mother would also profit.

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<sup>251</sup> Exhibit 8 at 5, Second Amended Complaint, *US v. One White Crystal-Covered "Bad Tour" Glove and Other Michael Jackson Memorabilia* (C.D. Cal. June 11, 2012).

<sup>252</sup> "Equatorial Guinea: Halt Prisoner Torture," Human Rights Watch news release, July 30, 2014, <https://www.hrw.org/news/2014/07/30/equatorial-guinea-halt-prisoner-torture#1>.

Berardi, who was living in Equatorial Guinea, explained in the letter an example of how this worked: “One day I received an unexpected call from his [Teodorin’s] offices telling me he has a job list for our company ... the work is subcontracted from ‘ABC’ Company, owned by the First Lady (his mother) ... for a total of 8.8 billion francs (€13.5 million).”<sup>253</sup> According to Berardi’s statement the initial subcontracts were for two projects, the Bikuy and Ikunde markets in Bata, but Teodorin was quickly able to secure many more for the company, such as the Bata industrial zone, three military barracks, a public slaughterhouse, and a pulp mill.

In an interview with Human Rights Watch after Berardi was released from prison and had returned to Italy, Berardi said that ABC functioned as a shell company and was awarded millions of dollars in public contracts that it would then subcontract to Eloba and other companies for a fraction of the original contract price.<sup>254</sup> He gave one example where he says ABC was paid 30 billion CFA francs (US\$50 million) for a project that the First Lady then subcontracted to Eloba for €12 million (US\$13 million).<sup>255</sup>

Berardi said the contracts kept coming in, along with personal requests from the First Lady to complete other public works contracted to ABC, but he said he was rarely paid for his work.<sup>256</sup> In his written statement Berardi claimed that when the company did receive small advances on projects, Teodorin would demand half the amount, even though Berardi had yet to recoup his capital investment or receive a salary as director general of Eloba.<sup>257</sup>

Berardi was freed from prison on July 9, 2015. According to his family and other confidential sources, during his detention Berardi was tortured and subjected to long periods of solitary confinement, as well as frequent denial of access to medical attention and legal counsel.<sup>258</sup>

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<sup>253</sup> A confidential report by a high-level businessperson active in Equatorial Guinea obtained by Human Rights Watch corroborates Berardi’s claim that the First Lady at least partially owns ABC Construction.

<sup>254</sup> Human Rights Watch phone interview, October 21, 2016.

<sup>255</sup> Ibid. Current exchange rate.

<sup>256</sup> Written statement by Roberto Berardi, June 19, 2013.

<sup>257</sup> Ibid. In an interview with Human Rights Watch, Berardi accused Teodorin of opening bank accounts in the company’s name of which he was not aware and that Teodorin would simply pocket deposits from ABC. Human Rights Watch phone interview, October 19, 2016.

<sup>258</sup> “Equatorial Guinea: Halt Prisoner Torture,” Human Rights Watch news release.

## Laws Enabling Corruption

### *Conflict of Interest*

President Obiang and other officials have defended their actions by stating that it is legal in the country for government officials to operate private businesses and to contract with the government. As noted, Teodorin defended himself in South African and US courts by arguing that the activities of his companies are lawful in Equatorial Guinea. His government has similarly invoked domestic law in response to international corruption investigations.<sup>259</sup>

Equatorial Guinea's weak legal system is a fundamental part of the problem.<sup>260</sup> In order to avoid conflict of interest in public procurement, Transparency International, a leading anti-corruption civil society group, recommends that countries enact guidelines that clearly define conflict of interest and require officials involved in the process to disclose information on their private interests and assets, in addition to being prohibited from making certain decisions or performing certain functions where opportunities for conflict of interest exist.<sup>261</sup> It also recommends transparency, stakeholder participation, and clear review mechanisms to ensure the guidelines are effectively implemented and enforced. Equatorial Guinea, however, appears to have only skeletal rules regulating conflicts of interest between government officials' public duties and private companies and even these seem not to be enforced.<sup>262</sup>

### *Project Appraisal and Procurement Policies*

While the practical absence of conflict of interest rules plants the seeds of self-dealing, the opaque and informal process for appraising projects, awarding contracts, and overseeing payments provide fertile ground for it to flourish. In its Public Expenditure Review, the World Bank criticized the "extensive informality" of Equatorial Guinea's

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<sup>259</sup> Claimant Motion to Dismiss Complaint for Forfeiture *In Rem*, p. 42, *US v. One Gulfstream G-V Jet Aircraft* (January 23, 2012, Case 1:11-cv-01874-ABJ) and Affidavit, *Maseve Investments 7 v. Equatorial Guinea and Teodoro Nguema Obiang* (High Court of South Africa, No. 1407/2006, paras 11.2 and 11.2.1.) See also footnotes 223 and 224.

<sup>260</sup> See Section V. V. Equatorial Guinea's Human Rights Obligations. The Equatoguinean Penal Code from 1963, which is adopted from the Spanish penal law, prohibits much of the business activity documented in this report, including taking advantage of an official position to involve oneself in a business directly related to the scope of one's official duties. Second Amended Verified Complaint for Forfeiture *In Rem*, p. 8, *US v. One White Crystal-Covered "Bad-Tour" Glove* (C.D. Cal. June 11, 2012). Based on the government responses to corruption allegations, it appears that it does not consider these laws to apply.

<sup>261</sup> Transparency International, Anti-Corruption Helpdesk: Conflict of Interest in Public Procurement, 2013, pp. 2-3. [http://www.transparency.org/files/content/corruptionqas/Conflict\\_of\\_interest\\_in\\_public\\_procurement.pdf](http://www.transparency.org/files/content/corruptionqas/Conflict_of_interest_in_public_procurement.pdf) (accessed February 27, 2017).

<sup>262</sup> See Section V. V. Equatorial Guinea's Human Rights Obligations.

public financial management, highlighting the infrastructure sector in particular as a potential source of misappropriation:

The lack of a legal framework for public finance management is especially obvious in the infrastructure sector where there are neither legal rules for executing expenditure and procurement nor guidelines for project appraisal and selection.... [T]he authorities' determination to implement projects quickly exacerbates already loose budget constraint. However no up-to-date list of ongoing or finished infrastructure projects in the last five years exists, which limits the capacity to identify newly built infrastructure or the cost of ongoing projects.... Ultimate investment allocation is decided by the Presidency, without the need to record the investment project into the Budget being implemented, bypassing any formal screening and budgetary system in place.<sup>263</sup>

Even in cases where regulatory frameworks exist, they are not always publicly available—the World Bank, for example, was unable to obtain the 2003 law regulating state public finances for its Public Expenditure Review.<sup>264</sup> (Human Rights Watch succeeded in obtaining a copy). This opacity also extends to contracts: “There are no external audit reports and contract awards are not published. The current lack of transparency reduces agency accountability and increases opportunities for misappropriation.”<sup>265</sup> The opacity of the process gives high-level officials inordinate influence over which projects are approved, who gets the contract, and how much they get paid. According to IMF officials who have worked in the country, the president decides which companies are awarded contracts and how much they are paid. An IMF expert told US DOJ investigators in 2011: “There is no formal process whatsoever relating to how contracts are awarded in EG. It is solely based on the President awarding contracts. He decides what company is allowed to business [sic] in EG.”<sup>266</sup>

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<sup>263</sup> World Bank, “Equatorial Guinea: Public Expenditure Review (PER),” January 2010, p. 37.

<sup>264</sup> Ibid.

<sup>265</sup> Ibid. p. 39.

<sup>266</sup> Exhibit 31 at 6, Second Amended Complaint, *US v. One White Crystal-Covered “Bad Tour” Glove and Other Michael Jackson Memorabilia* (C.D. Cal. June 11, 2012).

A related problem is scant oversight of payments. The National Payments Committee is charged with reviewing and approving all payments, but it does not regularly meet, according to the IMF's 2015 report.<sup>267</sup> Rather, the job of approving payments appears to fall to the president: an IMF economist told US investigators in 2011 that the “President of EG authorizes all the payments for public investments and expenditures.”<sup>268</sup> An IMF expert who currently provides the country with technical assistance on its national accounts recently confirmed to Human Rights Watch that this remains the case, adding, “The way they deal with their budgets is not proper. Without reform, we can’t know very much.”<sup>269</sup>

Taken together, this opaque and informal system incentivizes foreign businesses to partner with senior government officials to meet the local content law’s requirement that at least 35 percent of companies operating in the country are Equatoguinean owned. Interviews conducted by the US DOJ as part of their money-laundering investigation indicate that the case of Berardi partnering with Teodorin for public contracts via ABC Construction—a company at least partly owned by the First Lady—is not exceptional.

A former senior official at General Works told investigators: “If a person/corporation wanted to do business in EG, that person/corporation would be required to have contacts or friends in key positions within the EG government to be awarded contracts.”<sup>270</sup> The IMF fiscal policy expert said virtually the same thing: “There are no formal or transparent processes of awarding public contracts other than knowing a government official.”<sup>271</sup> Christopher Kernan, former country program director for Conservation International for EG and Gabon, under a contract from US AID similarly told investigators: “It was difficult to have a business in EG if a company did not have an Obiang family connection. Therefore, companies recruited a member of the family to be on their board of directors and companies entered into joint ventures with EG owned companies.”<sup>272</sup>

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<sup>267</sup> IMF, Republic of Equatorial Guinea: 2014 Article IV Consultation Staff Report, p. 12.

<sup>268</sup> Exhibit 31, p. 6, Second Amended Complaint, *US v. One White Crystal-Covered “Bad Tour” Glove and Other Michael Jackson Memorabilia* (C.D. Cal. June 11, 2012).

<sup>269</sup> Human Rights Watch phone interview, August 9, 2016.

<sup>270</sup> Exhibit 10, p. 4, Second Amended Complaint, *US v. One White Crystal-Covered “Bad Tour” Glove and Other Michael Jackson Memorabilia* (C.D. Cal. June 11, 2012).

<sup>271</sup> Exhibit 30, p. 6, *Ibid.*

<sup>272</sup> Exhibit 7, p. 5, *Ibid.*

### *Anonymous Companies and Bank Secrecy Laws*

Foreign countries that allow companies to incorporate within their jurisdictions without revealing the owners' names make it easier for corrupt officials in countries like Equatorial Guinea to hide the tracks of money laundering and self-dealing. Teodorin used an anonymous company registered in California to purchase a \$35 million mansion in Malibu; he also used anonymous companies to open bank accounts in California, enabling him to hide his identity and skirt US special anti-corruption procedures for political figures.<sup>273</sup> US DOJ prosecutors allege that these companies were conduits for the transfer of illicit funds.

Anonymous companies can also provide a screen for deals tainted by conflicts of interest. For example, the Equatorial Guinean government awarded a company named International Medical Services GE a contract worth 45.3 billion CFA francs (US\$75 million) to build a hospital in Oyala, according to what appears to be the contract dated July 11, 2011, obtained by Human Rights Watch.<sup>274</sup> The contract lists Ovadia Yardena, an Israeli with close ties to the President, as the company representative, but what appears to be the company's certificate of incorporation, also obtained by Human Rights Watch, does not include any names of company shareholders.<sup>275</sup> Equatorial Guinean law requires at least 35 percent local ownership, and this lack of transparency can make it very difficult to discern whether local partners include government officials or their family members.

Foreign countries' bank secrecy laws also can help shield corruption. The 2004 investigation by the US Senate found that Riggs Bank transferred \$35 million in public funds to two companies that US investigators believed belonged to the president, but they were unable to confirm ownership due to Spanish bank secrecy laws. The US Senate report on the investigation found: "This bar on disclosure ... presents a significant obstacle to U.S. anti-money laundering efforts."<sup>276</sup>

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<sup>273</sup> Ibid., pp. 49 and 89.

<sup>274</sup> Contract between GEPROYECTOS and IMS-International Medical Services G.E. S.A., July 11, 2011.

<sup>275</sup> Republic of Panama, Twelfth Circuit Notary, November 18, 2011.

<sup>276</sup> US Senate Riggs Bank report, 2004, p. 57

## V. Equatorial Guinea's Human Rights Obligations

### The Rights to Health and Education

The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”<sup>277</sup> The Committee on Economic, Social and Cultural Rights (CESCR), an expert body charged with interpreting the ICESCR, has defined the right to health as including health services, goods and facilities that are available, accessible, acceptable, and of good quality.<sup>278</sup> Such services should include “a system of health protection providing equality of opportunity for everyone to enjoy the highest attainable level of health; the right to prevention, treatment and control of diseases; access to essential medicines; maternal, child and reproductive health; equal and timely access to basic health services.”<sup>279</sup> According to the CESCR, the right to health also extends to “underlying determinants of health,” such as safe drinking water, adequate sanitation, and adequate nutrition.<sup>280</sup>

The Convention on the Rights of the Child (CRC), which Equatorial Guinea ratified in 1992, similarly protects a child's right to health. Under the CRC governments are obliged to take steps to diminish child mortality; ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care; combat disease and malnutrition; and ensure appropriate pre-natal and post-natal health care for mothers.<sup>281</sup>

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<sup>277</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, art. 12. Equatorial Guinea ratified the ICESCR in 1987.

<sup>278</sup> Committee on Economic, Social and Cultural Rights, *General Comment No. 14* (2000), para. 12, <http://www.refworld.org/pdfid/4538838do.pdf> (accessed February 27, 2017). See also Office of High Commissioner for Human Rights and World Health Organization, “The Right to Health: Fact Sheet No. 31,” June 2008.

<sup>279</sup> Office of High Commissioner for Human Rights and World Health Organization, “The Right to Health: Fact Sheet No. 31,” June 2008, p. 3-4 (based on General Comment No. 14).

<sup>280</sup> Committee on Economic, Social and Cultural Rights, *General Comment No. 14* (2000), para. 4.

<sup>281</sup> Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art 24.

Equatorial Guinea's constitution provides that "the State encourages and promotes primary health care as the cornerstone of its development strategy in this sector,"<sup>282</sup> but its laws and budgets do not reflect this prioritization.

The right to education is protected under both the ICESCR and CRC, with both mandating that primary education be compulsory and available free to all, and that secondary education should generally be available, accessible to all, and progressively made free.<sup>283</sup> The CRC also calls on states to "take measures to encourage regular attendance at schools and the reduction of drop-out rates."

The CESCR maintains that the right to education requires education to be available, accessible, of acceptable quality, and adaptable to the changing needs of society. Availability depends not only on having sufficient facilities but also requires that the facilities meet certain conditions depending on the "developmental context," but likely requiring at a minimum "buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, and so on."<sup>284</sup> The ICESCR also provides that "the material conditions of teaching staff shall be continuously improved."<sup>285</sup>

Equatorial Guinea's constitution calls education a "primary duty of the state" and mandates that "every citizen has the right to primary education, which is compulsory, free and guaranteed."<sup>286</sup> Despite repeated efforts Human Rights Watch was unable to obtain a copy of the Equatorial Guinea education law from government or other sources. The law's inaccessibility raises obvious concerns about the extent to which it is being seriously implemented.

More generally, Equatorial Guinea's constitution explicitly commits the country to act in accordance with international law and "reaffirms its adherence to the rights and obligations

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<sup>282</sup> Convention on the Rights of the Child (CRC), art. 23.

<sup>283</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), art. 13; CRC, Convention on the Rights of the Child (CRC), art. 28.

<sup>284</sup> Committee on Economic, Social and Cultural Rights, *General Comment No. 13*, E/C.12/1999/10 (December 8, 1999), para 6, <http://www.refworld.org/docid/4538838c22.html> (accessed February 27, 2017).

<sup>285</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), art. 13.

<sup>286</sup> Equatorial Guinea Constitution (2012), art. 24.



that emanate from the charters of the organizations and international organisms to which it has acceded.”<sup>287</sup>

### *Progressive Realization and Immediate Obligations*

The CESCR maintains that certain “core” components of the rights to education should be understood as the immediate obligation of all states, rather than goals to be progressively realized over time. This includes, inter alia, the obligation to provide free primary education to all and minimum levels of essential primary health care.<sup>288</sup> In general, however, international law recognizes that the capacity of states to realize the rights to health and education varies and is heavily dependent on the financial resources at governments’ disposal. With this in mind the ICESCR provides that in general the rights to health and education, as well as others, are to be realized progressively over time. Equatorial Guinea, like other states party, is obliged to “take steps ... to the maximum of its available resources, with a view to achieving progressively the full realization” of the rights to health and education.<sup>289</sup>

Because the concept of progressive realization is a flexible one that acknowledges varying levels of state capacity and the reality of legitimate, competing spending priorities, it is generally not possible to define with precision the minimum resource commitments any one government should be required to make. For the same reasons it is generally difficult to assert that a particular state has manifestly violated its obligation to “progressively realize” the rights to health and education, or other rights over time. But Equatorial Guinea represents an extreme case and in Human Rights Watch’s view, the government has clearly violated its obligation to progressively realize the rights to health and education.

Equatorial Guinea has failed to make progress on key health and education indicators, which in many cases remain among the world’s worst. The dismal status quo has persisted and in some cases even worsened despite a massive and indeed transformative increase in the government’s financial capacity in recent decades. This failure to achieve progress is not merely due to the failure of policy implementation, but to an extremely low level of

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<sup>287</sup> Equatorial Guinea Constitution (2012), art. 8.

<sup>288</sup> Committee on Economic, Social and Cultural Rights, *General Comment No. 13*, para 57; Committee on Economic, Social and Cultural Rights, *General Comment No. 14*, paras 43-45.

<sup>289</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), arts. 2, 12, 13. Note year of EG ratification (1987).

investment in health and education relative to both Equatorial Guinea’s regional neighbors and to countries in other parts of the world with comparable income levels. What limited investments the government has made have been unduly focused on university education and the maintenance of elite hospitals that serve only a tiny part of the population. The remainder of the government’s budget has been focused to a highly unusual degree on infrastructure projects. Many of those investments are of questionable social utility and more to the point, there is considerable evidence that at least many large infrastructure projects have served as vehicles for self-dealing or corruption.

## Prohibition on Corruption

Corruption is not, in and of itself, a human rights violation. However, corruption that impacts on a state’s ability to progressively realize economic and social rights such as health and education can give rise to a violation of its obligations under the ICESCR.<sup>290</sup>

The United Nations Convention against Corruption, which entered into force in December 2005, was established as an instrument for states to more effectively prevent and investigate acts of corruption and hold public officials to account for any violations. The convention calls on states to “maintain and strengthen systems that promote transparency and prevent conflicts of interest.”<sup>291</sup> In particular, states should require public officials to declare “their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.”<sup>292</sup> States are also expected to establish a procurement system “based on transparency, competition and objective criteria” as part of a litany of measures they should take to prevent corruption.<sup>293</sup> Equatorial Guinea is one of about a dozen countries that are not party to the treaty.<sup>294</sup>

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<sup>290</sup> The Limburg Principles, established in 1986 by a distinguished group of international law experts to guide implementation of the ICESCR, provide that, “In determining whether adequate measures have been taken for the realization of the rights recognized in the Covenant attention shall be paid to equitable and effective use of and access to the available resources.” Limburg Principles on the Implementation of the International Covenant on Economic, Social, and Cultural Rights, UN Doc. E/CN.4/1987/17 (January 8, 1987), Article 27.

<sup>291</sup> Convention against Corruption, adopted October 31, 2003, G.A. res. 58/4, U.N. Doc. A/58/422, entered into force December 14, 2005, art. 7.

<sup>292</sup> Convention against Corruption, art. 8.

<sup>293</sup> Convention against Corruption, art. 9.

<sup>294</sup> There are 180 state parties to the Convention. See <https://www.unodc.org/unodc/en/treaties/CAC/signatories.html> (accessed February 27, 2017).

The African Union Convention on Preventing and Combating Corruption also requires states to enact legislation to, for example, prohibit enumerated forms of corruption, enhance transparency, and establish independent and adequate measures to ensure accountability.<sup>295</sup> Equatorial Guinea has signed, but not ratified, the Convention. The country has, however, signed on to the United Nations Convention against Transnational Organized Crime, which calls on member states to criminalize corruption and to “take measures to ensure effective action by its authorities in the prevention, detection and punishment of the corruption of public officials.”<sup>296</sup> The Convention also calls on states to “institute a comprehensive domestic regulatory and supervisory regime” for financial institutions “in order to deter and detect all forms of money-laundering.”<sup>297</sup> Equatorial Guinea is also part of the Central African Economic and Monetary Community (CEMAC) and is subject to their money-laundering regulation, which requires, for example, that financial institutions identify the ultimate beneficial owners of their clients.<sup>298</sup>

A 2004 Equatoguinean law, Ethics and Dignity in the Exercise of Public Duties, places relatively narrow restrictions on public officials. It forbids them from managing or otherwise rendering services to companies with a public concession or contract only if their position has “direct authority” over the concession or contracting.<sup>299</sup> It does not, however, appear to prohibit *ownership* of such companies.<sup>300</sup> The law does prohibit officials from receiving gifts or donations of any kind “due to or in the course of the performance of their duties,” and includes some financial disclosure requirements.<sup>301</sup> Certain public officials—including all members of the executive branch—must submit a financial disclosure statement listing all assets and income of the official, his or her spouse, and minor children, to the National Commission on Public Ethics within 30 days of taking office.<sup>302</sup> Unelected officials must also submit their work history.<sup>303</sup> These

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<sup>295</sup> African Union, African Union Convention on Preventing and Combating Corruption, adopted July 11 2003, entered into force August 5, 2006, arts. 5-7.

<sup>296</sup> Convention Against Transnational Organized Crime, adopted November 15, 2000, G.A. Res. A/Res/55/25, annex I, U.N. GAOR, 55th Sess., Supp. No. 49, at 44, U.N. Doc. A/45/49 (Vol. I) (2001), entered into force Sept. 29, 2003, arts. 9 and 10.

<sup>297</sup> Convention Against Transnational Organized Crime, art. 7.

<sup>298</sup> CEMAC Regulation No 01/03, Relating to the Prevention and Suppression of Money Laundering and Financing of Terrorism in Central Africa, Article 10.

<sup>299</sup> Decree Law 1/2004 on Ethics and Dignity in the Performance of Public Service, Equatoguinean Penal Code art. 12.

<sup>300</sup> See Claimant Motion to Dismiss Complaint for Forfeiture *In Rem*, p. 6, *US v. One Gulfstream G-V Jet Aircraft* (January 23, 2012, Case 1:11-cv-01874-ABJ).

<sup>301</sup> Decree Law 1/2004, art. 17.

<sup>302</sup> Decree Law 1/2004, art. 5.

<sup>303</sup> Decree Law 1/2004, art. 11.

statements are kept confidential except for verification purposes.<sup>304</sup> In addition to these reporting requirements, officials “who have had decisional involvement in the planning, development, and realization of concessions to companies or public services are forbidden from having a role in these entities or in the regulatory commissions of such company or services.”<sup>305</sup> It is not clear whether these reporting requirements are followed.

A Spanish regulation governing public contracts dating from 1968, which is applicable as supplementary to Equatorial Guinea’s law, prohibits government officials from bidding on public contracts.<sup>306</sup> It also mandates that, except in certain situations, public contracts may only be awarded through a transparent and competitive bidding process.<sup>307</sup> All contracts above a certain amount must be reviewed by auditors and published in an official bulletin.<sup>308</sup> It is unclear whether the government recognizes the application of this law and it does not appear to follow it.

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<sup>304</sup> Decree Law 1/2004, art. 10.

<sup>305</sup> Decree Law 1/2004, art. 13

<sup>306</sup> “Reglamento General para la Aplicación de la Ley de Contratos del Estado” (Spanish regulation), 1968, art. 20. Presidential decree 4/1980 made Spanish laws and regulations applicable in Equatorial Guinea in the absence of specific domestic laws.

<sup>307</sup> “Reglamento General para la Aplicación de la Ley de Contratos del Estado,” arts. 92-94. For exceptions, see art. 117.

<sup>308</sup> “Reglamento General para la Aplicación de la Ley de Contratos del Estado,” arts. 39 and 119.

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# “Manna From Heaven”?

## How Health and Education Pay the Price for Self-Dealing in Equatorial Guinea

The president of Equatorial Guinea once described the discovery of oil in the 1990s off the coast of the small Central African nation as “manna from heaven.” But despite becoming one of Africa’s largest oil producers, the country’s health and education indicators remain among the worst on the continent. Incredibly, some indicators, such as vaccinations and net primary school enrollment rates, have worsened since the start of the oil boom.

“*Manna From Heaven*”? documents how corruption has skewed government spending away from badly needed investment in public health and education in favor of grand infrastructure projects. Based on more than a decade of confidential budget documents as well as international financial institution reports, this report finds that the government has severely neglected health and education services in violation its human rights obligations. Instead, it has squandered much of the country’s oil wealth on large-scale infrastructure projects, many of which are of questionable social utility and risk being a key conduit for corruption. The International Monetary Fund projected one such project would cost half the national budget in 2016. Human Rights Watch found evidence that senior government officials have stakes in companies that receive public construction contracts, including the president and his family.

Oil production is already in decline and is expected to end in 2035 unless new reserves are found. This makes it all the more urgent for the government to undertake comprehensive reform to stem corruption, stop conflicts-of-interest, and invest in key social services.



*After spending several million dollars on government buildings in Malabo, the capital, and Bata, the nation’s economic center, Equatorial Guinea is pouring billions of dollars into building a new administrative capital, Oyala, in the middle of the jungle. The IMF estimates that spending on Oyala would consume half the 2016 national budget. Above is the construction site with a billboard advertising the planned senate building in Oyala.*

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