

Status of Human Rights in Equatorial Guinea for the 47th Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Republic of Equatorial Guinea (Equatorial Guinea) for the 47th session of the Universal Periodic Review (UPR).

Background

2. Equatorial Guinea is a country located in Central Africa and has a population of approximately 1.6 million people.¹ The country is predominately Christian, with 89.3% of the population identifying as Christian, 4.6% as practitioners of ethnic religions, 3.3% as Muslim, 1.9% as non-religious, 0.9% as practitioners of religions categorized as “other/small,” and 0.1% as Hindu.²

3. Equatorial Guinea’s last UPR was held on May 13, 2019.³ As a result of the review, it received 221 recommendations, 202 of which it accepted.⁴ While Equatorial Guinea allows for abortions to save the health and life of the mother, there were no recommendations made regarding abortion. One recommendation made by the United Kingdom of Great Britain and Northern Ireland, and supported by Equatorial Guinea, was that the government “[f]ully implement the national plan to combat trafficking in persons and human smuggling, including developing procedures to proactively identify victims and ensure adequate victim protection and care.”⁵ There were no recommendations made regarding religious freedom.

Legal Framework

Abortion

4. Under Article 23 Section 1 of the Constitution of Equatorial Guinea, “[t]he State protects the person from its conception and fosters the minor in order for him to develop normally and with security for his moral, mental, and physical integrity, as well as his life within the home.”⁶

¹ *Equatorial Guinea*, JOSHUA PROJECT, <https://joshuaproject.net/countries/EK> (last visited Mar. 4, 2024).

² *Id.*

³ *Universal Periodic Review – Equatorial Guinea*, OHCHR, <https://www.ohchr.org/en/hr-bodies/upr/gq-index> (last visited Mar. 4, 2024).

⁴ *Equatorial Guinea*, OHCHR, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session33/GQ/Infographic_EquatorialGuinea.pdf (last visited Mar. 4, 2024).

⁵ OHCHR, UPR of Equatorial Guinea (3rd Cycle – 33rd Session): Thematic List of Recommendations, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session33/GQ/MatriceRecommendationsEquatorialGuinea.docx> (last visited Mar. 4, 2024).

⁶ EQUATORIAL GUINEA’S CONSTITUTION 1991 (amended 2012), art. 23 § 1, https://www.constituteproject.org/constitution/Equatorial_Guinea_2012.pdf.

Consistent with its constitutional responsibility, Equatorial Guinea prohibited abortions,⁷ except in situations when continuing the pregnancy “could result in serious consequences for the health or life of the pregnant woman.”⁸

5. In November 2020, however, the government passed The Law on Sexual and Reproductive Rights in order to regulate sexual and reproductive health services.⁹ Under Article 23 of this new law:

The voluntary interruption of the pregnancy will only be authorized in the following special cases:

1. When the evolution of the pregnancy puts the life of the pregnant woman in imminent danger, as long as it has been determined by a medical staff.
2. When the fetus has serious illnesses that are incompatible with a normal life at the time of diagnosis.
3. In the event of incest or circumstances that are against morality and public order.¹⁰

6. Under Article 24 of this law, abortion for the reasons shown above is only permitted during the first twelve weeks of pregnancy.¹¹

7. Equatorial Guinea is a party to the International Covenant on Civil and Political Rights (ICCPR).¹² Under Article 6 of the ICCPR, “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”¹³ In addition, Equatorial Guinea has a responsibility to uphold pro-life principles enshrined in other international instruments such as the UN Charter, the Universal Declaration of Human Rights (UDHR), and the 1994 Cairo Conference on Population and Development.

Human Trafficking

8. Under Article 3 of Law No. 1/2004 of September 14, 2004:

This offense shall be incurred by anyone who engages in the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the

⁷ Regulating Abortion, 1991 (Act No. 1/1991) art. 2 (GQ), <https://your-safe-abortion.com/law/abortion-laws-equatorial-guinea/>.

⁸ *Id.* art. 16.

⁹ *The Law on Sexual and Reproductive Rights is Approved in the Republic of Equatorial Guinea*, GUINEA ECUATORIAL SALUD (Nov. 21, 2022), <https://guineasalud.org/se-aprueba-la-ley-sobre-derechos-sexuales-y-reproductivos-en-la-republica-de-guinea-ecuatorial/?lang=en>.

¹⁰ Law on Sexual and Reproductive Rights, 2020 (Law No. 4/2020) art. 23 (GQ), https://www.guineasalud.org/archivos/Ordenes/Ley%20Num_4-2020.pdf (unofficial internal translation).

¹¹ *Id.* art. 24.

¹² *Ratification Status for Equatorial Guinea*, OHCHR, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=56&Lang=en (last visited Mar. 5, 2023).

¹³ International Covenant on Civil and Political Rights art. 6, Dec. 16, 1966, 999 U.N.T.S. 171, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> [hereinafter ICCPR].

abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation, so that said person will engage in begging, or in any type of sexual exploitation, pornography, debt servitude, forced marriage, irregular adoption, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs, even with the consent of the victim; such action shall be punishable by imprisonment of 10 to 15 years and a fine of at least 50 million CFA francs.¹⁴

9. Under Article 8 of the ICCPR, “[n]o one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude.”¹⁵

10. Additionally, Equatorial Guinea is a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.¹⁶ Under Article 9, Section 1 of this Protocol:

1. States Parties shall establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.¹⁷

Abortion

11. Access to abortion in Sub-Saharan Africa, of which Equatorial Guinea is a part of, has been growing. In fact, between 2000 and 2019, twenty-one out of forty-eight countries in this region expanded access to abortion.¹⁸ Predictably, this has led to a staggering increase in the number of abortions being carried out in the region. From 1995-1998, there were 4.3 million abortions carried out annually in Sub-Saharan Africa.¹⁹ This number skyrocketed to eight million abortions being carried out annually between 2015 and 2018 in the region.²⁰

12. While many countries across Sub-Saharan Africa have recently expanded access to abortion, Equatorial Guinea must understand that its position on protecting life is in line with a majority of U.N. Member States as well as international human rights law. In fact, out of the 193 U.N. Member States, a majority of them (108) have strict limits on abortion.²¹ Even in the sixty-

¹⁴ The Smuggling of Migrants and Trafficking in Persons, 2004 (Law No. 1/2004) art. 3 (GQ), <https://antislaverylaw.ac.uk/country/equatorial-guinea/>.

¹⁵ ICCPR art. 8, *supra* note 13.

¹⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, *adopted* on Nov. 15, 2000, 2237 U.N.T.S. 319, https://treaties.un.org/doc/treaties/2000/11/20001115%2011-38%20am/ch_xviii_12_ap.pdf.

¹⁷ *Id.* at art.9, § 1.

¹⁸ *Abortion in Sub-Saharan Africa*, GUTTMACHER INST. (Dec. 2020), <https://www.guttmacher.org/fact-sheet/abortion-sub-Saharan-africa>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *The World’s Abortion Laws*, CTR. FOR REPROD. RTS. (June 9, 2023), https://reproductiverights.org/wp-content/uploads/2023/07/CRR_WALM_2023_FINAL-1.pdf.

nine countries that have varying gestational limits for on-demand abortions, forty-nine Member States have a gestational limit of twelve weeks or less.²²

13. As stated above, Equatorial Guinea’s Constitution enshrines protection for the “person from its conception.”²³ Most of Equatorial Guinea’s laws on abortion uphold these protections. However, as noted above, we are concerned about the provision that permits abortion when the preborn baby “has serious pathologies (illnesses) that are incompatible with a normal life at the time of diagnosis.”²⁴

14. The language permitting abortion when the illness is “incompatible with a normal life”²⁵ is extremely vague. This can be used to justify the abortion of babies born with abnormalities such as Down syndrome because it could be considered “incompatible with a normal life.”²⁶ We have already seen countries across Europe claiming to have eradicated Down syndrome when, in reality, they are just targeting preborn babies with Down syndrome to be aborted.²⁷ Additionally, just because a preborn baby may be born with an illness or defect that is “incompatible with a normal life” does not mean that the preborn baby will not live a long and fulfilling life. Today, individuals with Down syndrome have a life expectancy of sixty years and can even live into their eighties.²⁸ Further, this provision is problematic because tests used to determine whether the preborn baby may have an illness or defect are not accurate.²⁹ This means that healthy preborn babies can be aborted based on a false positive test.

15. Numerous fundamental human rights documents have affirmed the dignity of the human person. Those documents do not distinguish between a normal and an “abnormal” human being. All human beings have equal human dignity and value. Equatorial Guinea must remember that, like its own Constitution, the UDHR requires “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family [as] the foundation of freedom, justice and peace in the world,” and provides that “[e]veryone has the right to life”³⁰ Permitting abortion because the preborn baby may have a possible illness essentially means that sick people have less dignity and they don’t have a right to life.

16. In addition to protecting innocent preborn babies, Equatorial Guinea also has a responsibility to protect women from the dangers of abortion. It has been documented that abortion can have lasting and severe impacts on the health of the mother. This fact can be seen when examining other Sub-Saharan African countries. A 2023 study examined data from the nearby countries of Nigeria and the Central African Republic and documented the complications

²² *Id.*

²³ EQUATORIAL GUINEA’S CONSTITUTION 1991 (amended 2012), *supra* note 6.

²⁴ Law on Sexual and Reproductive Rights art. 23, *supra* note 10.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Iceland Called Out at UN for Aborting Almost 100% of Babies Diagnosed with Down’s Syndrome*, RIGHT TO LIFE NEWS (Feb. 28, 2022), <https://righttolife.org.uk/news/iceland-called-out-at-un-for-aborting-almost-100-of-babies-diagnosed-with-downs-syndrome>.

²⁸ *5 Things People with Down Syndrome Want You to Know*, HEALTH DIRECT (Mar. 15, 2019), <https://www.healthdirect.gov.au/blog/5-things-people-with-down-syndrome-want-you-to-know>.

²⁹ *Genetic Non-Invasive Prenatal Screening Tests May Have False Results: FDA Safety Communication*, FDA (Apr. 19, 2022), <https://www.fda.gov/medical-devices/safety-communications/genetic-non-invasive-prenatal-screening-tests-may-have-false-results-fda-safety-communication>.

³⁰ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, *pmbi.*, art. 3 (Dec. 10, 1948).

caused by abortion.³¹ This study analyzed data from 520 women in Nigerian hospitals and 548 women in Central African Republic hospitals and found that 19.8% of the women studied in Nigeria and 6.2% of the women studied in the Central African Republic were classified as having “severe maternal outcomes” as defined as near-miss cases and deaths.³² Further, a staggering 47.1% of the women studied in Nigeria and 44.5% of the women studied in the Central African Republic faced potentially life-threatening complications.³³ The study also found that the most common abortion-related complications were bleeding and hemorrhaging.³⁴

17. In addition to the physical complications, abortion has also been shown to result in negative psychological side effects, from shame to drug abuse to suicidal thoughts.³⁵ All of these reasons contribute to the negative and even devastating effects abortion has on both the mother and the preborn baby.

18. Moreover, numerous international documents and agreements have recognized the inherent value and dignity of human life. Abortion is one of the gravest of all offenses against human life and against justice because it entails the deliberate killing of an innocent human being. Because of this, since the 1994 Cairo Conference on Population and Development, U.N. Member States have had an affirmative commitment to “reduce the recourse to abortion” and to “take appropriate steps to help women avoid abortion, *which in no case should be promoted as a method of family planning.*”³⁶ If abortion truly is “healthcare,” there would be no need to call for reducing abortion. The fact is that abortion is a procedure that deliberately takes the life of human being, and is a procedure that fosters insensitivity to, and disdain of, life in the womb. This is in contravention of the UDHR, which requires “recognition of the inherent dignity and of the equal and inalienable rights of *all* members of the human family [as] the foundation of freedom, justice and peace in the world,” and provides that “[e]veryone has the right to life.”³⁷ Likewise, Article 6 of the ICCPR states that “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”³⁸

Human Trafficking

19. Equatorial Guinea largely serves as a destination country for forced labor and a source country for sex trafficking.³⁹ However, the full scale of human trafficking in Equatorial Guinea is

³¹ Estelle Pasquier et. al, *High Severity of Abortion Complications in Fragile and Conflict-Affected Settings: a Cross-Sectional Study in Two Referral Hospitals in Sub-Saharan Africa (AMoCo Study)*, BMC PREGNANCY & CHILDBIRTH, Mar. 4, 2023, <https://bmcpregnancychildbirth.biomedcentral.com/articles/10.1186/s12884-023-05427-6>.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ Priscilla K. Coleman et al., *Women Who Suffered Emotionally from Abortion: A Qualitative Synthesis of Their Experiences*, 22 J. OF AM. PHYSICIANS & SURGEONS 113, 116-17 (2017), <https://www.jpands.org/vol22no4/coleman.pdf>.

³⁶ *Report of the International Conference on Population and Development*, U.N. Doc. A/CONF.171/13/Rev.1 at 58 (5-13 Sept. 1994),

https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/a_conf.171_13_rev.1.pdf.

³⁷ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, pmbl., art. 3 (Dec. 10, 1948) (emphasis added).

³⁸ ICCPR art. 6, *supra* note 13.

³⁹ *Equatorial Guinea*, ORGANIZED CRIME INDEX,

https://africa.ocindex.net/country/equatorial_guinea#:~:text=Equatorial%20Guinea%20is%20described%20as,convicted%20any%20human%20trafficking%20suspects (last visited Mar. 6, 2024).

unknown because of the government's refusal to release human trafficking statistics.⁴⁰ Women and girls are particularly vulnerable to being trafficked for forced prostitution, with the majority of them being exploited in Malabo, Bata, and Mongomo.⁴¹ Oftentimes, parents send their daughters to work abroad. However, all too often these girls are then exploited in domestic service or even trafficked for sexual exploitation.⁴² Poor children are also at risk of being trafficked for forced labor in the mining industry.⁴³ Human traffickers abduct boys they find begging for money on the streets and force them into labor.⁴⁴

20. For example, in Cameroon, authorities dismantled a trafficking network that was abducting and trafficking children in Equatorial Guinea, Gabon, and Chad.⁴⁵ These children were likely to be trafficked to work as sex workers or be exploited to work as pick pocketers and beggars or transport drugs.⁴⁶

21. The government is failing to uphold its responsibility to combat human trafficking and protect victims. The reasons for this failure are multifaceted. In part, corrupt government officials have been complicit in human trafficking⁴⁷ and even though the government has passed anti-corruption laws, they are not enforced.⁴⁸ Further, the government lacks the judicial capacity to handle human trafficking cases and is also plagued with corruption.⁴⁹ Moreover, there is a lack of political will to even want to protect the country from organized crime such as human trafficking.⁵⁰ All of these factors have contributed to the government's failure to prosecute or convict a human trafficker since the implementation of the 2004 law on human trafficking.⁵¹

Recommendations

22. While we are encouraged that Equatorial Guinea does not permit on demand abortions, the government can still do more to protect the lives of preborn children and women. To do this, the government must uphold the rights enshrined in its own Constitution that guarantees protection of every individual from the time of conception. To do this, the government must reform its laws in order to protect the life of the preborn baby with no exception based on the possibility of illness.

23. Equatorial Guinea must do more to both prosecute human traffickers and protect victims. In order to do this, the government must take human trafficking seriously and provide resource and training to law enforcement personnel so that they have the knowledge and capabilities to identify human trafficking victims. Further, the government must aggressively weed out

⁴⁰ Jonathan Chan, *Equatorial Guinea: Dictatorship, Human Trafficking, and Corruption*, SPHERES OF INFLUENCE (Oct. 23, 2021), <https://spheresofinfluence.ca/equatorial-guinea-dictatorship-human-trafficking-and-corruption/>.

⁴¹ *Equatorial Guinea*, *supra* note 39.

⁴² Marissa Pekular, *Top 4 Facts About Human Trafficking*, THE BORGEN PROJECT (July 18, 2019), <https://borgenproject.org/top-4-facts-about-human-trafficking-in-equatorial-guinea/>.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Moki Edwin Kindzeka, *Cameroon Says it Busted Regional Child Trafficking Ring*, VOA NEWS (Mar. 3, 2018, 10:38 AM), <https://www.voanews.com/a/africa-cameroon-child-trafficking/4278961.html>.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Equatorial Guinea*, *supra* note 39.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

corruption and prosecute officials who are complicit in this heinous crime.