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Equatorial Guinea

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Introduction

1. On the basis of General Assembly resolution 68/251, the Human Rights Council established a cooperative mechanism called the universal periodic review (UPR), the aim of which is to improve the human rights situation by evaluating each State's level of compliance with its obligations and commitments on rights and freedoms, the progress made and the challenges faced by the States under review. To this end, the Human Rights Council drew up a programme to launch UPR, setting out terms of reference based on objective and reliable information on the aims set out above provided by the States under review, by other relevant and trustworthy sources and by the Office of the United Nations High Commissioner for Human Rights.

2. The Government of Equatorial Guinea, taking due account of the timetable established by the Human Rights Council for the period 2008–2011, which provides that the Republic of Equatorial Guinea will take part in the universal periodic review at the sixth session of the Council in 2009, has accordingly drawn up this national report.

I. Methodology and procedure for preparation of the report

3. In accordance with the general guidelines issued by the Human Rights Council, this report by the Government of Equatorial Guinea has been prepared by a preparatory commission, supported by an extensive consultation process at the national level.

II. Brief historical review and general characteristics of the country

4. The Republic of Equatorial Guinea, a former Spanish colony, lies on the Gulf of Guinea and gained national independence on 12 October 1968. It is a sovereign, independent, republican, united, social and democratic State and its highest values are unity, peace, justice, freedom and equality. The territory of Equatorial Guinea is made up of a mainland region, which includes the mainland area of Rio Muni, together with the islands of Corisco, Elobey Grande, Elobey Chico, Mbañe, Cocoteros, Conga and the islets nearby, and an island region, comprising the islands of Bioco and Annobón. It has a surface area of 28,051 sq. km., of which 26,017 sq. km. lie in the mainland region and the rest in the island region.

5. The mainland region is bordered on the north by the Rio Campo (or River Ntem) and the Republic of Cameroon, on the east and south by the Republic of Gabon and on the west by the Atlantic Ocean. The island of Bioco is situated in the Atlantic Ocean between 3 degrees 15 minutes and 3 degrees 45 minutes north latitude, with Nigeria to the north and Cameroon to the north-east, while the island of Annobón is in the southern hemisphere, some 400 km. from Gabon and situated between 1 degree 25 inches and 1 degree 23 inches south latitude.

6. The islands of Corisco, Elobey Grande, Elobey Chico, Mbañe and Cocoteros lie in the Muni estuary.

7. The capital of Equatorial Guinea is Malabo, which is situated on the northern coast of the island of Bioco. The country's population is 1,014,999, according to data from the Third Population and Housing Census of 2001, with a crude birth rate of 43.2 per cent and a human development index ranking it 121st out of 177 countries (Human Development Report 2006).

8. The country contains a number of social and cultural groups, including the Annobonese, the Bisio, the Creoles or Fernandino, the Bubi, the Fang and the Ndowe. It has two official administrative languages, Spanish and French, in addition to all the indigenous national languages.

III. Political organization

A. Administrative political system

9. Equatorial Guinea is divided for administrative and economic purposes into regions, provinces, districts, municipalities, townships and neighbourhood communities. The State exercises its functions through the President of the Republic, the Council of Ministers, the Prime Minister, the House of People's Representatives, the judiciary and other bodies established in accordance with the Constitution and other legislation.

10. The President of the Republic is the Head of State. He embodies national unity and represents the nation. He is elected by universal, direct and secret suffrage, on the basis of an absolute majority of valid votes, for a term of seven years. His functions include determining national policy, exercising regulatory power in the Council of Ministers and promulgating laws passed by the House of People's Representatives.

11. In exercising his political and administrative duties, the President presides over the Council of Ministers, which is made up of the Prime Minister and other members of the Government. The Council of Ministers is the body that directs and implements the country's overall policy, ensures the implementation of the law and provides continuous support for the Head of State in political and administrative matters. It puts forward social and economic development plans for the State, the implementation of which, once they are approved by the House of People's Representatives and endorsed by the President, it organizes, directs and monitors; it draws up the General State Budget Act and other legislation and directs the State administration, coordinating and overseeing the activities of the various departments of State.

B. House of People's Representatives

12. Legislative power rests with the people, which exercises it through the House of People's Representatives. The House, which comprises 100 members elected by direct universal suffrage, has the following functions, among others: to approve the General State Budget Act; to legislate on taxation matters and other parafiscal charges; to set or abolish specific taxes or levies; to legislate on weights and measures; to determine the basic principles of civil, procedural, criminal, trade and labour law; and to regulate the free exercise of fundamental rights and public freedoms. The House of People's Representatives is fully empowered to call for the review by the Constitutional Court of legislation or other provisions having the status of a law or decree, if it deems such provisions unconstitutional.

C. Judicial system

13. The judicial system of Equatorial Guinea is organized in such a way as to maintain an adversarial process that may be reviewed by other judges on appeal. In addition, the Supreme Court of Justice exercises the functions of legal review and cassation in order to ensure that trials have been conducted with due regard for the requirements and conditions of substantive and procedural law. A final feature was added with the introduction, under Constitutional Act No. 1/95, of 17 January, of the Constitutional Court. Constitutional Act

No. 2/93, of 8 January, had already established a Constitutional Chamber within the Supreme Court of Justice and improved procedures in the trials that came before it. Since then, the constitutional position in Equatorial Guinea has been that the Basic Law should be strictly observed as the direct source of rights and obligations.

IV. Social system

A. Social and occupational organizations

14. The legal basis for social and occupational organizations is the legal provisions adopted by Equatorial Guinea in conformity with the various International Labour Organization (ILO) conventions to which the country is a party. These legal provisions include the Labour Act, the Trade Unions and Collective Labour Relations Act and legislation governing national employment policy. Based on the Press Act, for example, there are social and professional associations, such as the Equatorial Guinea Press Association and the Professional Journalists' Association of Equatorial Guinea that are dedicated to upholding and disseminating the ethical principles and moral values of the art of information. Employers' organizations are active in support of their rights and participate in preliminary work to set the minimum wage. They also make a contribution to international meetings on labour issues in which Equatorial Guinea participates.

B. Non-political associations and non-governmental organizations

15. Following the adoption of legislation on private associations, together with the Non-Governmental Organizations (NGOs) Act No. 1/99, of 24 February, the number of non-political associations involving various sectors of society has been on the increase. Various associations have been set up under this legislation. These include the Catholic Centres Association of Equatorial Guinea, whose purpose is to attend to the basic needs of girls and women in Equatorial Guinea, in close association with the Claret religious educational centres in Malabo and Bata. Mention should also be made of the Equatorial Guinea Family Welfare Association, which works for the physical, moral and social welfare of girls, and young people in general. There is also the Association of Women against AIDS, the Equatorial Guinea Children's Support Committee, the Equatorial Guinea Organization for the Blind, the Elderly Persons' Association and the National Disabled Persons' Association of Equatorial Guinea, among others. A similar organization is the Nana-Mangue Centre, amongst whose aims is to provide care for children at the preschool and primary school levels.

C. Farming and livestock associations

16. There are various associations in Equatorial Guinea promoting cooperative farming, such as Buena Semilla, Ening Mbeng, Acum.-Ening, Fili Ene Mbeng and Nnem-Mbóho. These agricultural associations have been given training and instruction, together with funds to develop their activities. Examples of such training and instruction activities include seminars on modern production techniques, project formulation and advice on how to set up and establish agricultural associations and cooperatives.

V. Civil and political rights

(Basic guarantees on freedom of opinion, expression and religion)

17. Article 13 of the 1982 Constitution, revised in 1995, sets out a range of rights and freedoms that may be directly invoked before the courts, particularly the Constitutional Court: the inviolability of the dwelling, freedom of worship, freedom of association, the presumption of innocence, the principle of legality, due process, the adversarial system and others. Article 14 of the Constitution states that the list of rights in article 13 is not exhaustive and includes all the other rights guaranteed under the Basic Law and other rights and public freedoms of a similar nature originating in respect for human dignity and a democratic State governed by the rule of law. The additional rights listed in article 14 mean that the Constitution need not restrict protection to civil and political rights in Equatorial Guinea but may extend it to other rights arising out of social, cultural and economic circumstances.

18. The most effective guarantee of the realization of such rights and freedoms lies in the crucial role that has been played by the Constitutional Court, whose rulings mostly relate to the activities of public institutions — central or regional government, the judiciary and other agencies — or to legislation introduced by the Government or Parliament — laws, decrees, orders or decisions — as regards the requirements and restrictions imposed by the Basic Law.

19. As for freedom of worship, there are a number of different religious denominations and congregations (Catholic, Protestant, Evangelical Christian, Muslim and others), which freely engage in worship.

VI. Economic, social and cultural rights

(Education, housing, infrastructure, health, environment, etc.)

A. National education

20. The 1995 General Education Act contained a number of shortcomings and this led to reform in the shape of the 2006 Act. One of the major features of the new legislation was to do away with the State monopoly on education and training. This new, liberal approach has led to an exponential increase in private establishments at all levels of primary and secondary education.

(a) The country's long-term education programme is contained in the Education for All Plan, launched in 2003. One of the aims of the Plan is to improve the level of preschool education with both teaching staff and volunteers; to establish a corps of inspectors of schools; and to strengthen and promote the activities and contributions of parents' associations. Beginning in January 2007, national educational reform has proceeded at every level (infants, primary and secondary education), on the basis of activities introduced by the new National Education Act of 2006 and other activities arising out of the national infrastructure and equipment programme. These include the decision to put human rights education on the curriculum; an educational grants programme; continuous training for teaching staff; establishment of a school for deaf and dumb children, children with disabilities and children with learning difficulties; promotion and improvement of technical schools (the Modesto Gené Roig School in Bata and the 12 October School in Malabo); repair of educational centres and construction of new ones; and adaptation of architectural design in order to provide disabled access;

(b) Mention should also be made of the establishment of the African Observatory for Science, Technology and Innovation, based in Equatorial Guinea, with the Government's support.

B. Health

21. The Government has made health a priority in the interests of sustaining national development. For Equatorial Guinea, health means a state of complete well-being physically, mentally and socially, not simply the absence of illness and disease. From this point of view, the right to health involves — without giving an exhaustive list — such features as diagnosis, prevention, access to basic services and essential medicine for such diseases as malaria, leprosy, poliomyelitis, river blindness and other forms of filariasis, HIV/AIDS and maternal and infant health, among others. This approach formed the basis for the adoption of provisions such as a national pharmaceutical policy, integrated epidemiological surveillance, the Medicines Act, the establishment of the National Medicine Supply and Provision Centre, a programme to reduce maternal and neonatal mortality, the setting up of rural health centres, and the review and updating of legislation relating to the health sector. No mention need be made of the work carried out on repairing health infrastructures and equipment or the training of human resources, since the documents annexed to this report contain the relevant information on provincial hospitals, health centres, new extensions, new operating wings, gynaecological and obstetric services, clinical analysis laboratories and radiology, among others:

(a) On 31 December 2007, Equatorial Guinea found that it had surpassed the targets set by the Abuja Declaration and Framework for Action for the Fight Against HIV/AIDS, Tuberculosis and Other Diseases of 2005. On the island of Bioko and the province of Centro Sur in the mainland region of the country, 80 per cent of the population has, since 2004, had protection against recurrent respiratory infections and has been provided with mosquito nets impregnated with insecticide (these activities are being carried out in close cooperation with the World Health Organization (WHO), the United Nations Children's Fund (UNICEF) and the oil company Mobil Equatorial Guinea Incorporated). The same percentage of pregnant women is provided with antenatal monitoring and, of these, 60 per cent receive periodic preventive anti-malaria treatment;

(b) Efforts to implement the country's Strategic Emergency Plan and the Multisectoral Plan against HIV/AIDS have been stepped up. Working with NGOs, Equatorial Guinea has set up a national forum on HIV/AIDS and launched a further awareness-raising campaign to combat the pandemic, providing extensive information on the availability of free contraceptives in all national hospital centres. As for retroviral drugs, Nevirapine is distributed free of charge in 15 health centres and 5 maternity hospitals in order to prevent vertical mother-to-child transmission;

(c) As for preventive measures and source eradication, whether for malaria, river blindness and other forms of filariasis, leprosy or tuberculosis, action has been taken, in addition to the procedure of impregnating mosquito nets mentioned above, in both the mainland and the island region, to fumigate private homes, spray rivers, provide free medicines in general hospital centres and in specialist centres for leprosy and tuberculosis and also to set up an outpatient system for the provision of remedies or palliatives, to run radio campaigns in the national languages to change attitudes to these diseases and to take the measures required for prevention, diagnosis, where relevant, and medical follow-up. A programme to monitor and investigate malaria is being conducted in cooperation with the Carlos III Health Institute of the Spanish Ministry of Health and Consumer Affairs;

(d) With regard to the distribution of essential medicines to combat recurring diseases, such as malaria, river blindness, leprosy, tuberculosis and HIV/AIDS, the Social

Development Fund (the General State Budget) and the Global Fund provide funding for the acquisition of the requisite drugs and arrange for them to be available free of charge. This policy is being pursued in both the public and the private sector, in hospitals and health centres or through the National Social Security Institute, for both insured persons and for pensioners. Access to essential medicines for those covered by the Institute is 100 per cent free for hospital cases and 50 per cent for outpatient consultations. The Bamako Initiative is being implemented in the health units set up in the townships and neighbourhood communities, with a symbolic charge for access to essential medicines. In the case of the elderly, pregnant women and people with no income, however, medicines are supplied free of charge;

(e) With regard to social security for persons with physical or mental disabilities, a preliminary census on this social group was carried out, revealing a figure of approximately 2,540, taking into account possible statistical errors. The Government has accordingly made funds available through the Social Security Institute for the implementation of the Special Protective Action Plan for persons with disabilities. The benefits provided by this funding consist of medical and pharmaceutical supplies, subsidies for care assistants, help for those on the minimum wage and occupational rehabilitation or recuperation.

C. Labour law

22. Equatorial Guinea, as a member of ILO, has ratified a number of ILO conventions. The country has accordingly put in place a legal framework for labour law incorporating the inherent rights and freedoms recognized by ILO: working hours, wages, leave, minimum age, retirement, social security, overtime, trade unions and collective disputes, night work, maternity and antenatal rights, slave labour, forced labour and so on. These rights and freedoms are recognized in the Labour Legislation Act, the National Employment Policy Act, the Labour Inspection Act and decrees setting the minimum inter-occupational wage for the private sector. There is no discrimination as far as wages are concerned: the principle of equal pay for equal work is strictly applied to all workers, whether women or men, foreigners or nationals.

23. There is a legal obligation in Equatorial Guinea to insure all employees, whether in the private sector or not, against risks and illnesses at work, whether occupational or not. The mandatory payments by social security are as follows: medical and pharmaceutical supplies, benefits for temporary or permanent disability, the old age pension, maternity and family benefits, benefits for the disabled, the death grant, etc.

D. Infrastructure

24. The Government of Equatorial Guinea is engaged in carrying out infrastructure projects on roads, bridges and canals, with a view to improving all the rights whose enjoyment will be increased by easier and faster mobility. For example:

(a) In order to facilitate connections between provincial capitals, large towns, ports, airports or border areas, 698 kilometres of major roads have been paved over the past three years. Asphalted work is currently under way over a further 402 kilometres;

(b) Provincial roads, though not part of the main road network, are significant because they can open up towns, villages and important centres or rural agricultural production areas in the provinces. A total of 124 kilometres of this road network has been surfaced;

(c) As for trading ports, Luba, Malabo and Bata have had reconstruction and extension work done by the Sociedad Marroguineana de Construccion (Somagec) and the China Road and Bridge Corporation, respectively, and similar work has been done in Annobón, Corisco and Cogo;

(d) There has been substantial development of airport infrastructure over the past few years. Thus extension and modernization works have been carried out at Malabo and Bata airports, while considerable progress has been made with work at Mongomeyen, Annobón and Corisco airports and Mongomo aerodrome.

E. Social housing

25. Equatorial Guinea has undertaken a number of social housing construction projects for distribution to the needy sectors of society. These works are being carried out in Malabo, Baney, Bata, Ebebiyín, Evinayong and Mongomo. A total of 5,985 housing units have been built in the island region, while the construction of 2,460 units is nearing completion in the mainland region.

F. Drinkable water supply

26. The Government's aim is to guarantee access to drinkable water to all its people, whether living in urban or rural areas. To this end, work is being done to convey and supply drinkable water in Malabo and Baney and in the townships of Cupapa, Riaba, Bata, Mongomo, Ebebiyín, Evinayong and others. In order to mitigate any sudden emergencies, the public authorities, working with NGOs and international cooperation, have bored and provided protection for a number of wells in many cities and towns.

G. Drainage and sewerage

27. In this regard, Equatorial Guinea has, in the context of cooperation for development assistance with the Government of China, entered into agreements with China National Machinery and Equipment Import and Export Corporation (CMEC) to lay drainage and sewerage systems. Works to this end are currently in progress throughout the city of Malabo and the surrounding area.

H. Energy production and distribution

(a) Work is under way to extend the capacity of the Turbogás electric power station in Malabo. The station is currently connected to a single electric substation in the Semu district of Malabo, which results in deficits not only in the transportation of electricity, owing to an obsolete aerial network, but also in distribution. Next year, 2010, it is proposed to launch the new Malabo substation run by the Sociedad de Electricidad de Guinea Ecuatorial (SEGESA) (to be powered by the greater capacity of the Turbogás station) which will use an underground transport system and power distribution. The large towns and district centres are currently supplied, as far as possible, by free-standing generators. Action is now being taken to upgrade the hydroelectric power stations of Riaba and Musola, which will extend the amount of power generated and increase the geographical area covered;

(b) The mainland region is home to the Ekuku electric power station, another thermal plant in the centre of Bata and the Bikomo hydroelectric plant, which currently produce enough energy for Bata and the surrounding area. In the rural areas, there are over

22 offices of the energy company in the towns and district centres to operate the same number of free-standing generators. Currently under construction are the Djibloho hydroelectric plant, with a capacity of 120 MW, and an underground power distribution line from the plant extending throughout the mainland region.

I. Environment and natural resources

(a) The Environment Act No. 7/03 of 27 November promotes the sustainable use of natural resources in Equatorial Guinea with a view to conserving, protecting and reclaiming them. It adopts an interventionist approach, which indicates the authorities' power over any activity that may have an impact on the environment or natural resources. The scope of the Act covers water, soil and air quality and biological biodiversity and also prohibits pollution. Moreover, it provides that everybody has the right to be informed both of the effects of activities that might be harmful to health and of the measures taken to prevent or compensate for such effects. In that connection, the Act also prohibits any disturbance or destruction of or injury to any protected animal species. More generally, the Act takes as its points of reference the principles of prevention, participation and subsidiarity. The Act designates parks, natural monuments, nature reserves, protected landscapes and areas of scientific interest as natural areas protected for their fauna, flora and water resources. In this context, it devotes particular attention to air pollution caused by dust, smells, noise or heat, which, where present in abnormal quantities or produced by human activities, are deemed illegal and liable to administrative punishment. The Act also deals with toxic and dangerous wastes. Activities carried out in this regard in violation of the law on such wastes are punishable by fines or the administrative closure of the businesses, industry or establishment concerned and by a prohibition of engaging in certain activities. Decree No. 173/5, of 8 September, setting out the rules for environmental inspection, establishes a monitoring system whereby compliance with Government policy on the protection and conservation of the environment and the sustainable use of natural resources can be properly monitored. The purpose of the Decree is purely preventive, in that, in its own words, it contributes to the "prevention of prohibited and punishable activities or conduct" that might endanger the environment or natural resources. The way it does so is through the creation of a special environmental inspection unit. During the course of 2007, 2008 and 2009, training has been given to a number of environmental inspectors, whose remit is to monitor activities throughout the national territory and develop measures of prevention and punishment. Equatorial Guinea has an extensive area of virgin forest, over 1,800,000 hectares in size, and some 13 protected areas, covering 18.5 per cent of the national territory;

(b) With regard to the fishing sector, fisheries resources are in public ownership and their management and exploitation are required to be conducted in line with the Fisheries Act No. 10/2003, of 17 November, the corresponding regulations contained in Decree No. 130/2004 and the Environment Act. The State is promoting the development of the production of resources from national fishing grounds for distribution within the internal market with a view to meeting the food needs of the population. This policy is producing results in the semi-industrial fishing sector, which is the one that reaches the public most quickly and most effectively. The resulting produce, in addition to the catches brought in by industrial fishing vessels in accordance with existing fishing agreements, bodes well for a better future in the provision of high quality fishery products in large numbers for the population.

J. Promotion of women and sexual equality

28. In the context of assuring women's economic rights, mention should be made of the wage equality established by presidential decrees and supplementary ministerial orders, setting the minimum inter-occupational wage in all private sectors. The labour inspectors attached to the Ministry of Labour and to the National Social Security Institute strictly enforce compliance with this. In 2009, a seminar was held on women's rights and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

(a) One aspect of this policy is the Promotion of Self-Employment for Rural Women (PRAMUR) project, which aims to help increase the incomes of women in rural areas. As regards positive discrimination, no factor directly related to the biological status of women, such as pregnancy, prenatal care or any other condition, may serve as a cause for dismissal or any form of disciplinary sanction. Attention should also be drawn to the implementation of the National Education Programme for Adult Women, the aim of which is gradually to eliminate inequality throughout the country resulting from illiteracy, which currently makes women reluctant to seek employment or establish their own businesses;

(b) As for women's participation in politics, women constitute 15 per cent of the Government, 10 per cent of parliamentarians and 18.6 per cent of the judiciary. In the civil service, women make up 33.8 per cent of teaching staff and 65.5 per cent of health personnel. In the regional administrations, consisting of 36 municipalities, 23.2 per cent of councillors, 8.3 per cent of mayors and 28 per cent of deputy mayors are women;

(c) Judiciary Act No. 5/2009 provides for Family Judges (whose powers also include the guardianship of minors) to be competent in any question relating to violence against women;

(d) Action has been taken on a substantial scale to promote sport for women, which has produced results good enough to encourage hopes of a better future.

K. Protection of children

(a) Children have been trafficked from a number of neighbouring countries to Equatorial Guinea, principally for domestic work and for work in markets, sometimes as street vendors. The destination of most of the victims is the cities of Malabo and Bata. Equatorial Guinea has for years considered such trafficking to be a serious offence and is taking the necessary steps to eradicate it. In 2007, in cooperation with an international organization, the Government launched a series of training seminars on trafficking, attended by police officers, other security personnel and naval officers. By the end of 2007, some 160 officials had received training. In 2008, formal instructions were distributed to police, security forces and citizen protection forces on how to identify victims of trafficking and how to go about arresting traffickers. These instructions included guidelines on how to provide assistance to victims. In cooperation with UNICEF, Equatorial Guinea has continued to fund and conduct awareness-raising workshops for local officials in Malabo and Bata over the past year;

(b) The National Committee for Children's Human Rights. The responsibility of this Committee, which was established by Decree No. 100/1997, of 30 September, is to direct, coordinate and promote initiatives, both at home and abroad, for the benefit of the children of Equatorial Guinea, in implementation of the Convention on the Rights of the Child. Under the 2008-2009 budget, the Government made the sum of 190 million CFA francs available to enable the Committee to carry out its activities;

(c) The new Judiciary Act No. 5/2009 is also concerned with children. It provides for and strengthens both the composition and the powers of juvenile courts, which hear cases of child and adolescent offences, and improves the system of the child detention centres that are due to be introduced.

L. Telecommunications and access to information

29. Access to information is an essential component of public freedoms and has been given priority in national policy. There is thus currently nothing to prevent access to journals or reviews, whether national or foreign, and the Internet is fully available for public access. There are no controls, either preventive or retroactive, over the broadcasting media or over the publication or distribution of books. Many of these developments are due to the adoption of the new Telecommunications Act, the main feature of which is to put the liberalization of the telecommunications sector on a legal footing. It also establishes a telecommunications regulator attached to the Telecommunications Department to act as a useful tool for improving the telecommunications sector, which is currently extending the Global System for Mobile communications (GSM) fixed network and improving the asymmetric digital subscriber line (ADSL) Internet system.

VII. System of protection for citizens' rights

30. There are various mechanisms regulating the human rights protection system in Equatorial Guinea. The three most important, however, are legislation, action by the courts and development programmes.

A. Protective legislation

31. Various provisions have been adopted in this regard with a view to strengthening the preventive legal regime already set out in the Basic Law. Mention may also be made of the Illicit Smuggling of Migrants and Trafficking in Persons Act No. 1/2004, of 14 September, and the Prohibition of Torture Act No. 6/2006. In that context, it may be noted that, in the extradition process set out in Act No. 5/97 of 19 May, the general principles of international law that form part of customary international law are integrated into both national law and the law of the subregion, the Economic and Monetary Community of Central African States (CEMAC). Reference should also be made to Act No. 6/84, of 20 June, which established juvenile courts; Act No. 12/1992, of 1 October, which regulated trade unions and collective labour relations; the freedom extended to social, occupational and trade union organizations to participate in international labour organization under Act No. 12/92, of 1 October; Act No. 17/95, of 11 October, on civil protection of the right to honour and good reputation; the Land Ownership Act No. 4/09, of 18 May; and Act No. 4/2002, of 20 May, which established police courts to monitor the legality of all detentions or arrests that might take place in the national territory, among others.

B. State liability

32. A number of legal provisions on human rights, and also on questions of a purely administrative nature, make clear that the State is liable for harm or damage that may be suffered by a citizen as a consequence of the normal or abnormal functioning of State institutions or bodies and also as a consequence of the activities of agents or officials of the State acting in their official capacity. This is a third-party liability and may, according to circumstances, be either direct or subsidiary. In that connection, reference should be made

to the Prohibition of Torture Act No. 6/2006, which sets out the State's civil responsibility to pay compensation to either the victim or his beneficiaries for any harm or damage resulting from this crime against humanity. Such State liability is reinforced in the Central State Administration (Legal Regime) Act No. 3/2000, of 22 May, which establishes the State's direct responsibility for the acts of its officials, regardless of any subsidiary third-party liability arising in cases of fault or serious negligence on the part of a State agent acting in his official capacity. Both the Land Ownership Act and the Administrative Procedure Act No. 5/2006, of 2 November, commit the State to civil liability in cases in which a citizen's rights have been violated as a result of the actions of public officials.

C. Action by the courts

33. Action by judges and magistrates to protect human rights and public freedoms is taken on the basis of cases that may be brought by natural persons or by legal persons, whether private or public. The right to equal access and equal treatment before the courts in using this protection mechanism is provided for in article 13 (c)-(j) of the Constitution, while the prohibition of discrimination in legal proceedings is enshrined in article 15. Various rulings by the Constitutional Court have deemed unassailable the right of everyone, including foreigners, to appeal to the courts and tribunals for assistance. Such rulings do no more, however, than put on a constitutional footing the provisions of article 27 of the Civil Code currently in force in Equatorial Guinea: "Foreigners shall enjoy in Equatorial Guinea the same civil rights as nationals of Equatorial Guinea." The new Judiciary Act No. 5/2009 contains the provision that citizens may apply directly to the courts when it proves objectively difficult or impossible to obtain legal representation.

D. Appeals and proceedings

34. Appeals and proceedings that give rise to action by judges and magistrates on human rights issues are of various kinds and we shall mention only those that are relevant to proceedings against public institutions or officials: (1) the habeas corpus procedure; (2) the option of complaint and appeal to the administrative or judicial authorities; (3) a complaint before the National Human Rights Commission or the Parliamentary Commission for Complaints and Petitions; (4) an appeal to the police courts; (5) the constitutional appeal for *amparo* governed by Organization Act No. 2/93, under which individual rights and freedoms may receive direct protection where they are infringed as the result of the implementation of a law by a public authority, the exercise of power or activities carried out by State authorities or powers; (6) an appeal against a judgement by the Military Courts (this option was introduced by the Judiciary Act No. 5/2009): the first such appeal, against Judgement No. 6/2008, of 9 December 2008, by the Military Court, is currently pending before the Supreme Court of Justice; and (7) the electoral process, both for the review of electoral rolls and for the contesting of results.

E. Development and extension programmes and projects

35. The Second National Economic Conference in 2007, stressing the fundamental aspect of the right to development, proposed that, by 2020, Equatorial Guinea should be an emerging country. To this end, the Government is progressively establishing benchmarks for:

(a) The Equatorial Guinea Poverty Profile was prepared on the basis of a survey carried out in 2006 with a view to assessing the living conditions of various sectors of the population in terms of the National Economic and Social Development Plan. The Profile

revealed that 76.6 per cent of the population lived in conditions of poverty, largely owing to the precariousness of their employment and the high unemployment rate in rural areas. The Government has therefore adopted a number of guidelines on economic and social policy in order to reduce poverty. These guidelines are based on five main principles, namely:

- Investment in strengthening economic growth
- Stronger development of structured investments
- Promotion and further development of social policy activities
- Implementation of good governance to serve the public and a transparent, relaxed and stable social climate
- Improved living conditions for the population, with periodic assessments of poverty levels

(b) The agenda for the diversification of the sources of growth: extend oil exploration in its various industrial forms; involve and develop the fishing sector; encourage and develop the agricultural sector; develop the tourism, financial services and mining sectors; provide training for human resources; improve the regulatory and institutional environment of public services with a view to modernizing the civil service; develop competitive economic infrastructures in the context of globalization; and provide support for behaviour and values that promote development and improved social infrastructures for service provision.

36. On the basis of the principles of the national programme set out in the Final Acts of the Second National Economic Conference, the Government of Equatorial Guinea drew up a range of development projects for various sectors. For specific topics under this heading, please see the material set out in point 7 ff. of this report. The considerable efforts made to extend public knowledge have significantly raised awareness both among the public and, above all, among State officials and agents. Violence against women and children, child abuse, campaigns to raise awareness about malaria and the various forms of protection against and prevention of this disease, along with HIV/AIDS and typhoid, and information on leprosy, river blindness and tuberculosis have received wide coverage over the past few years. The same goes for a campaign against torture and inhuman, cruel or degrading treatment.

F. The new Judiciary Act No. 5/2009

37. The new Judiciary Act No. 5/2009, of 18 May, provides for a clear structure for the judiciary, as follows: the Supreme Court of Justice, provincial courts, prison supervision courts, labour courts, family and traditional courts and magistrates' courts. These new arrangements will need to be gradually adopted in place of the structure set out in the 1984 Act. Special attention should be paid in this new structure to the critical role played by the Constitutional Court, in its capacity as the body that ensures respect by any judicial, governmental or administrative process for the country's constitutional requirements on human rights and public freedoms. Article 218 of the new Act provides that the forces of public order are operationally subject to the judiciary and the Government Prosecutor's Office.

G. Traditional courts

38. The need to raise awareness of the specific circumstances that obtain in the environment for which it is legislating has obliged the Government to seek a formula that

will reconcile its preference for the primacy of codified law with respect for the authority with which the psychology of the African people of Equatorial Guinea endows traditional law. The reforms therefore create the possibility of the preferential application of traditional law, in the form of traditional courts.

H. Improving the prison system

39. The Government's plans for the improvement of the prison system have taken shape. Malabo public prison has been repaired and modernized and Bata prison is being repaired. The aim of all this is to ensure that the punishment of imprisonment is imposed with due respect for the dignity and the health of prisoners. The new Judiciary Act No. 5/2009 has established prison supervision courts in the provincial capitals with jurisdiction over punishments of deprivation of liberty, authorized to review the disciplinary powers of prison authorities and ensure protection for the rights and benefits of those detained in correctional establishments. As for intervention in correctional establishments, the Government has signed an agreement with the International Committee of the Red Cross (ICRC), under which ICRC delegates may periodically visit any correctional centre throughout the country with a view to inspecting the detainees' physical and psychological condition and the treatment given to them.

40. The Government is planning to introduce a prisons law. The law will regulate the operations of the prison supervision courts established by the Judiciary Act No. 5/2009, as the bodies responsible for enforcing sentences, monitoring any situation that may arise when a sentence is being served and reviewing any decision that may be taken by the prison authorities in that regard. These powers will mean that the whole range of actions that may be taken when a sentence is being served will be subject to full review and legal oversight.

I. Access to the courts

41. To facilitate and encourage access by the public to the courts, the Government has not only introduced the new Fees Act, which has been instrumental in drastically reducing judicial fees for the lodging of applications, so that they have become largely symbolic, but it has also initiated a project to produce leaflets for the public entitled "Guide to access to justice", which will be distributed during the second part of the year.

J. Non-judicial mechanisms

42. Non-judicial mechanisms have been created with the establishment of various national institutions to foster the promotion and effective protection of human rights. These institutions are the Social Sector and Human Rights Department attached to the Office of the President, the National Human Rights Commission of the House of People's Representatives and the Centre for the Promotion of Human Rights.

VIII. Cooperation with the United Nations human rights system

43. Equatorial Guinea has consistently cooperated with the United Nations human rights system. This cooperation, which is constitutionally grounded in article 8 of the country's Basic Law, is evidenced in Equatorial Guinea's accession to the Charter of the United Nations and the United Nations human rights treaties. The country cooperated for many years with the Commission on Human Rights, in which connection it not only participated in many of the Commission's sessions but also hosted and facilitated the work of special

rapporteurs. Since 2007, Equatorial Guinea has been cooperating with the Human Rights Council. It has prepared its initial report. It has issued an invitation to the Council's Working Group on Arbitrary Detention and the Committee against Torture. In relation to gender issues, Equatorial Guinea has submitted five reports in compliance with CEDAW and is currently preparing the sixth. Lastly, the country maintains close relations with the Office of the High Commissioner for Human Rights. The Government is desirous of continuing to improve such cooperation and at the same time looks forward to profiting from any technical assistance that it may receive for various aspects of human rights.

IX. Obstacles and problem solution

44. One of the obstacles to action by judges and magistrates to protect human rights and public freedoms is purely practical; it relates, for example, to the possibility of access to the courts by persons living in remote areas or lacking the economic resources to pay the cost of judicial proceedings. This problem is being addressed as quickly as possible and, in order to find a solution, a financial grant has been made to the Bar Association under the General State Budget so that free legal assistance may be provided; under the new Fees Act, fees for bringing judicial proceedings have been reduced; and regional and district courts are being set up in all district centres and a number of towns. Mention should be made in this context of the work being done to build roads to open up remote areas.

45. In the agricultural sphere, the main stumbling block is a lack of funding in the agricultural, livestock and horticultural sectors that could promote, sustain and improve rural production. Initiatives are being taken to address this impediment to rural development and introduce transport and trading facilities that will be created by an infrastructure of roads and public works in markets and other distribution centres in the provincial capitals and district centres.

46. With regard to health, a target of 100 per cent improved access to malaria diagnosis and artemisinin combination therapy (ACCT) has been set. The obstacles are the same as those referred to above with regard to remote areas, along with a decline in health centres. This impediment will be addressed by improving provincial roads and bringing rural health centres up to operational standards. As for leprosy and tuberculosis, these diseases, despite the work done and the initiatives implemented, remain a major concern for Equatorial Guinea. In 2008, 741 new cases were found in Bata and 240 in Malabo. All the patients, however, received outpatient medical treatment and the worst cases were hospitalized. The main challenge in this regard is to raise awareness among patients and their families that treatment must not be abandoned and that patients should not return to their family surroundings. The scarcity of human resources to deal with leprosy needs in Micomeseng should also be noted.

47. With regard to telecommunications, one of the problems hindering its distribution throughout the country is the costs involved in equipping and operating the technical facilities to maintain it, such as computers, satellite dishes, decoders, gateways or televisions.

48. As for the obstacles to the schooling of girls, it should be noted that the distances and remoteness of some townships from educational centres, early marriage, excessive household chores, early pregnancy and their expulsion from educational establishments have been the most notable sources of discrimination, setting back the schooling of young females. The awareness-raising campaigns that have contributed to the abandonment of old customs that were harmful to girls, the improved living standards of many families, the building or rebuilding of educational establishments in rural areas and the road construction programme throws the problem of the failure of young girls to attend school into even

sharper relief. Mention should, however, also be made of a new policy of permitting pregnant girls to attend school when they so wish. There are also deficiencies with regard to the student/teacher ratio and the student/classroom ratio, which are much more evident in the urban areas, most especially in the island region, where the school population is most heavily concentrated.

49. With regard to women's rights, the social and economic situation of women remains a cause for concern, despite the progress made, owing to the fact that the number of women who gain access to higher or technical training is lower than that of men. The majority of women are therefore engaged in subsistence agriculture and the informal sector. Cultural factors also play a role.

50. The attempts at destabilization to which Equatorial Guinea was subjected have affected in some degree the normal functioning of public institutions and created a climate of tension that diminishes the Government's enthusiasm for implementing human rights.

X. Conclusions

51. As may be noted in various areas covered in this national report, the Government of Equatorial Guinea has undertaken and will continue to undertake various programmes and activities that have a direct or indirect impact on the promotion, protection and guarantee of its citizens' fundamental human rights and freedoms.

52. The Government of Equatorial Guinea does not see any diminution in its sovereignty from the submission of a report on the implementation of human rights and public freedoms in the country, since these are commitments that we have sovereignly undertaken by virtue of the international treaties and conventions to which we have freely acceded. This is the basis for our political will to see the development process and the enjoyment of civil, political, social and cultural rights become a reality in Equatorial Guinea. It does not seem inappropriate to us to be engaged in a dialogue from a point of view that is not our own, nor do we consider it to constitute interference. We have therefore provided information for the closest possible examination, enabling all partners to gain an up-to-date and well-thought-out view of the real situation in Equatorial Guinea.

53. Despite the progress noted in this report, the Government of Equatorial Guinea is aware that much still remains to be done and expresses its firm political will to continue developing the process of improving human rights, always with the assistance of international cooperation.
