

**EQUATORIAL GUINEA:  
A COUNTRY SUBJECT TO TERROR AND HARASSMENT**

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Equatorial Guinea is composed of a continental part, called Río Muni, which comprises 80% of its some 400 000 inhabitants and several islands including the island of Bioko where the capital Malabo is located and the island of Annobon.

## Introduction

“One of his feet became infected because of the torture, gangrene set in, and he went crazy. He was eating his own shit, he didn’t realize what he was doing”. This is one of the many eyewitness testimonies collected by an Amnesty International delegation which visited Equatorial Guinea in May 1998. The victim - who eventually died in detention - was Ireneo Barbosa Elobé. He was one of about 500 people arrested in January and February 1998. These arrests followed an attack in January 1998 on several military barracks on Bioko Island, during which three soldiers and several civilians were killed. Most detainees, including women, were arrested solely because of their ethnic origin. Many were tortured by the security forces and at least six died as a result.

One year earlier, in February 1997, the President of Equatorial Guinea, Teodoro Obiang Nguema Mbasogo, had publicly admitted for the first time that human rights had been systematically violated in his country and had announced that measures would be taken to end these abuses. The massive human rights violations which followed the January 1998 attacks clearly showed that this presidential statement was just one more unfulfilled promise aimed at appeasing domestic and international criticism and at obtaining economic aid.

Most of the people arrested were members of the Bubi ethnic group, the indigenous population of Bioko Island. Bubis were beaten in the streets; women were raped in their homes. Members of the security forces watched without intervening as mobs beat and raped Bubis. Relatives of people wanted by the security forces, including women and elderly, were taken as hostages to force the fugitives to give themselves up.

A total of more than 110 people were tried in May 1998, in connection with the attacks on the military barracks. The five-day summary military trial did not respect international standards of fair trial. The military court pronounced 15 death sentences (four of them *in absentia*) and sentenced some 70 people to prison terms ranging from 6 to 26 years. All the convictions were based on confessions made under torture.

The Amnesty International delegation observing the trial saw clear signs that the defendants had been tortured. Some had fractured bones in their feet and hands, and at least 10 had part of their ears cut off with razor blades.

Since the trial, the prisoners who were sentenced to death have been held in life-threatening conditions which amount to cruel, inhuman and degrading treatment. In September, President Obiang Nguema commuted the death sentences to life imprisonment but prison conditions remained harsh for all the prisoners. One detainee, Martin Puye, died in hospital in July 1998 and many of the prisoners are said to be very weak and not receiving adequate treatment or food.

In addition to persecution of the Bubi population, the government has continued to harass peaceful political opponents. The tactics of the authorities have been to detain opposition leaders and activists in police stations for short periods of time, during which they

have been beaten and ill-treated. They have then been arbitrarily fined and released without charge or trial. Some have been confined to their villages after their release from prison; others have been banished from their home towns. Most of these human rights violations occurred in the continental part of the country.

Most if not all detained political opponents were arrested for peaceful party activities, such as organizing an unauthorized meeting, criticizing the government or being members of opposition political parties which were not legally registered. Many appear to have been ill-treated in order to force them to pay heavy fines or to join the ruling *Partido Democrático de Guinea Ecuatorial* (PDGE), Equatorial Guinea Democratic Party.

All these human rights violations were committed with impunity. The security forces, both police and army soldiers, are not held accountable for their actions: they commit human rights violations and obey no laws. During the May 1998 trial, some defendants and their lawyers accused the security forces of using systematic torture to obtain confessions but the presiding judge systematically cut off pleading or testimony on the issue and no inquiry has been opened into these very serious and well-documented allegations.

Amnesty International does not condone human rights abuses by armed opposition, but such attacks cannot be an excuse for violation of human rights by the government. As long as such abuses remain unpunished and nothing is done to prevent further abuses taking place, there can be no serious hope of improvement in the human rights situation. At the end of this document, Amnesty International makes recommendations to the government, to the UN and to international bi-lateral partners to address this situation, including to act and press for the release of all the prisoners of conscience and to improve the prison conditions of those sentenced in June 1998.

#### **(A) THE JANUARY 1998 ATTACK**

In the early hours of 21 January 1998, several military barracks on Bioko Island were attacked by groups of young Bubi armed with some guns and machetes. As a result three soldiers and several civilians died. One soldier was subsequently disemboweled and emasculated.

These attacks and the profanation of a corpse deeply shocked the authorities, who responded by unleashing a systematic programme of repression and arrests against large segments of the Bubi population over a period of several weeks. Security forces descended on Bubi villages several of which were looted. A number of people, including some of the attackers, were extrajudicially executed.

Very little information about these killings in the field reached Amnesty International, but in the May 1998 trial the prosecutor admitted that many villagers had been killed by the security forces. Among them were Gustavo Mulé, who was shot in the back in the village of Belebú on 21 January 1998, and Marcos Rope Bitá, who was killed in the town of Rebola on 1 February 1998.

The authorities immediately accused the *Movimiento para la Auto-determinación de la Isla de Bioko* (MAIB), Movement of the Self-determination of Bioko Island, of masterminding these attacks on the military barracks. The Bubi ethnic group has faced discrimination since the country's independence from Spain in 1968 and the MAIB, founded in November 1993 to campaign for the independence of Bioko Island, is widely supported by the Bubis. Since its creation, hundreds of members of the Bubi ethnic group have been arrested on suspicion of supporting or belonging to the MAIB.

The MAIB reaffirmed its aspiration for the self-determination of Bioko Island but denied organizing the January 1998 attacks. To Amnesty International's knowledge, the MAIB, which has never been legalized, has not previously used violence.

Immediately after the beginning of the arrests, Amnesty International publicly expressed concern that many people, predominantly members of the Bubi, appeared to have been detained solely on account of their ethnic origin. These fears have since proved valid.

### **Bubis targeted**

In reprisal for the 21 January attack, the security forces, in the days that followed, sought out members of the Bubi ethnic group in villages, at crossroads and in the markets and streets of the capital, Malabo.

Bubis were indiscriminately harassed at checkpoints outside the main towns of Bioko Island. They were forced to get out of cars, robbed and insulted. Some were beaten and publicly humiliated. For several weeks Bubis were afraid to leave their villages because of such harassment on the roads leading to the capital.

For several days, at a checkpoint just outside Malabo called "*la barrera de Banapa*", the Banapa barrier, Bubi women bringing food to sell to the city had their produce destroyed by the security forces. At another checkpoint, at Sampaca (six kilometres from the capital), Bubis were taken out of cars and taxis and beaten by the security forces.

The repression was particularly severe in Bubi villages. In the town of Rebola, which the government claims to be the headquarters of the MAIB, "soldiers wrecked about 80 per cent of the houses and threw rubbish and shoes in our cooking pots", a witness told Amnesty International.

In Malabo's main market, Bubi women selling food were attacked for several days and their goods were destroyed. "The soldiers threw the food on the ground. They trampled on the ripe bananas and chopped up the green bananas with machetes", an eyewitness said.

During the first days after the attack, Bubi women were prevented from drawing water from wells by security forces and by civilians belonging to the Fang majority ethnic group. The mayor of Malabo, Victorino Bolekia Boney, a Bubi himself, had to protest several times before the Bubi women were allowed access to the wells.

In the streets of Malabo, security forces and civilian Fangs close to the ruling PDGE

asked people questions in the Fang language. If they could not understand, they were often beaten in public and sometimes detained. The security forces also raided houses in some parts of Malabo looking for suspects, and fired indiscriminately into houses at a height where the inhabitants could have been shot.

Bubis were collectively accused of supporting the violent attacks. This led to the arrest of Bubi leaders, especially in Rebola where most members of the local authority (including the mayor of Rebola, Gregorio Pancho Borapa), were detained on suspicion of hiding rebels or helping them to escape.

Even members of the ruling PDGE were arrested and tortured simply because of their ethnic origin and therefore suspected of complicity with the attackers. Lino Losoha, a PDGE member, was detained because he was the leader of a neighbourhood community (*comunidad de vecinos*) in Rebola where some of the attackers had found a hiding place. He was told that he was presumed to know where the fugitives were. The security forces took him to a military post at the entrance of the village and there they burned his testicles, belly and chest with a lighter. Lino Losoha was then fined 15.000 CFA francs and released.

Another PDGE member, member of parliament Marcelo Lohoso, was arrested on 22 January 1998 at home in Malabo although Equatorial Guinea law on parliamentary immunity only permits parliamentarians to be so arrested if apprehended *in flagrante delicto*. He was accused of financing the attack, an accusation reportedly made by people who wanted to oust him from his post.

In Malabo, the climax of this indiscriminate harassment of the Bubi population was reached on 25 January 1998 when the Prime Minister, Angel Serafín Seriche Dougan, a Bubi himself, called for a demonstration to show that most Bubis were loyal to the authorities. Thousands of Bubis were brought by bus to the capital to participate in this demonstration and very few dared not to go. The local authorities (*delegados de gobierno*) threatened Bubis in the villages and said that anyone who refused to attend the demonstration would be considered an accomplice of the rebels.

During the demonstration, civilian Fangs close to the government and members of the security forces beat and insulted the demonstrators. The Prime Minister himself was insulted by the mob because he was a Bubi. During the following night, Bubis were attacked in their houses by both Fang civilians and members of the security forces. Some women were raped, sometimes in front of their husbands (see below). The security forces allowed these violations to occur without intervention and in some cases attacked the Bubis themselves.

In the weeks following the 21 January attacks, approximately 500 Bubis were detained. The arrests were made without warrant and in most cases without any specific justification. Some people were publicly beaten at the time of their arrest. Victor Bubayan, a Bubi teacher, was arrested at midday on 21 January at the school where he worked. He was wanted only because his brother-in-law, Cesar Copoburu, was one of the alleged leaders of the attack. Victor Bubayan told the Amnesty International delegation how he had been arrested: "Suddenly, the soldiers burst into the «colegio espanol» (the Spanish college). They grabbed me and kicked me in front of my students and my colleagues".

For several days, his family had no news of him and rumours circulated that he had been beaten to death. Victor Bubayan was held for two weeks in a police station without having a statement taken. He was finally released uncharged on 11 February 1998.

Many other people were also detained as hostages to force their relatives to give themselves up. In the case of Victor Bubayan, for example, five other members of his family (César's mother, two cousins, a father-in-law and Victor's wife) were detained for short periods. Most hostages were finally released but some, including four women, were held until the May 1998 trial.

Other groups were also collectively targeted. After the arrest of three Nigerians in connection with the January 1998 attacks, the security forces raided the houses of Nigerians living in Malabo, beating them and stealing some of their possessions.

Spanish citizens of Bubi origin -- Jose Luis Arranz Bomaho, Alejandro Choni Tonka, Francisco Biacho Chale and Juan de Dios Ripeu -- were detained, apparently in an attempt to show that nationals of the former colonial power had participated in the attacks. These four people were acquitted at the May 1998 trial without even being questioned by the prosecutor.

Some Bubis were arrested in neighbouring Nigeria. Three students attending Owerri University in Nigeria, who were suspected of belonging to the MAIB, were arrested by Equatorial Guinean security personnel and Nigerian soldiers in late February 1998 and illegally repatriated by plane to Malabo. Magin Esara Riloha, Marcelino Barila Buale and Marcos Binohari Elako were acquitted in the May 1998 trial.

On 29 January 1998 President Obiang Nguema called on the population not to take revenge on people of Bubi origin and announced that security personnel who engaged in violence and committed human rights violations would be punished. He called on them to stop the arbitrary arrest of innocent Bubis. However, the arrest and torture of people of the Bubi ethnic group continued with impunity.

Despite the president's call, there appeared to be a government policy of indiscriminate reprisals against the Bubi ethnic group by state security forces. The targeting of members of the Bubi ethnic group is in violation of the prohibition against discrimination in Article 2 of the International Covenant on Civil and Political Rights (ICCPR), which Equatorial Guinea ratified on 25 September 1987, and Article 2 of the African Charter on Human and Peoples' Rights (African Charter)

### **Torture and ill-treatment**

Many of the Bubis detained were ill-treated and tortured during the first weeks of detention in the main police station in Malabo and in other places of detention in villages.

Some Bubis were tortured at the time of their arrest in the villages by army soldiers. Many were beaten with rifles, kicked and punched. Some had part of their ears severed with razor blades or bayonets. During the May 1998 trial, the Amnesty International delegation

saw at least 10 defendants with severed ears. One of them, Fernando Riloha, had part of both ears cut off. (See photographs below) The soldiers allegedly said to one of the detainees while cutting off his ear: "It's a mark so that no-one will ever forget".

**Put the photographs of the two defendants with cut ears**

Caption: Defendants with cut ears

Torture was extensively used during the first weeks of incommunicado detention at the police station in Malabo mainly to obtain confessions which purported to show that the MAIB, with some Nigerian and Spanish nationals, had been involved in the attacks.

Some people were particularly badly beaten by police officers because they were thought to have led or masterminded the attacks. Among these were three Nigerians, who were accused of training the attackers. One of them died as a result. A protestant clergyman Pastor Bienvenido Samba Bomedoro, considered to be a leader of the 21 January attack, was also particularly targeted. One former detainee said: "He was one of those who was most badly beaten - it's a miracle he isn't dead. One night they took him to torture him seven times. He was half dead and they had to revive him".

Former detainees told Amnesty International's delegates that there was a special room in the Malabo police station where people were interrogated and tortured. (See map) People were usually interrogated in the middle of the night so that their cries would not be heard by passers-by. "We could hear the shouts from the yard, and we couldn't sleep. That's why they interrogated people at one in the morning, so that their cries wouldn't be heard by many people in the street".

During their trial in May 1998, many of the defendants said that they were beaten until they signed their statements. Some stated that during interrogation, they had a metal bar passed between their bent elbows and knees and they were then suspended between two tables. (See drawing 1)

Drawing made by a detainee

During the trial, defendants explained how they had been tortured. Some had their



hands and feet bound and were hung from the ceiling. (See drawing 2)

Drawing made by a detainee

Here are some extracts from the many statements made by defendants in court :

- “They hung me up as if I were a bird or a bat.”
- “In Luba, they cut off the tops of my ears with razor blades. They tied me up with my shirt, the blood clotted inside the shirt and I lost consciousness”.
- “They broke my hands”.
- “I couldn’t stand the torture. They made me drink urine”.

Some defendants arrived in court limping. Some complained of pains in their ears since they had been tortured. Gregorio Pancho Borapa, Mayor of Rebola, spoke in a mumble, when asked by the Prosecutor to speak up, he replied: “I’m afraid I can’t speak because my jawbones were broken when I was tortured”.

### **Put photograph of the hand with broken fingers**

Caption: Sign of torture on a defendant

Some people who refused to confess were threatened to death. Pastor Samba said in court: “They tied me up, they hit me at the back of the neck, they beat me with a whip, and they said I would be the second police station victim”.

The three Nigerians were interrogated without a translator to explain what they were being asked. For example, David Nuachuku told the Amnesty International delegation that he was in handcuffs for 52 days in Malabo police station. He also stated: “My hands and my legs were tied together over my back with an electric wire and I was kicked and beaten in this position for three days then I lost consciousness and I don’t remember what happened for two weeks.” The Amnesty International delegates were able to see clear marks of torture on his hands and feet.

Some of the hostages were also beaten in order to force them to reveal the whereabouts of their relatives. Victor Bubayan, the brother-in-law of Cesar Copoburu, told Amnesty International: “When I told them that I didn’t know where César was, several of the soldiers kicked me and hit me on the head with cables. At that point, they let my wife go. We passed each other and, when she heard me crying out, she started shouting: «They’re going to kill him»”.

Torture and ill-treatment lasted until the end of February. By May 1998, four months later, the Amnesty International delegates were able to see obvious marks of torture on the defendants, including fractured bones in the feet and hands.

The authorities did not hide this use of torture -- both to intimidate and as a sign of their willingness to take revenge for the soldiers who died during the attack. Some detainees were shown on television with visible marks of beatings. César Copoburu was shown on television with some weapons reportedly captured by the security forces, and he stated that he had been one of the group of 30 to 32 people who had attacked the military barracks on 21 January. This confession had clearly been obtained through torture: Cesar Copoburu had broken bones in his foot, for which he had received no medical treatment.

Torture was also confirmed by the United Nations Special Rapporteur on human rights for Equatorial Guinea who was the first person admitted to visit the detainees in March 1998. In his April 1998 report to the United Nations Commission on Human Rights, he wrote: “Many of the detainees had been badly beaten and terribly tortured; the wounds and marks left by the treatment they had been subjected to can be seen on their arms and legs.”

The systematic use of torture to humiliate, to take revenge on innocent people and to extract confessions is a flagrant violation by the authorities of their obligations under Article 7 of the ICCPR and Article 5 of the African Charter.

### **Torture of women**

Bubi women were not only tortured like other detainees but also suffered rape as a form of torture, in addition to humiliating abuses. A dozen women were detained but half were released, reportedly after giving money to the examining magistrate. Five appeared in court during the May 1998 trial, of whom four were acquitted and released.

Nearly all the women were taken as hostages to force their husbands or relatives to give themselves up. They were publicly humiliated in the courtyard of the police station of Malabo. Some were forced to swim naked in the mud in front of all the detainees and others were sexually abused. Women were asked to “show what they did with their husbands”. In one case, a woman was assaulted by several members of the security forces who took her underpants off, spread her legs and put a cigarette in her vagina.

One of these women told Amnesty International how she had been ill-treated in the Malabo police station just after her arrest in January 1998: “In the middle of the night, they woke me up and they took me and another woman out. They made us undress. The other

woman was having a period and they made us run round the yard 15 times, completely naked, in front of all the others. Then they forced us to make swimming movements on the ground as they were dragging us along, then they made us «swim» on our backs and while I was on my back one of the policemen hit me with his club and my mouth got twisted. Then they made us do 50 push-ups. Afterwards, they made me scrub the floor and the chairs where there were dried blood stains, without any clothes on, for five days. On the sixth day they let me go but they fined me 20,000 CFA francs. I had to spend a month in hospital and I couldn't sleep at all for the first two weeks. My wrist still hurts”.

#### Drawing made by a detainee

Another woman, the wife of one the alleged attackers, was arrested at a checkpoint. “They took us to the main police station in Malabo and there they stripped me naked, they banged my head against the wall and they hit my ears (about 10 times, slapping both ears at the same time). There were seven women being held at the police station and they made us run around and do gymnastics, they made us drag ourselves along the ground on our backsides as if we were dogs and the soldiers were shouting: «You Bubi will never be in charge»”.

Milagrosa Cheba was particularly badly tortured. She was the secretary of an agricultural union whose director was the alleged leader of the attacks. She was forced to stand on her knees for hours and was beaten on the head. She was the only woman who was convicted on the basis of a confession obtained through torture and was sentenced to six years' imprisonment.

Domiciana Bisobe Robe, a 21-year-old student, was arrested because her lover was one of the alleged leader of the attacks. She was called several times for interrogation late at night at the Malabo police station where she was stripped and beaten. She said in court that members of the security forces touched her breasts during the night interrogations but did not rape her.

Other women who were not arrested were raped, sometimes in front of their husbands and other family members, notably in the Lampert area, in Malabo, during the night after the 25 January 1998 demonstration. “The Fang people joined the soldiers. Groups of them patrolled the streets beating up the Bubi and raping women. Some of the women had forks thrust in their vaginas and were told «from now on, that's your husband»”, a witness told Amnesty International.

The Amnesty International delegation collected several testimonies from raped women, including this one: “I live in a house without a roof and that's how they got in. I was with my six-year-old daughter. They asked where my husband was and I said I had no husband. They said : «Well, you'll see what we're going to do to you». All the men raped me in front of my daughter, it lasted two hours or so. I was having a period at the time. After they had raped me, they didn't beat me - they went off with the lamp and left us together in the dark. I went to see a doctor and I'm waiting to find out if I have caught a disease”.

Old women were also ill-treated. Cesar Copoburu's mother was briefly detained in Rebola: the security forces took her clothes off, and she was left with her breasts bare. One woman was beaten at the Malabo police station while she was menstruating and other women had to pick up dirty rags from the floor for the blood.

Francisca Bisoco Biné, the wife of Robustiano Capote Sopale who was sentenced to 26 years' imprisonment in June 1996, suffered a still-birth as a result of beatings. She was arrested by security forces on 23 January at her home in Sampaca, because her husband was not there. Despite the fact that she was eight months pregnant, she was whipped at the Malabo police station. She was detained for five days and gave birth some weeks later to a dead child.

The torture of women, including through sexual violence, not only violates provisions of the ICCPR and African Charter which prohibit torture, but also provisions relating to the right to dignity as such torture is intended to humiliate women and destroy their dignity.

### **Prison conditions**

The prison conditions during this three months' incommunicado detention in the police station were extremely harsh. "They didn't let our families bring us anything to eat for two weeks, and the soldiers would say: «We'll kill anyone who tries to take any water». They threw buckets of urine at us as well", one detainee told Amnesty International.

The detainees were held in small and overcrowded cells. They were not allowed to go to the toilet and they had to relieve themselves in the cells. One former detainee told Amnesty International: "We were held in cells that measured 3 metres by 2 (10 feet by 6). Some of us were standing up and some were on other people's backs. The soldiers would come and look at us, sometimes with their wives, and they would say: «They're just like snakes, we must kill them all». The policemen came to look at us, and would laugh at us. They threw urine over us and showed us off to their wives as if we were animals in a zoo. Some Moroccan officers who spoke French came to see us several times, always at night; they were not in uniform. They would stay for 10 minutes watching us in our cells".<sup>1</sup>

In February 1998 the detainees were transferred from the police station in Malabo to the Black Beach prison, which is by the sea in the presidential compound. One of the former detainees described to Amnesty International the inhuman conditions of this transfer: "So that the people wouldn't see us, they made us lie down in a lorry, five-deep on top of one another, and the soldiers sat on us with their feet on our bodies. Those who were at the bottom of the pile could hardly breathe".

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<sup>1</sup> Up to 800 Moroccan troops were seconded to Equatorial Guinea under a bilateral agreement signed in 1979. Most of them were withdrawn in August 1993. About 30 remained as President's Obiang Nguema's personal bodyguards. They have not recently been reported as being involved in human rights violations.

## Deaths in detention

At least six people died as a result of torture during incommunicado detention. This figure was confirmed by Fabian Nsue Nguema, one of the lawyers at the May 1998 trial. He asked the court for no death penalties to be passed because six people had already been killed in jail and this amounted to the number of people killed during the attack.

The Amnesty International delegates received eyewitness testimonies about some of these deaths.

The first detainee to die was a Nigerian called Bessy, one of the three Nigerians suspected of having trained the attackers. A fellow detainee described how he died: “They beat him every night, especially on the soles of his feet, his right leg was completely raw, it was infected, his foot swelled up. On 24 January, at about six in the evening, some of the prisoners asked the guards to take him out of the cell so that he wouldn’t infect the others. A policeman replied: «In any case, we’re going to kill you all». Bessy was dying, he stank, at half past seven he stopped moving and a quarter of an hour later he still hadn’t moved. A military doctor came into the yard with the Minister of Health. The doctor tried to give him an injection but the needle wouldn’t go in because his body was already stiff. Then they took him away and we don’t know where he was buried”.

Idelfonso Borupu, a 52-year-old nurse, was arrested in Basakato because he was suspected of having treated some of the wounded attackers. Said a fellow detainee: “The day they took him to the police station in Malabo, he was almost dead by dawn. They threw him into the yard. As he was lying on the ground, a policeman gave him a kick and he didn’t move. He was foaming at the mouth, they left him in the yard in that state, and he finally died there”.

Other detainees were driven mad by torture before dying. Ireneo Barbosa Elobé died in hospital on 1 March 1998. He had shown signs of mental disturbance from torture while in detention. “The torture sent him mad. He began biting people. They took him to the main police station on 15 February. He had already been badly beaten when he got there. The shock had affected his brain, the police thought he was just playing up, he ate very little, he disturbed the other prisoners, he kicked people, he shouted, he drank his own urine, he banged himself on the ground and threw himself in his own shit. He may have caught tetanus. He was left in the cell, dying, for four days. We kept asking them to take him out but the police officers wouldn’t do it”.

Requests by his mother to release him for a few days to give him some traditional medicine were turned down. By the time he was taken to hospital, it was too late to save his life.

Other detainees were taken to hospital in very bad shape and died there. Carmelo Yeck Bohopo died in hospital on 9 February 1998. He was arrested in Malabo on 6 February when he was leaving a church where he had attended mass. He was taken to the police station and severely beaten. He died three days later. His body was taken to the hospital and buried on 13 February. No autopsy is known to have been carried out.

The bodies of the first three people to die in detention were sent to the hospital. The municipal authorities were asked to bury these corpses but when they asked about their identities, the police refused to disclose their names. The mayor of Malabo, Victorino Bolekia - a Bubi himself - complained and said that he would refuse to bury any more unidentified corpses. He was not asked again and it is possible that other bodies were buried in mass graves.

The last person to die in incommunicado detention was Mauricio Jacob Silebó. According to another detainee, he died of exhaustion: "He fell down, crouching." The name of Mauricio Jacob Silebó as well as that of Ireneo Barbosa Elobé appeared on the list of people sentenced in the May 1998 trial. It is difficult to say whether this "error" was the result of carelessness or cynicism.

The killing of detainees shows a total disregard by the authorities for the right to life guaranteed in Article 6 of the ICCPR and Article 4 of the African Charter.

## **(B) THE MAY 1998 TRIAL**

In May 1998, a military court tried more than 110 Bubis accused of involvement in the 21 January 1998 attacks on military barracks on Bioko Island. Amnesty International sent a delegation to observe this trial, comprising an Amnesty International staff member and a United States national lawyer based in Geneva, who is an experienced trial observer.

The conclusion of AI's observation is that the five-day summary military trial did not respect most of the international standards concerning a fair trial. The summary procedure restricted the opportunities of the accused to prepare and present the case for the defence and allowed no right of appeal against conviction and sentence to a higher court.

Fifteen people were sentenced to death, including four *in absentia*, and about 70 others received prison sentences ranging from six to 26 years. Statements made as a result of torture and ill-treatment were used as evidence in court.

### **Charges and background**

The trial was held from 25 to 29 May 1998 in the Marfil Cinema in Malabo, one of the few sites in the city able to accommodate large crowds. The proceedings were open to the public and the press, including a large contingent of newspaper and television reporters from Spain. The Amnesty International observers were permitted free access to the trial and were able at various times to discuss the case with a prosecutor, the instructing magistrate, defence counsel, and others.

### **Put photograph of the defendants arriving to the trial**

Caption: Defendants arriving to the trial

According to the indictment [translation: auto de procesamiento], 116 defendants were charged with one or more of the following crimes:

- Treason
- Terrorism and the illegal possession of explosives
- The clandestine importation of firearms into the country
- Secession
- Refusal to render assistance [translation: denegacion de auxilio]

The indictment also defined each defendant's level of responsibility for each offence: direct author or co-author (*autor, co-autor*), accomplice (*cómplice*) or accessory (*encubridor*). The indictment was drawn up on 26 February 1998 by the instructing magistrate [trans: juez de instrucción], Lieutenant Colonel Francisco Edu Nboro. The defendants, other than those tried *in absentia*, were present throughout.

### **Procedural concerns**

The trial was held before a panel of five military judges, presided over by Colonel Santiago Mauro Nguema. According to all reports received, none of the military judges had formal legal training. Two of them were brothers of the President: Roberto Mba Ndong Ntutumu, Secretary of Military Jurisdiction, and Inocencio Ngomo Nguema, Chief of Staff. A third was also originally from Mongomo, the home town of the President. The composition of the tribunal indicated a lack of competence and created the impression of the lack of independence and impartiality in violation of Article 14 of the ICCPR and Article 26 of the African Charter. It also appears that the lead prosecutor, Roman Bibang Ondó, and his deputy, Protacio Edu Edgang, did not have had legal training.

The use of military tribunals to try civilians is common in Equatorial Guinea, and has been widely criticized by lawyers and non-governmental organizations. The country has a civil court system, whose establishment and independence are guaranteed by the Constitution (Title IV, §§ 83-93 of the *Ley Fundamental de Guinea Ecuatorial*). However, this system is frequently bypassed by the government in favour of military tribunals. Amnesty International was unable to discover the criteria for referring normally civilian matters to military tribunals. A number of well informed jurists and others indicated that this decision in the May 1998 prosecution was made on the basis of the political sensitivity of the case, and the degree to which the government wished to maintain or assert control.

The military procedure applied in the trial was that of a summary court martial [translation: Juicio summarissimo por el consejo de guerra]. This procedure was taken from the Code of Military Justice. (Title XVIII, § 918 et seq, of the 1945 Spanish Code of Military Justice) and applied with the necessary changes in points of detail. According to the Code of Military Justice, such proceedings are abbreviated, largely oral, and intended for the summary trial of military personnel apprehended *in flagrante delicto*. It is obvious that there is no

justifiable basis for applying such a procedure in the trial of 116 civilian defendants arrested after the fact (in some cases more than two weeks after) and accused of different levels of involvement in several attacks.

The decision to apply such a procedure in this situation resulted in a number of distortions. It was logistically and materially impossible to present each of the 116 cases for which there were indictments individually, with the result that the prosecutor and defence counsel often resorted to calling up defendants in groups. As a consequence, a number of defendants, including many of the convicted, did not have the charges or evidence against them specifically laid out in open court.

The prosecution proceeded on the basis of a presumption of guilt, which was clear in the cases of all the defendants called for cross-examination. Attempts by defendants to deny or clarify their prior confessions or statements were repeatedly cut off by the prosecutor, sometimes with the assistance of the presiding judge. On one such occasion, on the first day of the trial, the prosecutor stated: “we know everything, we are not here dealing with doubts of any kind, this trial is so the public knows the truth”. [Translation: “Ya sabemos todo, aqui no so trata de dudas de ningún tipo, este juicio es para que el público sepa la verdad”.] The position adopted by the prosecution was in direct contravention to the presumption of innocence in Article 14(2)(g) of the ICCPR and Article 7(1)(b) of the African Charter.

Defendants did have the opportunity to make direct statements to the judges at the close of the proceedings (apparently in application of §931 of the Code of Military Justice). However, these statements were strictly limited in time by the presiding judge, and were more in the nature of an appeal for clemency than a presentation of a defence.

There were 10 defence counsel, five of whom were lawyers in private practice in Malabo. Defendants without private counsel were assigned military officers as defenders. It appears that none of the military defenders had formal legal education (two of them specifically confirmed this to Amnesty International), although several of the military defenders acted ably and raised numerous pertinent objections as to torture and other issues. While most defendants confirmed that they had met their counsel before the trial, this was generally not until April 1998, long after their statements had been taken and the indictment had been drawn up. Defence counsel further complained, both in court and privately, that they had been given very little time to examine the hundreds of pages of statements and other evidence which the prosecution presented to the court. The court proceedings clearly violated the right to be defended by counsel of choice and to have adequate time and facilities to prepare defence as is guaranteed under Article 14 of the ICCPR and Article 7 of the African Charter as interpreted by the African Commission.<sup>2</sup>

A fundamental concern with the summary military procedure applied is that it does not provide for any appeal. Article 933 of the Code of Military Justice states only that within two hours following the announcement of the verdict the prosecution or defence may make

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<sup>2</sup> Resolution on the Right to recourse Procedure and Fair Trial, adopted at the 8th meeting of the African Commission held from 2-9 March 1992, in Tunis, Tunisia, document reference ACHPR/COMM/FIN (XI) Rev.1



such arguments as may be appropriate to the trial court [trans: “alegar lo que a su derecho convenga”]. Thereafter the verdict is considered final once approved by the court and the legal adviser (*auditor*), believed by defence counsel to be the Minister of Defence, although no one at the May 1998 trial could confirm this. In this case, the defence could not make any arguments in mitigation as the written verdict was not published.

This summary procedure of post-verdict objection is no substitute for an appeal before independent judges. This lack of appeal contravenes all internationally recognized standards of fairness, notably Articles 7 and 26 of the African Charter. The African Commission on Human and Peoples’ Rights has decided that: “to foreclose any avenue of appeal to ‘competent national organs’ in criminal cases ... violates Article 7(1)(a) of the African Charter and increases the risk that even severe violations may go unredressed”. It has also found that “failing to provide Courts which operate independently of the executive .... violated Article 26 of the African Charter”.<sup>3</sup>

### **Substantive concerns**

The Amnesty International delegation, which was present throughout the trial, noted several serious irregularities that violated international standards for a fair trial and made this trial a mockery of justice. It strongly appeared that the trial was carried out as a public display aimed at serving as an example to deter any future attempt to challenge the régime. Defendants were indicted on questionable charges, statements obtained under torture were used to convict them, people not charged were present amongst the defendants during the trial and allegations raised by the defence about arbitrary arrests, torture and deaths in detention remained unheeded.

#### **1. Questionable charges**

It has been estimated, by both official and unofficial sources, that some 35 to 40 people, in several groups, actually carried out the attacks. The charges and the presentation of the case by the prosecutor were, however, geared towards demonstrating a wide conspiracy to rebel. The prosecutor wished publicly to demonstrate a “separatist conspiracy” [ trans: conspiración separatista] orchestrated by the MAIB. Thus the two most serious charges brought were treason and terrorism. The indictment cites sections of the common law penal code [ trans: código penal comun], “in relation with” sections of the Code of Military Justice to define these crimes. However, the Code of Military Justice sections cited in the indictment appear inapplicable inasmuch as they clearly refer to treason by military personnel or to wartime situations; they appear to have been cited in an effort to justify the use of military jurisdiction. As to the remaining charges, no reference is made to breaches of any provision of military law. This renders yet more questionable the reference of this matter to a military tribunal. The military court martial was, accordingly, in large part applying the common law penal code, a point confirmed to Amnesty International by the instructing magistrate.

Some of the charges are highly questionable on substantive legal grounds. For

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<sup>3</sup> Constitutional Rights Project v Nigeria, 87/93, 8th Annual Activity Report of the African Commission on Human and Peoples’ Rights, ACHPR/RPT/8th/Rev.1

example, the testimony as to the introduction of arms into the country was limited and confusing. It appears, however, that as few as three workable firearms and a smoke grenade were imported. Most of the other arms seized consisted of shotguns (which at least one defendant admitted possessing for years). A miscellany of other innocuous apparel including cigarettes was also presented. The prosecutor did establish that quasi-military training of Bubi youth had been carried out on a fairly large scale, and that there was some coordination of the attacks. Other than those points, the burden of the government's case could have been addressed by charges of murder, grievous bodily harm, theft and criminal conspiracy. All of these objections were raised by defence counsel, sometimes forcefully but were ignored.

The most obvious legal failing in the charges brought by the government relates to the crime of "secession", the charge against all 116 indicted defendants (either as authors, accomplices or accessories). Forty-three of the defendants were not charged with any other crime. Secession was defined in the indictment and by the court as a contravention of Articles 1 and 2 of the Constitution (*Ley Fundamental*); these articles contain general statements to the effect that the supreme values of the country are "unity, peace and justice" and that "no group or individual may attribute itself the exercise of sovereign power" [Trans: "Ninguna fracción del pueblo o un individuo puede atribuirse el ejercicio de la soberanía nacional"]. Secession is, accordingly, not an offence defined by the penal code or other laws in force.

It is a fundamental legal principle that crimes, and the punishment prescribed for them, must be defined in the law -- they cannot be created or applied retroactively. Defence counsel at the trial repeatedly and ably made this objection, but it appeared not to be understood by the judges. On 27 May 1998 the presiding judge, after again hearing objections that defendants could not be charged with an offence for which the law prescribed no penalty, stated "that is why we are here, to determine the penalty". Such an attitude is in violation of Article 15(1) of the ICCPR which states: "No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed."

In his closing statement, the prosecutor did not specifically ask for any convictions based on secession. It nevertheless appears that some defendants, indicted solely for secession, were convicted. Furthermore, the accusation of secession was the basis for keeping at least 43 of the defendants incarcerated for more than three months, from 26 February 1998, the date of the indictment, until the end of the trial. Finally, "secession" (even were it a defined legal offence) without the use or advocacy of violence is not, Amnesty International maintains, a basis for criminal prosecution or imprisonment.

## **2. Statements obtained under torture admitted as evidence**

The court admitted as evidence statements manifestly obtained under torture to convict most of the defendants and refused to open any inquiry into serious allegations of torture.

At least 14 defendants declared in open court that they had been tortured. The prosecutor conceded that torture had occurred when he stated to a defendant on the first day of the trial that "we see that the police tortured you, we will admit that, but you signed [your statement] before the instructing magistrate" [ Trans: "veamos en la policía te torturaron, vamos a admitirlo, pero lo has ratificado ante el juez de instrucción"]

The prosecutor's argument that pre-trial statements were independently confirmed before the instructing magistrate (which the instructing magistrate himself confirmed to Amnesty International) raises another series of problems. First, evidence of the torture or ill-treatment of many defendants was discernible at the time of the trial in late May. Severed ears and swollen limbs were clearly visible. Such evidence must have been even more obvious, with regard to more defendants, at the time they confirmed their statements, presumably in February. Second, Amnesty International has consistent reports from a number of defendants that they were not permitted to reread or review the statements they had signed before "confirming" them, often after torture, sometimes in the middle of the night, and never with the benefit of counsel. The instructing magistrate is quoted by defendants who asked to reread their statements, as saying, "don't you remember what you said?" [trans: "no te acuerdas lo que has puesto"]. Defendants David Sunday Nuachuku and Dominique Effiong, both Nigerians who did not speak Spanish, were interrogated without a translator, and stated to Amnesty International that they did not know the contents of their statements; both were sentenced to death. Defendants also made clear to Amnesty International that they feared that the consequences of not "confirming" their earlier statements would be further torture or ill treatment.

Despite the overwhelming importance of these statements to the prosecution and the court, defence lawyers were allowed only a very short time to examine them. One defence counsel complained in court that essential "folios" of the case against his client (José Luis Ñoco) were never communicated to counsel, despite his request.

By admitting statements obtained under torture the Tribunal acted in violation of Article 14(3)(g) of the ICCPR and the presumption of innocence. The Human Rights Committee which monitors compliance with the ICCPR has stated: Subparagraph 3(g) provides that the accused may not be compelled to testify against himself or to confess guilt. In considering this safeguard the provisions of article 7 and article 10, paragraph 1, should be borne in mind. In order to compel the accused to confess or to testify against himself frequently methods which violate these provisions are used. Equatorial Guinean law should require that evidence provided by means of such methods or any other form of compulsion is wholly unacceptable.

### **3. People tried who had not been charged**

Amnesty International is further gravely concerned that a number of people apparently detained in connection with the attacks of 21 January 1998 and present at the trial had not been charged with any crime. Some of these prisoners, although unindicted, were present with the defendants at the trial. These uncharged prisoners include: Margarita Da Costa, Trinidad Bokesa, Fernando Riloha and approximately 16 others. Most of these people were taken as "hostages", in order to force people sought by the authorities to give themselves up, a practice which is widespread in Equatorial Guinea.

Margarita Da Costa was taken as a hostage because she was the wife of defendant Epifanio Moaba Bate, who has not been apprehended by the authorities, but was sentenced to death *in absentia*. She was told by the police that she would be released if her husband gave

himself up.

The situation of Domiciana Bisobe Robe is similar. Although the indictment cites her as an accessory to secession, it appears that the true reason for her indictment and incarceration was that she is the girlfriend of Guillermo Salomón Echuaka, known as “Alex”, a key defendant who had avoided arrest (also sentenced to death *in absentia*). When challenged on this point by Amnesty International’s trial observer, the instructing magistrate defended his indictment of Domiciana by stating that “she made it more difficult to locate Alex by going to *un espíritu local* (a local spirit medium) to have him cast spells”. The *espíritu local* in question, Fidel Buale Silebo, was also indicted in the case.

Fernando Riloha, a civil servant of Bubi origin working on the mainland, was clearly uninvolved in the events of 21 January and ultimately acquitted. However, he was kept in prison for four months and both his ears were severely cut.

#### **4. Refusal to open an inquiry**

Defence counsel repeatedly and forcefully sought to raise the issue of torture, and to object to the admission of any evidence obtained through torture, but were consistently cut off and rebuffed by the presiding judge. Their calls for the opening of an inquiry into these human rights violations as well as into deaths during pre-trial detention remained unheeded.

Defence counsel also raised irregularities in the arrests, which did not conform to national and international laws, but were again silenced by the court.

One irregularity related to the fact that one defendant, Marcelo Lohoso, was a sitting member of parliament [trans: Representante del Pueblo en la Cámara]. Article 68(2) of the Constitution states that a member of parliament, if not apprehended *flagrante delicto*, is immune from detention and prosecution, unless his immunity has been lifted by the parliamentary college [trans: mesa de la Cámara]. Marcelo Lohoso’s defence counsel repeatedly protested that no such lifting of immunity had been obtained. The presiding judge intervened to cut off testimony on this point, stating that he “presumed” that the instructing magistrate had written to parliament. Upon further protest from Marcelo Lohoso’s military defender, the judge stated that the documents pertinent to lifting Marcelo Lohoso’s immunity would be read “when we get to that stage”, but this never occurred.

A further irregularity concerned three defendants of Bubi origin who were studying in Nigeria at the time of the 21 January attacks. The students were apparently suspected of complicity or sympathy with the plotters of the attacks, or the Nigerians involved with them, although no evidence of this was presented in court. These defendants were summoned to a meeting at their university on 12 February 1998. At the meeting, people who identified themselves as Nigerian police officers handed them over to Guinean security personnel who forcibly repatriated them in a private aircraft. No formal extradition procedures were undertaken, a point privately confirmed to Amnesty by a military officer. These defendants also testified very clearly on this point, saying “we were kidnapped”, [trans: “fuemos secuestrados”] but questions by defence counsel about the illegal repatriation of these defendants were cut off by the presiding judge.

Consistent reports also indicate that some detainees were able to avoid indictment and regain their freedom by paying bribes to security officers and members of the judiciary. This casts doubt over the whole pre-trial investigation and instruction of the case, and indicates that it was not carried out scrupulously or in accordance with accepted international norms. Despite claims by defendants and defence counsel, the court refused to investigate these serious irregularities.

### **The verdict**

The verdict was announced orally on Monday 1 June 1998. No written copy of the verdict has yet been made available.

As far as can be ascertained from this oral announcement, the sentences were as follows:

- 15 death sentences (four *in absentia*);
- 40 sentences of 26 years' imprisonment;
- 17 sentences of 12 years;
- 12 sentences of 6 years.

A total of 53 people were apparently acquitted. The situation is confused as a number of those acquitted were not named in the indictment (including Trinidad Bokessa, Margarita Da Costa and Fernando Riloha). All those acquitted appear to have been released. However, Manuel Rigetema, whose name did not appear in the list of those sentenced, was released and then rearrested on the ground that he had been convicted and sentenced to 26 years' imprisonment and that his release had been in error.

A number of defendants who were convicted can be considered as prisoners of conscience, detained only on account of their ethnic origin or their political opinions including leaders of the MAIB like Martin Puye, who died subsequently in detention and Gregorio Bomuagasi Oraca. It cannot be overlooked that 24 of the acquitted prisoners were indicted for "secession", an offence that is not defined in Equatorial Guinean law. The lead prosecutor, after his closing statement, stated to Amnesty International's trial observer that many of the defendants not specifically cited by him were "presumably innocent". Nevertheless, most of these defendants, although ultimately acquitted, were imprisoned for approximately four months before trial and many were tortured or ill-treated. Amnesty International is further concerned by the fact that some of the "acquitted" defendants were apparently held without charge, as they do not appear on the indictment.

Although the fifteen death sentences were commuted by the President four months later, Amnesty International considers any resort to the death penalty to be a violation of the fundamental right to life and the right not to be subjected to cruel, inhuman or degrading punishment. Amnesty International opposes its use unconditionally. The rights to life and the right not to be subjected to cruel, inhuman or degrading punishment are set forth in the Universal Declaration of Human Rights and in other international human rights instruments.

### **A grossly unfair trial**

The trial did not meet internationally accepted minimal procedural and substantive standards. Although the procedure was public, and defendants were represented by counsel, numerous fundamental objections by counsel were overruled, or simply disregarded. Objections and testimony related to torture or other abuses, or to any political theme, were systematically cut off. While numerous uninvolved defendants were acquitted, a number of prisoners of conscience and possible prisoners of conscience were convicted.

Amnesty International protests again that this trial, like previous trials of people charged with politically motivated offences in Equatorial Guinea, did not conform to internationally recognized standards of fairness. The trial should have taken place before a civilian court and in full accordance with the provisions of Article 14 of the ICCPR and article 7 and 26 of the African Charter. Among other things, Article 14 requires that the defendants be guaranteed the right to a defence lawyer of their choice and the right of appeal to a higher tribunal. It is also imperative to ensure that no statement made as a result of torture or ill-treatment is used as evidence in court. None of these minimal requirements were met.

### **After conviction**

The people sentenced to prison terms in the May 1998 trial have been detained since their conviction at Black Beach prison in Malabo. The prison is by the sea, the climate is very hot and humid and prisoners are crowded into small and filthy cells. They are reported to have slept on the floor since their arrests. Many of the approximately 80 prisoners are very weak after being tortured during pre-trial detention. Some of them, notably the 11 people sentenced to death, have been detained in life-threatening prison conditions. Others have reportedly been denied adequate medical care and one has died as a result.

Two of the defence counsel who accused the security forces of committing torture during the May 1998 trial were targeted for harassment by the authorities. One was dismissed from the army and the other was accused of insult [trans: "injuria"] and sentenced to five months' imprisonment.

### **Condemned prisoners**

The people sentenced to death on 1 June 1998 were the only defendants not present in court when the verdict was announced. The absence of the defendants sentenced to death during the pronouncement of the sentence is customary in Equatorial Guinea because Article 935 of the Code of Military Justice explicitly provides that the verdict of a summary court martial, including a sentence of death, may be carried out without delay.

In the past people sentenced to death have been executed on the same day. In this case, it appears that other detainees were asked to dig the graves of these 11 people on the day of the sentence and a firing-squad had made preparations to shoot them on the beach, near the prison where they were held. The executions were only suspended at the last minute.

To Amnesty International's knowledge, this was the first time that death sentences (passed on political grounds) have not been carried out immediately.

Amnesty International considers the death penalty to be cruel, inhuman and degrading, and the prison conditions for the 11 political prisoners sentenced to death made the mental anguish of the condemned prisoners worse. The 11 political prisoners sentenced to death were held in appalling conditions and subjected to near starvation, even after the President commuted the death sentences to life imprisonment. They were not allowed to speak to anyone and could only leave their cells a few minutes a day. They were in serious danger of dehydration and starvation as they were not allowed to receive food from their families and the prison gave them very little food. Despite the heat and humidity, they were given only a litre of water a day. Some weeks after the commutation of their death sentence, they were allowed to stay out of their cells for three hours but they remained in incommunicado detention.

At least two people sentenced to death were reported to be seriously ill. Norberto Biébeda was already having problems with his sight when he was sent to prison. Being held more than 23 hours a day in the dark, his eyesight deteriorated. Leoncio Coto has reportedly suffered acute mental health problems.

### **Lack of medical care**

Although the other prisoners who were not sentenced to death were allowed to receive food from their families, the prison conditions also took their toll on them. Several detainees were reported to have fallen ill and to have experienced difficulties in obtaining medical care. The prison has no medical facilities, therefore detainees who are ill have to pay for their treatment and prison authorities are reportedly reluctant to allow prisoners to be transferred to hospital.

A young woman, Milagrosa Cheba, was finally sent to hospital at the beginning of July because she was suffering from malaria, but she was sent back to prison before she had fully recovered. César Copoburu, who was sentenced to 26 years' imprisonment, was eventually transferred to hospital in mid-July after asking for hospital care and complaining of abdominal pain for a week. He underwent a surgical operation but was sent back very quickly to prison, despite the insanitary conditions.

Two other prisoners were reported to be in poor health. Aurelio Losoha, aged 78, was tortured during pre-trial detention and his health was deteriorating in the harsh prison conditions. He was apparently suffering from malaria but received no medical treatment from the prison authorities. Aurelio Losoha is the traditional leader of Rebola and is considered by Amnesty International a prisoner of conscience, only detained because he is one of the leaders of the MAIB.

This lack of care led to the death of Martin Puye, who died in hospital on 14 July 1998, two weeks after his transfer from Black Beach prison. The prison authorities had been reluctant to allow him to be transferred to hospital. He was reportedly suffering from hepatitis. The day before his death he was reported to be in a desperate state: his abdomen was grossly swollen -- like the belly of a pregnant woman, according to one witness -- and his legs were also swollen. He could barely speak and his eyes stared lifelessly. Doctors at the hospital carried out blood transfusions and they had reportedly decided that Martin Puye

should be sent abroad to be treated, but it was too late.

### **Put photograph of Martin Puye**

Caption: Martin Puye at the trial

Amnesty International is concerned that these prisoners are being held in conditions which amount to cruel, inhuman and degrading treatment and are not being provided with adequate medical care. The organization is calling for an immediate investigation into the death of Martin Puye and is calling on Equatorial Guinean authorities to ensure that prison conditions meet the Standard Minimum Rules for the Treatment of Prisoners, including provision of adequate medical care. Amnesty International is also urging the government to grant the prisoners access to an international humanitarian organization such as the International Committee for the Red Cross.

### **Intimidation of lawyers**

At the close of the May 1998 trial, the Amnesty International delegation received reports of two separate incidents where defence counsel were warned that they were acting with excessive zeal, and that their statements were embarrassing the government. Both the warnings were transmitted to the counsel by third parties who clearly implied they were passing on a message from the authorities. While Amnesty International cannot confirm that the authorities were behind these warnings it sought, and obtained, an assurance from Foreign Minister Miguel Oyono Ndong Mifumu that the government would not harass or intimidate defence counsel for their role in the trial.

Amnesty International therefore expresses grave concern at the subsequent dismissal from the army and temporary house arrest of Lieutenant Colonel Lorenzo Ondó Ela Mangué, one of the most active and effective of the military defenders in the trial.

Another lawyer, José Oló Obono, who also publicly denounced the torture of detainees during the May 1998 trial, was arrested at home and detained on 21 July 1998 at the Malabo police station. After his arrest, José Oló Obono was stripped to the waist, had his shoes taken away and was insulted in front of his wife, who had followed him to the police station. Two lawyer colleagues who tried to visit him the next day were twice denied access to him. He was reportedly being treated in a degrading way: he was forced to wash a car and sweep the street and to use a cardboard box in his cell as a toilet.

Accused of insult [trans: "injuria"], he was sentenced in September 1998 to five months' imprisonment, despite the fact that the prosecutor withdrew his accusations because there was no evidence against him. Amnesty International believes that José Oló Obono was convicted only because of his courageous stance during the May 1998 trial. The organization considers him a prisoner of conscience and demands his immediate and unconditional release.



The intimidation of defence counsel is contrary to the provisions of the United Nations Basic Principles on the Role of Lawyers.

### **(C) HARASSMENT OF POLITICAL OPPONENTS**

Despite the fact that in February 1997 President Obiang Nguema publicly ordered the security forces not to obstruct peaceful political activities, arrests of political activists have continued. Since 1997, more than 200 members of opposition parties have been detained, mostly in rural areas in the mainland province of Río Muni, less open to international scrutiny.

The tactics of the authorities have been to detain opposition leaders and activists in police stations for short periods of time, during which they have been beaten and ill-treated. Many have then been fined and released without charge or trial. Some have been confined to their villages after their release; others have been banished from their home towns.

Most detained political opponents were arrested for peaceful party activities, such as organizing an unauthorized meeting, criticizing the government or being members of parties which were not legally registered. Many appear to have been ill-treated in order to force them to pay heavy fines or to join the ruling PDGE.

Despite the fact that the government ended one-party rule in 1992, the local authorities continue to tolerate no dissenting views. Any political activity run by the opposition is systematically repressed. Three opposition parties have been particularly targeted in the last two years: the *Convergencia para la Democracia Social* (CPDS), Convergence for Social Democracy; the not yet legalized *Fuerza Demócrata Republicana* (FDR), Republican Democratic Force; and the *Partido del Progreso* (PP), Progress Party. PP members have been particularly targeted following the government claim in May 1997 that the party's leader, Severo Moto, had organized a plot to overthrow the government.

In January 1998, the CPDS wanted to hold a meeting in Kogo, a town close to Gabon. The local authorities told them that they had no authorization to do so. The CPDS members left and went to a private house which was raided by the security forces. Thirty people including Plácido Miko, the CPDS Secretary General, were arrested and held for some hours without charge. On 20 May 1998, Luis Mba Obiang, a member of the CPDS, was detained in Mikomeseng because he had in his possession some copies of the party's newspaper *La Verdad*, The Truth. He was held for two days and fined. All the copies of the newspaper were confiscated.

In July 1998 political opponents in several parts of the country were prevented from checking the census operations, despite an agreement with the authorities which allowed them to do so. Many irregularities flawed this census: people suspected of voting for the opposition were not counted, under-age people and foreigners were included if they were sympathizers of the ruling party, and the census officers were appointed unilaterally by the

government. In September 1998, the opposition parties accused the authorities of delaying the publication of the census figures in order to postpone the legislative elections due to take place before the end of the year.

The local authorities also launched campaigns to force people to join the ruling PDGE. In April 1998, the Minister of Forestry, Teodoro Nguema Obiang, son of the Head of State went to Bata, the capital of the mainland region of Río Muni, and organized the forced affiliation of 290 political opponents. He reportedly said to workers in a firm that depended on his Ministry that they would be fired if they refused to pledge their affiliation to the PDGE.

Many people were arrested and tortured because they refused to sign a sworn statement [Translation: “Declaración jurada”] that they had joined the ruling party. Because he dared to say publicly that he would not sign such a statement, Teofilo Osam Mbomio was arrested on 30 May 1998 in Añisok. He was held for one week and received 150 strokes on the soles of his feet and on the buttocks.

Some opposition party activists were expelled from their villages. In April 1998, Pascual Esono Mba, a 60-year-old CPDS member, was arrested in Akonibe. He was accused of issuing propaganda and was held for a month. He was then told that he had to leave the district and not come back anymore.

After the discovery in May 1997 of an alleged plot by the leader of the PP, Severo Moto, to overthrow the government, tens of PP members were detained. Severo Moto was tried *in absentia* in August 1997 and sentenced to 101 years’ imprisonment on charges of plotting against the government and attempting to kill President Obiang. The authorities also announced that they were going to ban his party. The party was eventually dissolved but the decree of dissolution was never published.

Although there was no evidence of individual responsibility, members of the PP were held collectively responsible for the alleged plot and harassed. In July 1997, tens of members of this party were detained and tortured including José Ekang Nangomo and Francisco Edù. Both were held in Bata without charge or trial for six months. In April 1998, the Secretary General of the PP, Agapito Ona Nguema, was arrested in Niefang and brought to Bata. His lawyer was told by the examining judge that the judiciary had nothing against his client but that this case depended on the Ministry of Interior.

Four members of the FDR were still held at the time of writing. All appear to be prisoners of conscience. Sinecio Ngua Esono and Francisco Abeso Mba were detained in Bata, in August 1997. Both were held for three weeks in a container in Bata harbour where they were severely beaten. They are held without charge or trial. Sinecio Ngua Esono was arrested in his hometown, Mongomo, soon after his return to Río Muni from Malabo, where he had attended a seminar on the independent press. Francisco Abeso Mba had come to welcome his friend at Bata airport. The police went to his home to arrest him, and when they could not find him they took his wife hostage. She was released only when her husband gave himself up.

Felipe Ondó Obiang and Guillermo Nguema Ela were sentenced to two and a half

years' imprisonment in August 1998 for "denunciation and false accusations". They had been arrested in November 1997 by the Gabonese security forces in Libreville, Gabon, and transferred the same day to Malabo, in the Equatorial Guinean presidential plane. The arrests were carried out shortly after the arrival in Libreville of the Equatorial Guinean President, Teodoro Obiang Nguema, for a summit meeting of the ACP-EU (African, Caribbean and Pacific - European Union). Both Felipe Ondo Obiang, former president of the parliament of Equatorial Guinea, and Guillermo Nguema Ela, former minister of Finance and member of the FDR, had been granted refugee status in Gabon. Therefore their repatriation was in violation of the non-refoulement principle established by the United Nations Convention relating to the Status of Refugees and the OAU Convention Governing the Specific Aspects of Refugees in Africa (OAU Refugee Convention).

While on board the plane they were ill-treated. They were held handcuffed for several days and were released without charge on 14 November 1997. They were rearrested in March 1998 after giving a statement to foreign news media. Their sentence appears to be a way of removing well-known political opponents some months before legislative elections. Amnesty International considers them as prisoners of conscience.

Several members of the Bubi ethnic group were also arrested in 1997. Antolin Banch was arrested in January 1997 for possessing some copies of the MAIB newspaper, *O Bojuelo*, and was held till December 1997 without charge or trial. Silvestre Orichi, a senior member of the MAIB, was detained in August 1997 because a Bubi flag was found at his home. He was allowed out of prison for one day in January 1998, and his whereabouts are not known. Some rumors said that he "disappeared", other rumors said that he went into hiding.

In November 1998, Nicolás Mangué Mañana, the CPDS leader for the continental region was arrested in Niefang where he had gone to visit his sick mother. He was subjected to "forced labour" and pressed to join the ruling PDGE. The same month, another CPDS leader, Amancio Gabriel Nsé was detained in Bata in relation to the introduction in the country through Gabon of a book about Equatorial Guinea published in Spain. For the same reason, four other people, Benjamin Mba, Alberto Nve and his two wives (Asunción and Aben Eko) were arrested in Akurenam and brought to Bata. At the time this report was written (in November 1998), all these people were still detained.

A new wave of arrests occurred when this report was nearly finished. At least 20 people, mostly from the Bubi ethnic group, were arrested by late November 1998 and were held incommunicado in Malabo. They were reportedly tortured. These arrests followed rumours that Guillermo Salomón Echuaca (nicknamed "Alex"), one of the alleged leaders of the January 1998 attacks, had fled by boat to Nigeria. Relatives and people suspected of hiding Guillermo Salomón Echuaca or helping him to flee were arrested. Owners of *cayucos* (small boats) that had been used to go to neighbouring Nigeria and Cameroon were also detained.

Women were also harassed and detained. In September 1997, several members of the CDPS, including six women, were held in Akurenam because they were preparing to welcome their leaders with songs. The women were stripped and severely beaten. They were not tried but were told to pay heavy fines before they could be set free. In October 1997,

some 50 Bubi women were briefly arrested because they had not attended the ceremonies of the 12 October national feast.

Three women, CPDS sympathizers, who were criticizing the government in their home, were detained in March 1998 by a soldier who was passing by and heard their comments. They were held for one day and fined.

Women were also detained as hostages. Natividad Kieyen, wife of José Manzogo, was arrested in July 1997 because the security forces could not find her husband. She was forced to work for three days in the fields while her two-year-old son was held in the military camp.

While the Equatorial Guinea government has an obligation under the ICCPR and African Charter to respect the right to freedom of expression and association, it totally disregards these international obligations which it has voluntarily undertaken.

#### **(D) IMPUNITY**

Virtually none of those responsible for human rights violations have been brought to trial. The few who have been prosecuted for human rights violations have been rapidly released or have received light sentences.

In February 1997, two police officers were convicted and sentenced to prison terms of 10 and 20 years in connection with the death of Evaristo Abaga Ndongo in police custody. Reports indicate that Evaristo Abaga Ndongo was beaten at the time of his arrest and in the vehicle that transferred him to Evinayong. As a result, he lost consciousness and was later taken to hospital, where he died shortly after arrival. No post mortem appears to have been carried out and his family was told to bury the body without delay. Amnesty International welcomed the conviction of the two police officers and hoped that it was a sign that impunity had come to an end in Equatorial Guinea.<sup>4</sup> However, the two officers were released shortly after being convicted and sentenced, and are currently free.

Official commitments to overcome impunity have proved worthless. When the Bubi population was targeted after the 21 January 1998 attack, the Minister of the Interior set up an office where people who wanted to complain about the way they had been treated could make statements. One of the women who went to complain told the Amnesty International delegates: "Four days after I was raped, I went to complain to the Minister of the Interior and I had to pay 1,000 CFA francs to have the right to make my statement. I gave the names of the people who had raped me but the police didn't do anything to them. All they did was give me a piece of paper to show to anyone else who might attack me. On the piece of paper it said that no-one should attack me again".

During the May 1998 trial, although the defendants and their lawyers denounced the systematic use of torture to obtain confessions, the presiding judge prevented any mention of

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<sup>4</sup> See *Equatorial Guinea: An opportunity to put an end to impunity*, July 1997, (AI Index: AFR 24/01/97)

this issue. Only five people (one civilian and four soldiers) accused of being responsible for the death in detention of one of the detainees, Idelfonso Borupu, were tried by a military court in June 1998. The civilian was acquitted. Three soldiers were sentenced to six months' imprisonment and the fourth, who had tried to have sexual relations with the victim's wife, was sentenced to eight months and expelled from the army. These light sentences were "justified" by the court by the fact that the soldiers were «on duty» when the events occurred.

Despite lawyers' request for an inquiry and compensation, the cases of the other deaths in detention and the serious allegations of torture were never investigated and no one responsible for these acts was brought to justice.

As long as such abuses remain unpunished and nothing is done to prevent further abuses taking place, there can be no serious hope of any improvement in the human rights situation.

### **(E) RECOMMENDATIONS**

Amnesty International has repeatedly brought its concerns about human rights violations to the attention of the government and has repeatedly urged the authorities to introduce and implement safeguards to prevent arbitrary arrests, torture and ill-treatment and unfair trials. These recommendations have largely been based on the provisions of the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights which the government ratified in 1986 and 1987. However, as this report shows, human rights continue to be violated with impunity.

#### **Recommendations to the government of Equatorial Guinea**

The authorities should immediately:

- release unconditionally all those arrested for their peaceful political activities or on account of their ethnic origin;
- stop the incommunicado detention of the 11 people whose death sentences have been commuted but who continue to be held in appalling prison conditions;
- make immediate and substantial improvements to the conditions under which all prisoners are held. All detainees should be treated in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners, including provision of adequate medical care and transfer to a suitable alternative institution if necessary;
- grant the prisoners access to an international humanitarian organization such as the International Committee for the Red Cross.

The authorities should also:

- introduce in law the most essential human rights standards and to put them into practice.
- issue clear orders to all members of the security forces to act in accordance with the Code of Conduct for Law Enforcement Officials and to ensure that all security forces personnel receive thorough training in this important Code of Conduct and other relevant human rights standards;
- investigate all reports of death in detention as well as allegations of torture and extrajudicial executions. Investigations should be carried out promptly, impartially and effectively by a body which is independent of those allegedly responsible, in accordance with the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions;
- prosecute those found to be responsible in such impartial investigations and grant compensation to the victims of human rights violations committed by those acting in the name of the Government of Equatorial Guinea
- ratify the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

#### **Recommendations to the United Nations:**

The office of the High Commissioner for Human Rights should consider the recommendations of the United Nations Special Rapporteur on Equatorial Guinea and the recommendations above and work with the government to identify areas in which technical assistance could be beneficial in improving the current human rights situation in the country.

The UN Centre for Human Rights' programs and seminars should aim to bring law and practice in Equatorial Guinea into conformity with international and regional human rights standards.

#### **Recommendations to other governments**

Governments providing aid or other assistance to Equatorial Guinea should bear in mind the above recommendations and press the government to implement them.

Map made by a detainee of the police station in Malabo. The place with a cross is where people were tortured.