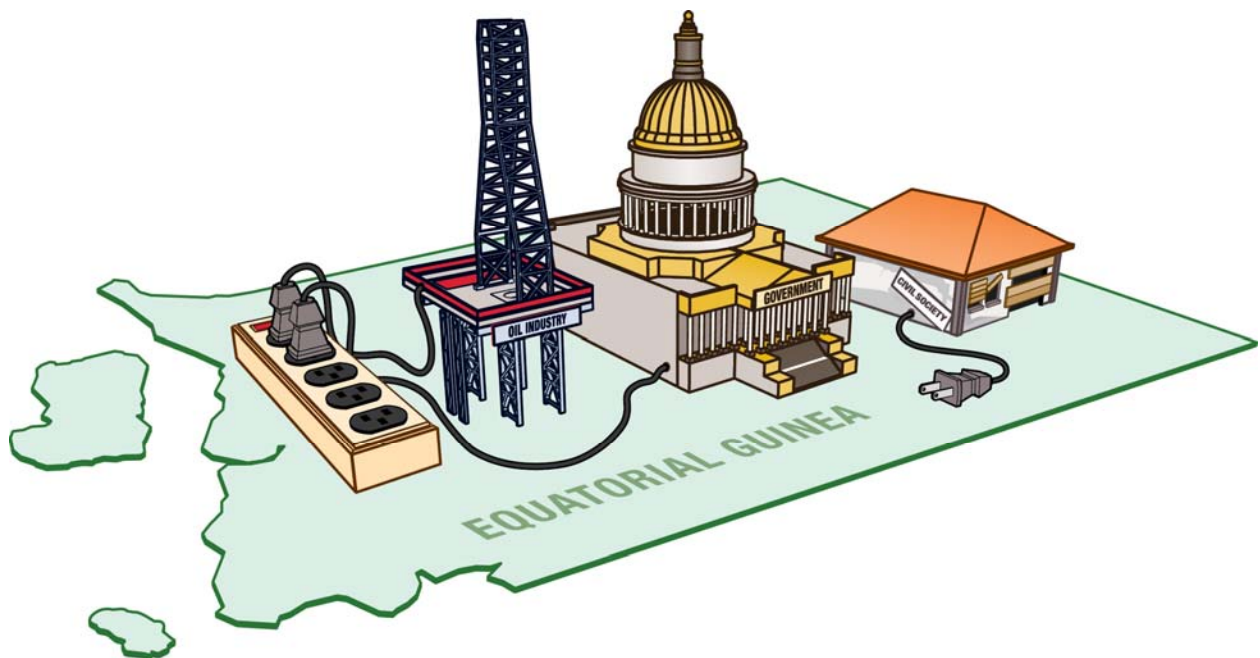


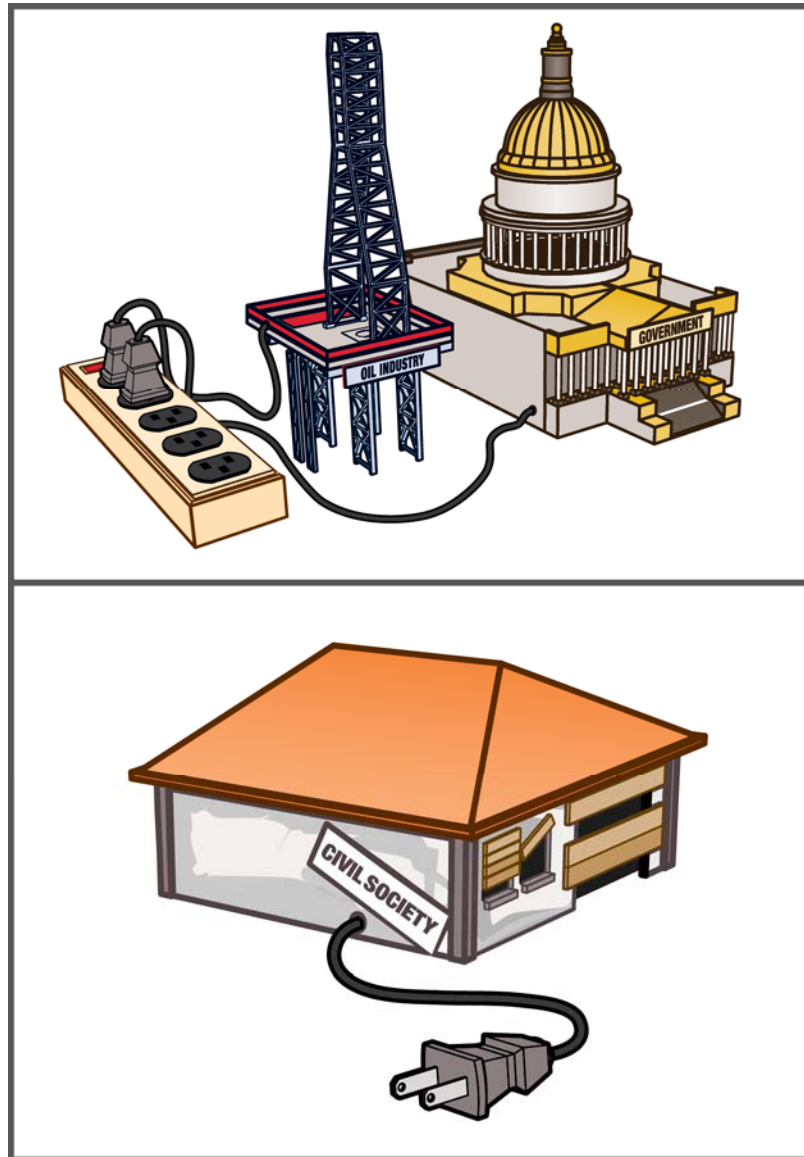
# Disempowered Voices

## The Status of Civil Society in Equatorial Guinea

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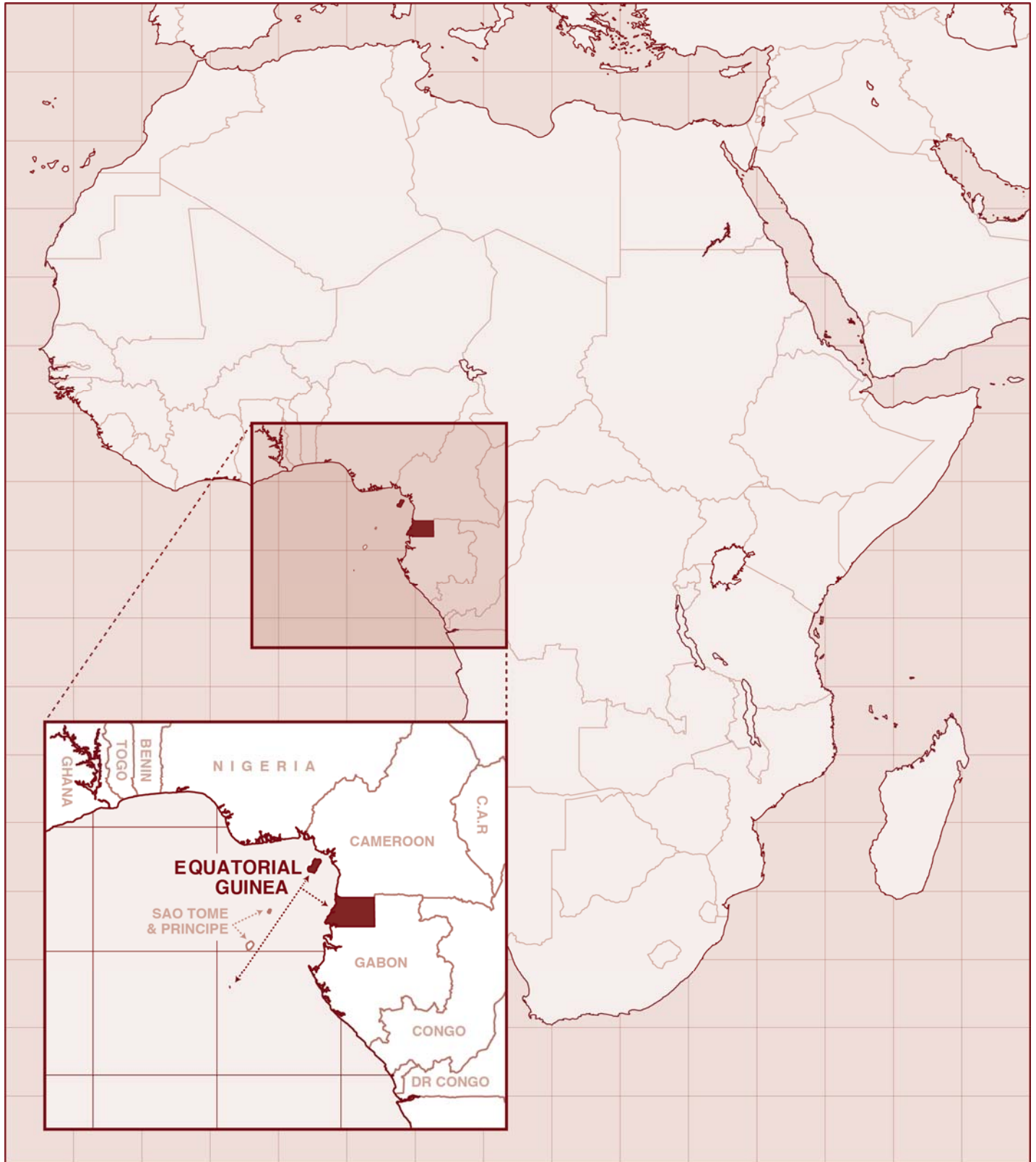
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# Map of Equatorial Guinea



# I. Summary

This report emerged in part out of a closed-door roundtable discussion between members of Equatoguinean and international civil society organizations in Washington, DC on May 20, 2010. The discussion focused on the decision by the Extractive Industries Transparency Initiative (EITI) Board in April 2010 to delist Equatorial Guinea from the EITI. Participants also explored the steps necessary to strengthen the country's civil society to ensure that, in the event that Equatorial Guinea reapplies for and is re-granted candidacy in the EITI, civil society actors will be capable of participating as equal and independent actors in the EITI process.

The government of Equatorial Guinea has signaled a desire to improve transparency and strengthen civil society, including its March 2010 acceptance of more than 100 reform-minded recommendations from UN member states at the UN Human Rights Council's Universal Periodic Review. Many of the accepted recommendations directly relate to increasing the transparency of oil revenues and empowering a strong, independent civil society. This report aims to highlight the obstacles currently hindering civil society formation and engagement in Equatorial Guinea and to advance a set of recommendations for stakeholders—particularly those involved in the EITI and the Universal Periodic Review processes—that should be implemented as a precondition for Equatorial Guinea's readmission to the EITI.

A vibrant and independent civil society is critical for the advancement of universal values related to government accountability, human rights, and civic engagement. Civil society provides a mechanism for individuals to express their interests and values and to counterbalance government authority and the business sector. Countries without an active and independent civil society risk being guided by the ideas and policies of a small set of elites or government leaders, who often place their own interests ahead of those of the rest of society. Such is the case in Equatorial Guinea, sub-Saharan Africa's fourth-largest oil-producing country that, for the past 43 years, has been governed by two undemocratic regimes that have hindered the formation of a healthy and autonomous civil society, weakened the institutions necessary for the formation of a pluralistic democratic society, and enriched a small elite class. Meanwhile, the majority of citizens in Equatorial Guinea lives in poverty and continues to experience little positive benefit from the billions of dollars of oil revenues the country receives annually.

A set of limited reforms in the 1990s and Equatorial Guinea's entry as a candidate country in the EITI in 2008 allowed small openings for greater civil society activism. A number of obstacles, however, including weak capacity, government restrictions on freedom of expression and

association, and hostile government rhetoric and action against independent actors continue to inhibit the autonomy and effectiveness of civil society in Equatorial Guinea.

If the country's civil society is to evolve into an effective social innovator, a champion of human rights and government accountability, and an active participant in the EITI process, the government of Equatorial Guinea, multinational companies, bilateral and multilateral organizations, and international non-governmental organizations (NGOs) must take necessary steps to strengthen and enable civil society. This is particularly important if Equatorial Guinea hopes to reenlist as an EITI Candidate Country. While the EITI has clarified under its Policy Note #5 that "a delisted country may reapply for admission as an EITI Candidate Country at any time," the EITI Board clearly states that it "will apply the agreed procedures with respect to assessing Candidate applications...[and] will also assess previous experience in EITI implementation, including previous barriers to effective implementation, and the corrective measures implemented."<sup>1</sup> EITI standards, namely sign-up indicator 2 as well as EITI Criterion 5, require that civil society contribute to public debate and be actively engaged in the design, monitoring, and evaluation of the EITI process.<sup>2</sup> As this report highlights, the government of Equatorial Guinea's inability or unwillingness to allow full civil society participation in the EITI process will continue to threaten the country's pursuit of greater transparency and the fulfillment of the EITI's objectives. If the government and international actors do not actively support the full participation of civil society, Equatorial Guinea will be unable to comply with the EITI rules and re-qualify for EITI Candidacy status.

Thus, given the critical role of civil society in the EITI process, the EITI Secretariat and Board should make Equatorial Guinea's reentry to the EITI contingent upon the completion of concrete measures to foster a vibrant civil society. In addition, the UN Human Rights Council should follow-up with the Equatoguinean government to ensure the full implementation of the recommendations accepted during the Universal Periodic Review—particularly those that affect civil society.

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<sup>1</sup> EITI Secretariat, *EITI Rules, Including the Validation Guide*, (Oslo, Norway: Department for International Development, 2010), p. 44.

<sup>2</sup> *Ibid.*, p. 16, 10.

## II. Recommendations

### To the Government of Equatorial Guinea

- Update and clarify the laws that pertain to civil society organizations, and apply them consistently and transparently.
- Clarify the legal definition of civil society, specifying exactly which groups qualify as civil society. Exclude political parties from this definition.
- Standardize and streamline the procedures required for civil society organizations to register and gain legal status. Apply the revised procedures to grant eligible organizations legal status on a timely basis.
- Establish an access to information law that grants individuals and civil society organizations the right to obtain and share information.
- Remove government restrictions on freedom of the press, including removing the legal language that allows the government to censor journalists and media outlets.
- Allow civil society organizations to act autonomously of the state. Remove the legal language that allows the government to monitor civil society meetings and requires civil society organizations to inform the government of their meetings and activities.
- Stop restricting—through the use of unreasonably burdensome financial reporting requirements—the ability of civil society organizations to receive donations.
- Widely disseminate the Universal Periodic Review within the country and follow through on the commitment to establish a follow-up commission for the Review. Educate civil society organizations about the availability of government financial and logistical assistance, and establish a clear set of criteria for how and when civil society groups can access these.
- Continue to facilitate education and training programs for civil society, including exchange programs with other EITI countries and allowing greater interaction with international NGOs.
- Institute and adhere to a clear process for decision making within the National Committee that seeks to implement EITI in-country, maintain clear records of decisions, and ensure that all decisions are reached via the consensus of all stakeholders.
- Provide technical training for the civil society members on the technical committee.
- Create a strong, independent, high level EITI National Coordinator office with a permanent staff that possesses the necessary resources to effectively manage the budget, enforce vertical accountability, and coordinate the activities of all stakeholders.

- Implement the steps outlined in the World Bank-provided Action Plan in order to strengthen civil society and prepare the groundwork for the country’s potential readmission to the EITI.
- Outline and implement a detailed plan of action to educate citizens about the EITI and to communicate the progress made on achieving its goals. This should include publishing on the government’s website EITI reports, periodic updates on EITI implementation, and the government’s annual budget.

## **To the EITI Secretariat and Board**

- Outline a clear definition for “civil society” and provide guidelines that decidedly state that governments should have no role in selecting civil society representatives for National Committees, that they must provide organizations adequate advance notice of meetings, and that they allow organizations access to all relevant documents and information.
- Remove “parliamentarians” from the definition of civil society.<sup>3</sup>
- Encourage the government, petroleum companies, and bilateral and multilateral organizations to increase the types of education and training provided to civil society to include professional skills training as well as EITI sensitization.
- Require the government to regularly report on how it has incorporated civil society recommendations, possibly through the Universal Periodic Review mechanism.

## **To the United Nations Human Rights Council**

- Create a vigorous, transparent, and participatory follow-up mechanism to ensure that the recommendations of the Universal Periodic Review are implemented.

## **To Bilateral, Multilateral, and Nongovernmental Organizations**

- Pressure the government to open greater space for civil society participation. Ask the government to include a civil society strengthening component in the Social Fund.
- Sensitize the government about the important role of civil society.
- Increase civil society capacity through education and training.

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<sup>3</sup> In Indicator 5 of the Indicator Assessment Tools listed in its 2010 “EITI Rules, Including the Validation Guide,” the EITI Secretariat lists parliamentarians as an example of “other civil society”.



- Enlist in-country offices and staff to communicate and work with civil society organizations, and to ensure that the government is taking the necessary steps to implement the World Bank's EITI Action Plan.
- Identify and/or facilitate external funding opportunities for civil society organizations.
- Assist civil society organizations to coordinate and publicize their activities, both domestically and internationally.

## **To Extractive Companies**

- Sensitize the government about the important role of civil society and push for greater civil society inclusion in the EITI process.
- Drawing upon best practices and knowledge acquired in other countries, continue to educate civil society organizations and the government about the EITI process and their roles in the process.
- Meet independently with civil society organizations without government participation.
- Ensure greater civil society participation in Corporate Social Responsibility projects.

### **III. Methodology**

EG Justice Staff have closely monitored the efforts of civil society organizations to increase their capacity and to operate effectively in Equatorial Guinea since the country gained EITI Candidate Country status in February 2008. During that time, the author conducted interviews with members of Equatoguinean civil society and international civil society, the Equatoguinean government, foreign diplomats, and intergovernmental organizations and international financial institutions with experience in Equatorial Guinea. In addition, the author carried out a detailed analysis of relevant Equatoguinean government laws and documents and reviewed scholarly articles and reports produced by NGOs, watchdog organizations, and governmental and intergovernmental agencies. This report is based on that research.

Due to security concerns, details about the individuals interviewed for this report have been withheld to protect their anonymity, but are on file with EG Justice.

## **IV. The Role of Civil Society in the Extractive Industries Transparency Initiative (EITI)**

The Extractive Industries Transparency Initiative (EITI) is a voluntary international effort designed to strengthen governance in resource-rich countries through improved transparency and accountability in the extractives sector, thereby ensuring that revenues from natural resources are used to foster growth and reduce poverty. The EITI supports improved governance in resource-rich countries through the full publication and verification of company payments and government revenues from oil, gas, and mining. To join the EITI, countries must complete four sign-up indicators:

1. The government must issue an unequivocal public statement of its intention to implement the EITI.
2. The government must commit to work with civil society and companies on EITI implementation.
3. The government must appoint a senior individual to lead on EITI implementation.
4. The government must publish and widely disseminate a fully costed work plan that contains measurable targets, a timetable for implementation, and an assessment of capacity constraints for the government, private sector, and civil society.<sup>4</sup>

Once a country has met the sign-up indicators and been accepted as an EITI Candidate country, it has two years to meet the following EITI Criteria in order to be considered EITI Compliant:

1. Regularly publish all material oil, gas, and mining payments by companies to governments and all material revenues received by governments from oil, gas, and mining companies to a wide audience in a publicly accessible, comprehensive, and comprehensible manner.
2. Subject all payments and revenues to an independent audit using international auditing standards.
3. Ensure that a credible, independent administrator reconciles all payments and revenues using international auditing standards and publishes an opinion regarding the reconciliation—including discrepancies - should any be identified.
4. EITI standards must apply to all companies—including state-owned enterprises.
5. Civil society must be actively engaged as a participant in the design, monitoring, and evaluation of the EITI process and contribute to public debate.

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<sup>4</sup> EITI Secretariat, *EITI Rules, Including the Validation Guide*, p. 16.

6. A public, financially sustainable work plan for all the above must be developed by the host government, with assistance from the international financial institutions where required, including measurable targets, a timetable for implementation, and an assessment of potential capacity constraints.<sup>5</sup>

The success of the EITI is contingent upon an open and participatory environment in which each of the three relevant sectors—business, civil society, and government—works collaboratively to promote the principles of transparency and accountability but retains the autonomy required to effectively monitor and influence the other two sectors. A dynamic and engaged civil society helps to promote and protect the public interest by ensuring that governments and companies fulfill their commitments to transparency and accountability. To successfully complete the EITI Validation process, be recognized as EITI Compliant, and preserve the spirit of the EITI, governments are required to actively engage with civil society and to remove all obstacles to civil society participation in the EITI process.

The EITI’s Validation Guide provides a series of indicators used to determine if a country is adequately achieving the EITI criteria. Of particular relevance for this report, the EITI provides several indicators for assessing the quality of civil society engagement in the EITI process:

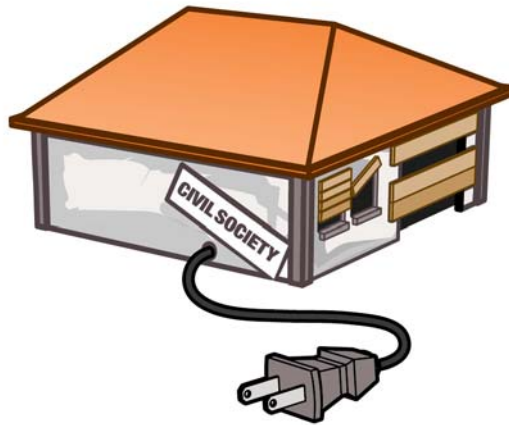
- **Sign-up Indicator 2** mandates that governments commit to work with civil society and companies on EITI implementation.
- **Validation Indicator 5** stipulates that civil society members be independent of the government and possess sufficient capacity to carry out their duties.
- **Validation Indicator 6** specifies that actions be taken by government, civil society, and companies to address capacity constraints affecting civil society participation, and that civil society groups involved in EITI be free from undue restraint or coercion.
- **Validation Indicator 18** requires that governments make their EITI reports publicly available and widely disseminated by producing paper copies, making reports available online, and publicizing its web location to key stakeholders through outreach events designed to increase awareness of the reports.<sup>6</sup>

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<sup>5</sup> These criteria are adapted from the EITI Secretariat, *Extractive Industries Transparency Initiative Source Book*, (London: Department for International Development, 2005), p. 9.

<sup>6</sup> EITI Secretariat, *EITI Rules, Including the Validation Guide*, p. 16, 18.

## V. Civil Society in Equatorial Guinea



Civil society in Equatorial Guinea is very weak. Many of the civil society organizations that exist today are the product of enthusiastic individuals determined to work on specific social issues, but whose effectiveness is hindered by limited professional competencies and investment, an ambiguous and inconsistent legal framework, undue government interference, and an atmosphere of distrust and paranoia. Decades of dictatorial rule have stunted the education system as well as the civic and political spaces necessary for civil society to flourish, and created an atmosphere of fear and suspicion in which is discernible a lack of trust and an unwillingness to collaborate, both between individuals and civil society organizations. For home-grown civil society groups, the result has been a lack of adequately informed and trained individuals and an operating environment in which civil society is neither well understood nor organized.

The government's treatment of civil society organizations exacerbates the weaknesses that already exist in civil society. The government regards autonomous civil society organizations with suspicion, particularly those groups that advocate for government reforms such as socioeconomic development, human rights protection, and the just redistribution and use of oil revenues. As is documented in detail below, despite a legal framework that guarantees freedoms of assembly, association, and speech, as well as repeatedly renewed government promises to take the necessary steps to empower civil society, governmental actions continue to thwart the efforts of Equatoguinean citizens to organize and advocate for a more accountable, transparent, and democratic political system.

Civil society organizations have existed in Equatorial Guinea for less than 30 years. The brutally oppressive regime of the country's first president, Macías Nguema, actively repressed civil society formation for more than a decade after the country's 1968 independence from Spain. Churches and non-state sponsored associations were banned during this period. It was not until after the second and current president, Teodoro Obiang Nguema, took power in a 1979 coup d'état that churches and schools were allowed to re-open and citizens began to form self-help groups, community associations, cultural societies, and similar groups focused on community issues. Shortly thereafter, the first traces of civil society organizations with a broader mandate than solving basic community needs appeared. These first organizations—which included *La Iglesia Reformada Presbyteriana de Guinea Ecuatorial* (Reformed Presbyterian Church of Equatorial Guinea), *Caritas* (a Catholic organization), and *La Cruz Roja* (the Red Cross)—were offshoots of international religious and humanitarian organizations that provided health and education programs as well as humanitarian relief.

Despite a number of laws and presidential decrees enacted in the 1990s, ostensibly to enable civil society activism, today both legal and pragmatic factors continue to stymie the formation of effective and autonomous civil society groups. As is discussed in detail below, the legal framework pertaining to civil society suffers from numerous shortcomings that have inhibited civil society activism. In addition, the government has been inconsistent in how it engages with civil society; it is supportive of the work of certain groups but has actively undermined the formation and participation of other civil society organizations. This has limited the capacity of civil society to act as a strong, independent check on government authority and as an advocate for an active and informed citizenry.

The government's understanding and definition of civil society creates obstacles that stymie civil society development. In July 2007, the government advanced a legal definition of civil society that delimits civil society to political parties, NGOs, religious groups, and associations or "related groups."<sup>7</sup> The category "related groups" has caused confusion among civil society groups, however, since the law does not provide any details about the types of groups that fit this category. The definitional vagueness in the law leaves certain types of organizations, such as community groups and professional associations, unclear about whether or not they legally qualify as civil society organizations.

A 2010 study by the *Centro de Estudios e Iniciativas para el Desarrollo* (CEID) counted approximately 250 organizations in the districts of Bata and Malabo, with the majority of

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<sup>7</sup> Decreto 42/2007 sobre la participación de la sociedad civil en la implementación de la Iniciativa de la Transparencia en las Industrias Extractivas (Decree 42/2007 regarding the participation of civil society in the EITI), issued on July 30, 2007.

groups (70 percent) comprised of between 10 and 20 members. Only about 65 percent of these groups, however, have managed to gain legal status as required by the government.<sup>8</sup> According to the CEID study, non-governmental organizations (NGOs) are the most common type of civil society organization in Equatorial Guinea, followed by community groups and cooperatives (see Table 1). As noted above, community groups and professional associations—which represent nearly one out of every four civil society organizations—are not specifically recognized by Equatoguinean law, placing them in a state of legal uncertainty and leaving them vulnerable to government interference. Only one trade or labor union is legally recognized by the government.

**Table 1: The Composition of Civil Society Organizations in Equatorial Guinea<sup>9</sup>**

<u>Type of Group</u>	
NGOs	50%
Community Groups	23%
Cooperatives	19%
Associations	8%

<sup>8</sup> Centro de Estudios e Iniciativas para el Desarrollo (CEID), “Marco Legislativo y Reglamentario de las Organizaciones de Sociedad Civil de Guinea Ecuatorial.” April 2010. [http://ceidge.org/adminceidge/index.php?option=com\\_content&view=article&id=67:marco-legislativo-osce-ge&catid=43:informes&Itemid=70](http://ceidge.org/adminceidge/index.php?option=com_content&view=article&id=67:marco-legislativo-osce-ge&catid=43:informes&Itemid=70). (Accessed August 25, 2010).

<sup>9</sup> Information in the table was taken from Centro de Estudios e Iniciativas para el Desarrollo (CEID), “Marco Legislativo y Reglamentario de las Organizaciones de Sociedad Civil de Guinea Ecuatorial.” April 2010.

## The Legal Code and Civil Society on Paper

In 1991, the Obiang regime revised the 1982 constitution as part of a limited political opening. The revised constitution—approved by national referendum on November 17, 1991 and amended again on January 17, 1995—established the fundamental legal framework for the existence of civil society organizations. Of particular relevance for civil society is Article 13 of the constitution, which guarantees the freedoms of expression, association, and assembly. In addition to the new constitution, several presidential decrees enacted in the 1990s further codified on paper the existence and functions of civil society organizations in Equatorial Guinea (See Table 2).

**Table 2: The Legal Framework for Civil Society in Equatorial Guinea<sup>10</sup>**

Decree/Law	Date Enacted	Significance
Decree No. 6/1991	July 22, 1991	Enumerates the basic principles and requirements for the formation and registration of cooperatives.
Constitution Article 13	November 17, 1991	Guarantees citizens the freedom of association and the freedom of assembly. <sup>11</sup>
Law No. 11/1.1992	September 1, 1992	Establishes the General Law of Associations.
Decree No. 12/1992	October 1, 1992	Establishes general principles for the protection of trade and labor unions and outlines the requirements for professional associations to obtain legal status.
Law No. 6/1997	May 30, 1997	Establishes The Press, Publications, and Audiovisual Media Act ( <i>La Ley de Prensa, Imprenta y Medios Audiovisuales</i> ), which outlines fundamental freedoms of the press and media.
Law No. 1/1999	February 24, 1999	Outlines rules and regulations for NGOs.

<sup>10</sup> Equatoguinean government laws and decrees cited in this report are available on the website of EG Justice ([www.egjustice.org](http://www.egjustice.org)).

<sup>11</sup> Republic of Equatorial Guinea, “Constitution of the Republic of Equatorial Guinea,” [http://www.kituchakatiba.org/index2.php?option=com\\_docman&task=doc\\_view&gid=131&Itemid=36](http://www.kituchakatiba.org/index2.php?option=com_docman&task=doc_view&gid=131&Itemid=36) (Accessed August 30, 2010).



## The Legal Code and Civil Society in Practice

In theory, the framework of rights guaranteed by the constitution and subsequent presidential decrees ought to enable the existence and active engagement of civil society organizations. In practice, however, the country's legal code grants the government extensive authority and control over civil society and has hindered civil society formation and autonomy. While the government points to the legal code as proof of its commitment to civil society empowerment, both the historical record and ongoing events indicate that the existing legal framework is problematic in several respects, with the result that the government has been able to encroach upon the operational and financial autonomy of civil society organizations.

A number of provisions in the relevant laws and presidential decrees pertaining to civil society formation and operation effectively enable the government to monitor the activities of civil society organizations, infringe upon the constitutionally guaranteed freedoms of association and assembly, and limit civil society's ability to operate independently of the state. Although the constitution established the right of assembly in 1991, the Law of General Associations enacted in September 1992 requires that civil society groups provide the government 72 hours advance notice of the date and time of their meetings.<sup>12</sup> The same law authorizes "specially designated representatives" of the government to monitor the meeting places of civil society organizations and grants the government the authority to seize the books and documents of civil society organizations with judicial approval in cases where evidence of a criminal offence exists.<sup>13</sup> Given the indications that the president exerts undue influence over the country's judicial system, this raises concerns that the law could be used in a discriminatory manner to achieve politically motivated ends.<sup>14</sup>

The country's laws inhibit civil society autonomy in other ways. The registration requirements for legalization are complex, unclear, and inadequately formalized, making it difficult for organizations to successfully navigate the registration process and obtain legal recognition. Compounding this problem, civil society organizations lack adequate information about the legal framework and registration process. A study of 250 civil society organizations, for instance, found that 32 percent are unfamiliar with the laws that regulate their organizations,

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<sup>12</sup> Ley 11/1.1992 sobre Asociaciones Generales (Law No. 11/1.1992 regarding General Associations), signed into law on September 1, 1992, article 10.2.

<sup>13</sup> Law No. 11/1.1992, articles 11.1 and 11.2.

<sup>14</sup> As described in the US State Department, Bureau of Democracy, Human Rights, and Labor's "Country Reports on Human Rights Practices – 2010: Equatorial Guinea," "judges serve at the pleasure of the president and were appointed, transferred, and dismissed for political as well as competency reasons. Judicial corruption was widely reported, and cases were sometimes decided on political grounds." March 11, 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135951.htm> (Accessed September 15, 2010).

while 58 percent report experiencing legal or regulatory difficulties as a result of unfamiliarity with relevant laws and regulations or a lack of consistent application of laws by government authorities.<sup>15</sup> In addition, the government has done an inadequate job of raising awareness about the existence of programs designed to assist civil society. While the government has created *la Dirección General de Sociedad Civil* (Head Office for Civil Society) within the Interior Ministry to support civil society, the majority of civil society organizations are unaware of its functions.<sup>16</sup> In theory, legal registration qualifies organizations to be considered for government grants, subsidies, and tax exemptions on donations and certain activities; in practice, however, few groups are aware of these opportunities or possess the necessary capacity to take advantage of them.<sup>17</sup> Furthermore, unregistered organizations are not eligible to receive these benefits, which means that the obstacles to legal recognition have a direct, negative impact on the ability of civil society organizations to increase their capacity.

The ambiguity of the legal framework provides individual government officials the discretion to interpret the meaning and application of the law. Civil society organizations have raised concerns that this enables government officials to apply the law arbitrarily or inconsistently based on favoritism or patronage. The registration process for civil society organizations to gain legal standing is one area in which this is evident.<sup>18</sup> Some organizations—particularly those initiated by or affiliated with government officials—have been able to obtain legal status quickly while others languish for years in bureaucratic limbo awaiting government approval, giving civil society members the impression that the registration process is susceptible to individual discretion or politically motivated biases. EG Justice has spoken with representatives from several local organizations whose registration petitions the government simply never acknowledged. This is a wide-scale problem: an estimated two-thirds of all non-legalized civil society organizations have applied for legalization but remain in the dark about the status of their applications.<sup>19</sup> These organizations have been forced to either suspend their operations or

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<sup>15</sup> Centro de Estudios e Iniciativas para el Desarrollo (CEID), “Marco Legislativo y Reglamentario de las Organizaciones de Sociedad Civil de Guinea Ecuatorial.” April 2010.

<sup>16</sup> Comments by Equatoguinean civil society representatives participating in a roundtable discussion, May 20, 2010, Washington DC.

<sup>17</sup> Article 16 of Ley 1/1.999 sobre Régimen de las Organizaciones No Gubernamentales (Law No. 1/1999 regarding Non-governmental Organizations), signed into law on February 24, 1999, states that “the Cabinet will determine the concession of subsidies for the execution of the programs, projects, and activities of applicant NGOs.” Article 17 of the same law outlines the rules governing tax exemption status for NGOs.

<sup>18</sup> Article 11 of Ley 1/1.999 outlines the registration process for civil society organizations that wish to gain legal recognition.

<sup>19</sup> Centro de Estudios e Iniciativas para el Desarrollo (CEID), “Marco Legislativo y Reglamentario de las Organizaciones de Sociedad Civil de Guinea Ecuatorial.” April 2010. This problem is also highlighted in a report produced by a World Bank consultant who conducted numerous interviews in Equatorial Guinea in 2008. See Carlos Wendorff, “Guinea Ecuatorial: Necesidades de Capacitación para una Efectiva Participación de la Sociedad Civil en la Implementación de la Iniciativa para la Transparencia en las Industrias Extractivas.” September 25, 2008, <http://www.asodegue.org/septiembre25081.htm> (Accessed September 27, 2010).

to operate informally, without legal authorization. Organizations that choose the latter course of action, however, are not eligible for tax exempt status or government grants and subsidies. Furthermore, the judiciary has the authority to impose fines and incarcerate individuals deemed to have illegally maintained an association or organized meetings with members of a dissolved association.<sup>20</sup> In effect, the government's legal requirements, combined with its inability or unwillingness to process registration applications, inhibit the growth of civil society.

In addition, institutional bottlenecks created by low government capacity hinder civil society's efforts to register organizations. The government requires that civil society organizations obtain notary approval of their constitutions, bi-laws, and articles of association prior to submitting registration applications to government ministries. The country has only two notaries, however, one for the entire continental region and one for Bioko Island, home of the country's capital and the majority of civil society organizations. These same notaries also handle all civil, administrative, and business affairs, and thus struggle to efficiently and effectively process all civil society requests. This considerably slows down the registration process for civil society organizations.

The government also has restricted the ability of workers to organize and register unions, despite the fact that the right to establish unions is protected by both the country's laws and the International Covenant on Economic, Social, and Cultural Rights, an international treaty to which Equatorial Guinea acceded in 1987.<sup>21</sup> The 1992 law on trade unions stipulates that to register, a union must have at least 50 members from the same workplace and the same geographical area, a condition that effectively blocks union organizing in a country with significant geographical divisions and few large employers. Further, the government has not legalized the Independent Syndicated Services, a public sector union, even though it has met the requirements of the law.<sup>22</sup> According to the International Trade Union Confederation (ITUC), trade unions face significant political hurdles in their efforts to register and obtain legal status.<sup>23</sup> The US Department of State reports that the Equatoguinean government has used

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<sup>20</sup> Law 11/1992, article 13.7.

<sup>21</sup> Ley 12/1992 sobre Sindicatos y Relaciones Colectivas de Trabajo (Law No. 12/1992 regarding Unions and Collective Bargaining), signed into law on October 1, 1992, outlines the rules and rights pertaining to unions and collective labor relations. See also United Nations High Commissioner for Human Rights, "International Covenant on Economic, Social, and Cultural Rights, Article 8, December 16, 1966, <http://www.unhcr.org/refworld/docid/3ae6b36c0.html> (Accessed November 8, 2010).

<sup>22</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices – 2010: Equatorial Guinea, March 11, 2010.

<sup>23</sup> International Trade Union Confederation (ITUC), "2010 Annual Survey of Violations of Trade Union Rights—Equatorial Guinea," <http://survey.ituc-csi.org/+Equatorial-Guinea-+.html> (Accessed September 8, 2010).

pressure and incentives to co-opt workers' movements into existing party structures.<sup>24</sup> The government has legally recognized only one labor union—*La Organización Sindical de Pequeños Agropecuarios* (The Unionized Organization of Small Farmers)—while continuing to deny legal status to at least four other unions that have sought legal recognition.<sup>25</sup>

The legal framework also enables the government to monitor and potentially influence the financial activities of civil society organizations. Civil society groups are required to obtain written permission from the *Ministerio del Interior y Corporaciones Locales* (Ministry of the Interior and Local Corporations) before accepting donations in excess of 50,000 CFA francs (approximately US\$100).<sup>26</sup> Additionally, civil society organizations are required to submit detailed quarterly reports on their activities and to submit information regarding their economic resources to the Ministry of the Interior and Local Corporations as well as to the ministry responsible for the area of their activities.<sup>27</sup> The punishment for violating these requirements can be a suspension lasting up to three months.<sup>28</sup> More generally, the Ministry of the Interior and Local Corporations has the legal authority to levy fines of up to 500,000 CFA francs (approximately US\$1,000) for organizations that do not follow the government's civil society policies.<sup>29</sup>

The legal code also makes it difficult for international NGOs to assist local civil society organizations. Local civil society groups are unable to affiliate themselves with international organizations—or adopt names that allude to them—without government authorization.<sup>30</sup> Contributions to local NGOs from international organizations must be reported to the ministry responsible for the area of their activities and to the Ministry of the Interior and Local Corporations.<sup>31</sup> Consequently, many civil society organizations are reluctant to receive financial support from international organizations since doing so will subject them to undue government intervention.<sup>32</sup> International NGOs operating in Equatorial Guinea autonomously or in

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<sup>24</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices – 2010: Equatorial Guinea, March 11, 2010.

<sup>25</sup> According to the ITUC "2010 Annual Survey of Violations", the Workers' Union of Equatorial Guinea (*Unión Sindical de Trabajadores de Guinea Ecuatorial*), the Independent Service Union (*Sindicato Independiente de Servicios*), the Teachers' Trade Union Association (*Asociación Sindical de Docentes*) and the Organization of Rural Workers (*Organización de los Trabajadores del Campo*) have sought and been denied legal recognition. See also Alicia Campos Serrano and Plácido Micó Abogo, "Labour and Trade Union Freedom in Equatorial Guinea," Fundación Paz y Solidaridad Serafín Aliaga de Comisiones Obreras, 2006, <http://www.ccoo.es/comunes/temp/recursos/1/1933.pdf> (Accessed October 13, 2010).

<sup>26</sup> Law 11/1.1992, article 13.1.

<sup>27</sup> Law 1/1999, articles 12a and 12b.

<sup>28</sup> Law 1/1999, article 19.

<sup>29</sup> Law 11/1.1992, article 13.6.

<sup>30</sup> Law 11/1.1992, additional provision #2.

<sup>31</sup> Law 1/1999, articles 10.2 and 12c.

<sup>32</sup> Comments by Equatoguinean civil society representatives participating in a roundtable discussion, May 20, 2010, Washington DC.

affiliation with a local NGO are subject to the same autonomy-infringing requirements as local NGOs.<sup>33</sup>

## **Obstacles for Civil Society Stemming from the Political Environment**

The highly centralized nature of the Equatoguinean government contributes to a difficult operating environment for civil society. Power remains tightly controlled in the hands of Mr. Obiang, in power since 1979, his family and close associates. This tight-knit group carefully guards its control over government authority and moves quickly and decisively to thwart any threat—real or perceived—to its hold on power. Government actions demonstrate that it is distrustful and intolerant of social and political activism not under its direct control. Individuals—particularly those perceived to be opponents or critics of the government—are periodically detained without an arrest warrant, a trial, or access to a lawyer, in direct violation of Law No. 18/1995 and the International Covenant on Civil and Political Rights, to which Equatorial Guinea acceded in 1987.<sup>34</sup>

Citing numerous instances of the abrogation of basic rights, Freedom House gave Equatorial Guinea its lowest score for civil liberties and rated it as one of its “Worst of the Worst” for human rights in 2010, alongside countries such as Burma, North Korea, and Sudan.<sup>35</sup> Despite Equatorial Guinea having a constitution that enshrines “the respect of the individual, his dignity, freedom and other fundamental rights” (Article 5), enacting, in November 2006, Law No. 6/2006 on “the Prevention of and Disciplinary Measures against Torture,” and being a party to a number of international and regional treaties that denounce human rights abuses, international observers continue to document systemic human rights violations committed under the Obiang regime.<sup>36</sup> After concluding a November 2008 visit to Equatorial Guinea, the UN Special Rapporteur on torture reported that “torture is systematically used by the police

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<sup>33</sup> Law 1/1999, article 18.

<sup>34</sup> The right to due process is guaranteed by Article 13 of the country’s constitution. See also United Nations High Commissioner for Human Rights, “International Covenant on Civil and Political Rights,” Article 9, <http://www.unhcr.org/refworld/docid/3ae6b3aa0.html> (accessed November 8, 2010).

<sup>35</sup> Freedom House, “Freedom in the World 2010: Country Report, Equatorial Guinea,” 2010, <http://www.freedomhouse.org/template.cfm?page=22&year=2010&country=7818> (Accessed August 31, 2010); Freedom House, “Freedom in the World 2010: Worst of the Worst,” 2010,

<http://www.freedomhouse.org/uploads/WoW/2010/WorstOfTheWorst2010.pdf> (Accessed September 8, 2010).

<sup>36</sup> Equatorial Guinea is a party to several international treaties intended to protect human rights, including the International Covenant on Civil and Political Rights and the Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment. As a member of the United Nations, Equatorial Guinea also has an obligation to uphold human rights standards agreed to by the United Nations through resolutions passed by the General Assembly, including the Universal Declaration of Human Rights. Additionally, Equatorial Guinea is a signatory to the African Charter on Human and Peoples’ Rights and the Protocol to the African Charter on Human and Peoples’ Rights on the establishment of an African Court on Human and Peoples’ Rights

forces against persons who refuse to ‘cooperate.’”<sup>37</sup> The UN Working Group on the use of mercenaries concluded in August 2010 that there exist “severe shortcomings in the implementation of international human rights standards in the administration of justice by the Government of Equatorial Guinea.”<sup>38</sup>

In numerous instances, alleged coup d’état attempts have been used as justification for the harassment, arbitrary arrest, and even executions of individuals that have criticized or opposed the Obiang regime.<sup>39</sup> Most recently, the government used an alleged February 2009 coup d’état attempt to justify the abduction of four Equatoguinean refugees living in Benin, the circumvention of formal extradition procedures to transport the men back to Equatorial Guinea, their months-long secret imprisonment without access to lawyers or their families, the use of a summary military trial that lacked due process, and the execution of the men within one hour of their sentencing on August 21, 2010.<sup>40</sup> Two other Equatoguineans were convicted in military court in August 2010 and sentenced to 20 years imprisonment for their alleged involvement in the February 2009 incident—despite having been acquitted of the same charges in civilian court on April 5, 2010—a direct violation of the country’s constitution, which states that citizens cannot be tried twice for the same crime, as well as Article 14.7 of the International Covenant on Civil and Political Rights.<sup>41</sup>

## Suspicion and Exclusion of Critical Voices

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<sup>37</sup> United Nations Human Rights Council, “Report of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak, Addendum – Mission to the Republic of Equatorial Guinea,” January 7, 2010, [http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.39.Add.4\\_En.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.39.Add.4_En.pdf) (Accessed September 8, 2010), p. 12.

<sup>38</sup> Office at Geneva. 2010. “UN Independent Experts Express Serious Concern at the Execution of Four Men after Concluding its Mission to Equatorial Guinea,” UN Press Release, August 30, 2010, [http://www.unog.ch/unog/website/news\\_media.nsf/\(httpNewsByYear\\_en\)/F8ADDC08F67B5790C125778F00308294?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/F8ADDC08F67B5790C125778F00308294?OpenDocument) (Accessed September 27, 2010).

<sup>39</sup> The Obiang regime has announced at least 12 alleged coup d’état attempts since it came to power in 1979. See Human Rights Watch, *Well Oiled: Oil and Human Rights in Equatorial Guinea*, (New York: HRW, 2009), p. 60.

<sup>40</sup> Amnesty International, “Execution of Four Men in Equatorial Guinea Condemned,” August 23, 2010, <http://www.amnesty.org/en/news-and-updates/execution-four-men-equatorial-guinea-condemned-2010-08-23> (Accessed August 24, 2010). The men were not allowed the opportunity to appeal their sentences, a violation of Articles 6 and 14 of the International Covenant on Civil and Political Rights.

<sup>41</sup> Amnesty International, “Execution of Four Men in Equatorial Guinea Condemned,” August 23, 2010. Article 13q of the Equatoguinean Constitution states that citizens “Shall not be judged or condemned twice for the same offence.” See also United Nations High Commissioner for Human Rights, “International Covenant on Civil and Political Rights,” December 16, 1966, as well as The United Nations Office at Geneva, “UN Independent Experts Express Serious Concern.”

Evidence suggests that the government remains suspicious of independent civil society groups and views them as potential threats to its authority, resulting in undue scrutiny of civil society activities. International observers that visited Equatorial Guinea in August 2008 to assess the country's progress in implementing the EITI were routinely followed and monitored by individuals affiliated with the government, a tactic the observers felt was aimed at intimidating the Equatoguineans they interviewed.<sup>42</sup> As noted above, the country's laws grant the government the power to monitor and potentially influence civil society activities and meetings. According to local sources, the government required that a civil society organization remove "human rights" from its organizational objectives before it could receive legal authorization.<sup>43</sup> In addition, the government appointed what one foreign diplomat and several local civil society activists claim were "pro-government" civil society members to work in the office of a joint government-international organization initiative aimed at building civil society capacity in an effort to monitor its activities.<sup>44</sup> Meanwhile, a civil society activist critical of the government was fired via government letter from his job with that same organization in November 2008. The letter—which EG Justice has viewed—provides no justification for the termination. The fact that this vocal government critic was terminated while other civil society members described as "pro-government" were retained in similar positions created the impression that the termination was politically motivated.<sup>45</sup>

This is not a unique case, but rather, seems to be part of a broader pattern of employment refusal and termination for Equatoguineans who express viewpoints critical of the government.<sup>46</sup> The US State Department notes that, in 2009, individuals opposed to the government were discriminated against in hiring practices, job retention, the awarding of scholarships, and the granting of business licenses. Businesses that hired individuals "out of favor with the government" were pressured to dismiss these employees or face recrimination.<sup>47</sup> These practices extend to members of civil society who have voiced criticisms of the government. In June 2010, the leader of a civil society organization was suspended—

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<sup>42</sup> Author telephone interview with an international observer who participated in the trip, New York, September 24, 2010.

<sup>43</sup> EG Justice telephone interview with Equatoguinean civil society representative, Malabo, Equatorial Guinea, October 2, 2010.

<sup>44</sup> Author interviews with local civil society activists and a foreign diplomat, Malabo, Equatorial Guinea, January 2010.

<sup>45</sup> *ibid.*

<sup>46</sup> A number of Equatoguineans interviewed by international EITI observers in 2008 expressed the sentiment that critics of the government—including political opposition party members and civil society groups—are actively discriminated against in hiring practices (correspondence with international observer, September 24, 2010). See also Alicia Campos Serrano and Plácido Micó Abogo. 2006. "Labour and Trade Union Freedom in Equatorial Guinea."

<sup>47</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices – 2010: Equatorial Guinea, March 11, 2010.

pending a final decision from Mr. Obiang—from his teaching position at the National University for attending an international symposium at which he enumerated what he believed to be several shortcomings of the government’s implementation of the EITI process.<sup>48</sup> In other instances, civil society members critical of the government claim to have been denied visas to travel to and participate in international conferences.<sup>49</sup>

Civil society participation also has been discouraged via the use of force and humiliation. In May 2005, military officials detained a group of 13 students on their way to Madrid, Spain to attend a human rights seminar organized by a Spanish human rights foundation. The students were publicly stripped, humiliated, and beaten at the airport in Malabo, accused of traveling to Spain with the intention of receiving military training, and prevented from leaving the country. Ten of the students were jailed for one week before being released.<sup>50</sup>

In a further instance of government suppression of critical voices, in April 2005 the government arrested Plácido Micó, a member of the Equatoguinean Parliament and the opposition party *Convergenica para la Democracia Social* (CPDS), upon his return from a conference on transparency and oil development in Africa organized by International Alert in São Tomé. During his detention, he was interrogated by the police and his laptop and documents collected at the conference were either destroyed or confiscated. The police accused him of having traveled to São Tomé with the aim of contacting mercenaries, presumably to overthrow the government.<sup>51</sup> This case is consistent with a pattern of government harassment of Mr. Micó resulting from his criticism of the Obiang regime as a member of the political opposition.<sup>52</sup>

## **Lack of Press Freedom**

Government restrictions on the media amount to a virtual monopoly and hinder civil society’s ability to access or disseminate independent information. Although the constitution guarantees freedom of the press, the Law on the Press, Publications, and Audiovisual Media authorizes government censorship.<sup>53</sup> All major domestic radio and television stations are owned by the

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<sup>48</sup> EG Justice telephone interview with Equatoguinean civil society representative, Malabo, Equatorial Guinea, June 10, 2010. At the time of this report’s publication, this individual’s employment had not been reinstated.

<sup>49</sup> Comments by Equatoguinean civil society representatives participating in a roundtable discussion, May 20, 2010, Washington DC.

<sup>50</sup> EG Justice email correspondence with Equatoguinean civil society member involved in the incident, Malabo, Equatorial Guinea, April 14, 2010.

<sup>51</sup> Human Rights Watch, *Well Oiled: Oil and Human Rights in Equatorial Guinea*.

<sup>52</sup> Mr. Micó has been jailed on at least eight occasions for reasons ranging from alleged slander to allegedly plotting to overthrow the government. Rebecca Leung, “Kuwait of Africa?” *CBS News*, July 18, 2004.

<sup>53</sup> Ley 6/1997 de Prensa, Imprenta y Medios Audiovisuales (Law 6/1997 regarding Press, Publications, and Audiovisual Media), signed into law on May 30, 1997.



government or the president's family. In early February 2011, the Equatoguinean Minister of Information Jerónimo Osa Osa allegedly instructed state media to stop all coverage of the pro-democracy protests in Egypt and Tunisia.<sup>54</sup> Meanwhile, attempts by political opposition to start a radio station or secure airtime on state-owned stations have been blocked by the government.<sup>55</sup> While a handful of pro-government newspapers and magazines enjoy a small circulation, there is a notable absence of any regularly produced independent local newspapers or magazines in the country. Reporters without Borders, in their annual "World Press Freedom Index" for 2010, ranked Equatorial Guinea 167 out of 175 countries in press freedom. Only Rwanda, Sudan and Eritrea were ranked lower in Africa.<sup>56</sup> In its annual Freedom of the Press Global Rankings for 2010, Freedom House noted that in 2009 "local journalists were subject to systematic surveillance and frequently practiced self-censorship."<sup>57</sup> The Ministry of Information, which is staffed by members of the ruling Democratic Party of Equatorial Guinea (PDGE), has been accused of acting as a media regulatory body.<sup>58</sup> Critical reporting of the government or security forces is seldom tolerated. While there has been a small increase in access to information in Bata and Malabo due to increased commercial activity and a growing number of internet cafes, this change is in degree and not kind, as there continues to be no independent mass media outlet and very few independent journalists.

The government has unduly interfered with the freedom of domestic journalists and civil society organizations to act independently, without government influence or oversight. On January 19, 2009, the government dismissed four journalists employed by the state-owned television and radio station RTVGE, accusing them of "insubordination" and "lack of enthusiasm." Citing local sources, Reporters Sans Frontières reported that the dismissals resulted from the journalists' failure to praise the "virtues" of the government.<sup>59</sup> In July 2009, a journalist for Agence France-Presse was imprisoned in Black Beach Prison for nearly four months for publishing a factually incorrect story, even though he immediately retracted the

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<sup>54</sup> Afrol News, "Equatorial Guinea Prohibits Egypt Revolt Reports," February 11, 2011, <http://www.afrol.com/articles/37303> (Accessed February 12, 2011).

<sup>55</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices – 2010: Equatorial Guinea, March 11, 2010.

<sup>56</sup> Reporters without Borders, "Press Freedom Index 2010 – The Rankings," 2010, <http://en.rsf.org/press-freedom-index-2010,1034.html> (Accessed February 25, 2011).

<sup>57</sup> Freedom House, "Map of Press Freedom: Equatorial Guinea," 2010, <http://www.freedomhouse.org/template.cfm?page=251&year=2010&country=7818> (Accessed February 25, 2011).

<sup>58</sup> Reporters without Borders, "President Dominates State Media Election Coverage, Opposition Invisible," November 27, 2009, <http://en.rsf.org/equatorial-guinea-president-dominates-state-media-27-11-2009,35102.html> (Accessed August 31, 2010).

<sup>59</sup> Reporters Sans Frontières, "Quatre journalistes licenciés pour 'manque de zèle': Reporters sans frontières dénonce les méthodes absurdes d'un régime despotique," January 23, 2009, <http://fr.rsf.org/guinee-equatoriale-quatre-journalistes-licencies-pour-23-01-2009,30093> (Accessed October 4, 2010).

story upon learning that his source had supplied incorrect information.<sup>60</sup> Security forces detained his Agence France-Presse successor in Malabo for five hours in April 2010 for attempting to report on a Presidential arrival at the Malabo airport.<sup>61</sup> In both his opening and closing remarks delivered at a three-day civil society capacity building seminar held in Bata, Equatorial Guinea, September 28–30, 2010, the Deputy Minister of the Interior and Local Corporations Mr. Leocadio Ndong Moñung—whose Ministry controls the registration and public financing of civil society organizations—pressured civil society groups to hold a rally and to send a letter to UNESCO in support of the government’s bid to establish a prize in the President’s name, and to condemn international NGOs for their criticism of the prize.<sup>62</sup>

### **Threats to International NGOs and Media Outlets**

The government also has used tactics aimed at intimidating or obstructing international NGOs and media organizations. In 2005, a spokesperson for Mr. Obiang threatened the Norway-based media outlet Afrol News with “consequences” if it refused to alter its reporting of events in Equatorial Guinea.<sup>63</sup> In August 2008, a mission of international observers to evaluate the EITI process was denied free access to certain places.<sup>64</sup> According to the US Department of State, government agents reportedly followed and surveyed foreign journalists in 2009, and some international media outlets were denied visas to enter the country prior to the November 2009 presidential election.<sup>65</sup>

A number of recent events suggest that the government of Equatorial Guinea views criticism by international organizations as hostile, unconstructive, and grounds for a counterattack. In July 2009, the Equatoguinean government accused Human Rights Watch of “blackmail” and suggested that the Center for Economic and Social Rights fabricated data after both organizations published reports critical of the government.<sup>66</sup> In June 2010, the government

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<sup>60</sup> Human Rights Watch, “Equatorial Guinea: Events of 2009,” 2009, <http://www.hrw.org/en/node/87456>. (Accessed September 10, 2010).

<sup>61</sup> Reporters Without Borders, “AFP Correspondent Held for Five Hours by Police in Malabo,” April 16, 2010, <http://en.rsf.org/equatorial-guinea-afp-correspondent-held-for-five-16-04-2010,37051.html> (Accessed September 11, 2010).

<sup>62</sup> EG Justice telephone interview with Equatoguinean civil society representative, Malabo, Equatorial Guinea, October 2, 2010.

<sup>63</sup> Afrol News, “Editor de Afrol News se ve amenazado por la Presidencia de Guinea Ecuatorial,” April 13, 2005, <http://www.afrol.com/es/html/empresa/comunicados/13abril2005.htm> (Accessed September 27, 2010).

<sup>64</sup> Author telephone interview with an international observer who participated in the mission, New York, September 24, 2010.

<sup>65</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, “Country Reports on Human Rights Practices – 2010: Equatorial Guinea, March 11, 2010.

<sup>66</sup> Europa Press, “Malabo Tacha a HRW y Otras Organizaciones de ‘Chantajistas’ y Asegura que sus Informes son ‘Papel Mojado,’” July 10, 2009, <http://www.europapress.es/internacional/noticia-guinea-ec-malabo-tacha-hrw->

called international organizations critical of its policies “colonialist, discriminatory, racist, and prejudiced.”<sup>67</sup> Such inflammatory language, used in an effort to counter the negative portrayal of the government, can instead reinforce the view that it is intolerant of independent voices. Similarly, despite extending “a friendly invitation to all” to visit the Republic of Equatorial Guinea, and appeals to the international community “to help us to help ourselves,” the government has on occasion obfuscated the efforts of international NGOs to help build the capacity of civil society organizations in Equatorial Guinea.<sup>68</sup> For instance, two representatives of the Revenue Watch Institute were temporarily denied visas to enter the country.<sup>69</sup> While the issue was eventually resolved and the visas issued, instances such as these—as well as the incendiary language of the government—damage the credibility of the government’s overtures to reform and openness.

## **Inadequate Financial Resources**

A lack of financial resources continues to hamper the effectiveness of domestic civil society organizations. While the government has, in recent years, made some grants available to civil society organizations, the procedures for obtaining these grants are unclear and insufficiently advertised by the government. In its 2010 budget, the government allocated \$3 million to support civil society, but neither the budget nor the government provided specific details about how or by whom this money was to be allocated or used. Meanwhile, well over half (62 percent) of civil society organizations are unaware of the existence of government grants, and 80 percent of the organizations that are aware of these grants are unfamiliar with the

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[otras-organizaciones-chantajistas-asegura-informes-son-papel-mojado-20090710110417.html](http://www.greenblogs.nytimes.com/2009/07/09/equatorial-guinea-calls-report-blackmail/) (Accessed September 10, 2010). See also Jad Mouawad, “Equatorial Guinea Calls Report ‘Blackmail,’” *The New York Times*, July 9, 2009, <http://greenblogs.nytimes.com/2009/07/09/equatorial-guinea-calls-report-blackmail/> (Accessed September 10, 2010).

<sup>67</sup> El Gobierno de la República de Guinea Ecuatorial, “Comunicado Oficial del Gobierno sobre la polémica creada sobre el Premio Unesco-Obiang Nguema Mbasogo,” June 12, 2010, <http://www.guineaecuatorialpress.com/noticia.php?id=597> (Accessed October 4, 2010).

<sup>68</sup> The government has extended a public invitation to international NGOs to visit the country on multiple occasions. In April 2009, Agustin Nze Nfumu, the Equatoguinean Ambassador to the United Kingdom, urged the participants at the conference “Between Three Continents: Rethinking Equatorial Guinea on the Fortieth Anniversary of its Independence from Spain” at Hofstra University in New York to visit Equatorial Guinea and help improve the country’s future. The invitation “to help us to help ourselves” was issued by Mr. Obiang during his speech “Turning the Page: Equatorial Guinea’s Commitment to Comprehensive Reform and Transparency” delivered on June 28, 2010 at the Cape Town Global Forum in Cape Town, South Africa.

<sup>69</sup> The case of Revenue Watch staff being denied travel visas to the country was documented during the 11<sup>th</sup> EITI Board Meeting held in Oslo on February 9-10, 2010. See EITI International Secretariat, “Minutes of the 11<sup>th</sup> EITI Board Meeting,” March 18, 2010, <http://resources.revenuewatch.org/sites/default/files/2.11.2010%20EITI%20Board%20Mtg.%20Minutes.pdf> (Accessed September 27, 2010).

procedures required to access them.<sup>70</sup> Furthermore, the difficulties that international civil society organizations have faced in their efforts to help strengthen Equatoguinean civil society through training and financial assistance has contributed to the continued weakness, disorganization, and ineffectiveness of local civil society groups.

There also has been a discernible lack of interest from Western governments, businesses, and philanthropic foundations to support civil society organizations in Equatorial Guinea. The governments of countries such as France, Spain, and the United States—given their interest in securing and preserving access to Equatorial Guinea’s oil—generally have been reluctant to spend a great deal of political capital pressuring the Obiang regime to improve governance and to strengthen civil society. Multinational oil companies have initiated a number of commendable social projects in the country, but have largely steered clear of projects that focus primarily on strengthening the capacity of local civil society organizations.<sup>71</sup>

The numerous obstacles outlined above have impeded the emergence of a vibrant, independent civil society. Problems stemming from the legal framework and government practice have exacerbated the already limited capacity of civil society organizations in Equatorial Guinea and contributed to their continued weakness, poor organization, and inability to counterbalance government authority. Few civil society members possess the training and expertise necessary to successfully fulfill leadership or administrative roles, resulting in ineffectually managed organizations that fail to synergize their efforts with other organizations or to attract international funding. Neither the government nor civil society appears to possess an adequate understanding of the appropriate roles and responsibilities of an effective and independent civil society. Consequently, there is a lack of collaboration within civil society and between local and international civil society organizations, and a dearth of dialogue between civil society and the government.

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<sup>70</sup> Centro de Estudios e Iniciativas para el Desarrollo (CEID), “Marco Legislativo y Reglamentario de las Organizaciones de Sociedad Civil de Guinea Ecuatorial.” April 2010.

<sup>71</sup> Joseph Kraus, *The “Business” of State-Building: The Impact of Corporate Social Responsibility on State Development in Equatorial Guinea* (University of Florida: Doctoral Dissertation, 2010).

## VI. Equatorial Guinea and the EITI

The government of Equatorial Guinea first signaled an interest in greater transparency at its First National Economic Conference held in 1997. Although the conference concluded with a government declaration to improve transparency in the handling of the nation's oil revenues, little substantive action on transparency subsequently occurred.

The Equatoguinean government expressed its willingness to participate in the EITI at a World Bank-sponsored workshop in Equatorial Guinea in October 2004.<sup>72</sup> Civil society participation in the EITI was initiated in early 2005 with two World Bank meetings aimed at introducing and explaining the Initiative to civil society organizations. On May 4, 2005, Presidential Decree 87/2005 established the "National Committee for the Implementation of EITI and Good Governance" and stipulated that the National Committee would include representatives from the government, the extractive industries, and civil society.<sup>73</sup> The Decree, however, did not establish the membership selection and operating procedures of the National Committee. More than two years passed before the National Committee held its first meeting in November 2007.

### The Government's Definition of Civil Society

The participation of civil society in the EITI was formalized on July 30, 2007, with the promulgation of Presidential Decree 42/2007, which established the guidelines for the participation of civil society in the National Committee. The Decree mandated that civil society would have 15 representatives on the National Committee according to the following breakdown:

- Political parties = 5 members
- Associations and "related groups" = 5 members
- NGOs = 3 members
- Religious groups = 2 members

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<sup>72</sup> Carlos Wendorff, "Guinea Ecuatorial: Necesidades de Capacitación para una Efectiva Participación de la Sociedad Civil en la Implementación de la Iniciativa para la Transparencia en las Industrias Extractivas." September 25, 2008.

<sup>73</sup> Decreto 87/2.005 que se crea la Comisión Nacional para la Implentación de la Iniciativa de Transparencia en la Industria Extractiva y la Buena Gobernabilidad en la República de Guinea Ecuatorial (Decree 87/2005 that creates the National Committee for the Implementation of the Extractive Industries Transparency Initiative and Good Governance in Equatorial Guinea), issued on May 4, 2005.

Through this decree, and for the first time in the country’s history, a legal typology of civil society was established. The government’s typology is somewhat unorthodox, however, in that it includes political parties but not community groups or trade and labor unions.<sup>74</sup> In contrast, civil society in Equatorial Guinea advances a distinctly different typology that includes trade and labor unions, cooperatives, and community groups, and excludes political parties (see Table 3).

**Table 3: Differing Interpretations of Civil Society in the national EITI process**

<u>Government’s Definition</u> <sup>75</sup>	<u>Civil Society’s Definition</u> <sup>76</sup>
Political Parties	Associations
NGOs	NGOs
Religious Groups	Cooperatives
Associations and “related groups”	Trade & Labor Unions
	Professional associations
	Community Groups

Decree 42/2007 did not stipulate additional details, however, such as the method through which the representatives from each group would be chosen, or the length of members’ terms. The Decree only suggested that these and other issues would be determined by subsequent laws. It does not appear that any additional laws have been passed to clarify these issues. The Decree also recognized “associations or related groups” as civil society organizations, but failed to define which organizations qualify as “related groups.”<sup>77</sup> The ambiguity of this category made it difficult for civil society organizations to know for certain which groups were legally eligible to serve on the National Committee, and provided the government potential discretionary authority in making this determination.<sup>78</sup>

<sup>74</sup> According to an international advisor closely involved in the process through which this typology of civil society was developed, the government’s decision to include political parties and exclude trade and labor unions and community groups reflected the limited types of groups in existence and not an intentional effort to exclude specific groups. This classification, however, was not originally intended to become codified by law as a legal typology for civil society. Email communication from international advisor to author, February 27, 2011.

<sup>75</sup> Decreto 42/2007 sobre la participación de la sociedad civil en la implementación de la Iniciativa de la Transparencia en las Industrias Extractivas (Decree 42/2007 regarding the participation of civil society in the EITI), issued on July 30, 2007, article 3.

<sup>76</sup> Centro de Estudios e Iniciativas para el Desarrollo (CEID), “Marco Legislativo y Reglamentario de las Organizaciones de Sociedad Civil de Guinea Ecuatorial.” April 2010.

<sup>77</sup> According to an international advisor involved in the process, the creation of the non-specific category “associations and related groups” represented a “grab-all” category to include individuals from a number of disparate organizations in existence. Email communication from international advisor to author, February 27, 2011.

<sup>78</sup> According to an international advisor involved in the process, the selection process for the National Committee was specified at the first national EITI workshop held on November 15, 2007 in Bata, Equatorial Guinea (see below). Email communication from international advisor to author, February 27, 2011.

The government’s decision to grant five National Committee seats to political parties “with greater parliamentary representation” was problematic, for three reasons. First, the executive branch exerts undue influence over the legislative branch, undermining the latter’s ability to act independently without presidential approval.<sup>79</sup> Second, the persistence of electoral irregularities and the harassment of legitimate opposition parties are a bar to true democratic representation in parliament and ensure that only opposition parties aligned with the executive branch will achieve “greater parliamentary representation.”<sup>80</sup> Third, the inclusion of political parties in any definition of civil society goes against the spirit of civil society as an entity that exists autonomously of the state,<sup>81</sup> and appears to violate the requirements of EITI Indicators 5 and 6 that civil society representatives involved in EITI be “operationally, and in policy terms, independent of government.”<sup>82</sup> It seems doubtful that political parties—particularly those affiliated with the governing party—can effectively act as an independent check on state power. Since the party with “greater parliamentary representation” in Equatorial Guinea was the ruling party (the PDGE), this requirement effectively increased government representation on the National Committee while diluting the representation of autonomous civil society organizations. This violated the spirit of the EITI Validation Criteria advanced by the EITI Board and Secretariat and approved by all EITI stakeholders, including the government of Equatorial Guinea.

The government’s decision to include political parties in its definition of civil society ostensibly stemmed from the need—in light of the weakness of civil society—to deepen the pool of individuals with the education and professional skills required to serve effectively on the National Committee.<sup>83</sup> This highlights the real need for civil society capacity building and leads to the conclusion that such capacity building should be seen as a fundamental preparatory step for Equatorial Guinea’s possible reengagement in the EITI process.

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<sup>79</sup> The US Department of State notes that the country’s Parliament (La Cámara de Representantes) “has not demonstrated independence, and it rarely acts without presidential approval or direction.” US Department of State, Bureau of African Affairs, “Background Note: Equatorial Guinea,” June 28, 2010, <http://www.state.gov/r/pa/ei/bgn/7221.htm> (Accessed September 15, 2010).

<sup>80</sup> It is widely believed that the nine political parties that comprise the Democratic Opposition, which controls 10 seats in the Parliament, are allied with the Democratic Party of Equatorial Guinea (PDGE), the political party of Mr. Obiang. The Convergence for Social Democracy Party (CPDS)—believed by independent observers to be the lone genuine opposition party currently represented in Parliament, controls just 1 out of 100 seats. PDGE controls the remaining 89 seats.

<sup>81</sup> It is worth noting that the vast majority of scholarly literature on civil society draws a clear distinction between “civil society” and “political society” (political parties are assigned to the latter category). See, for instance, Michael Bratton, “Civil Society and Political Transition in Africa.” *IDR Reports*, vol. 11, no. 6 (1994), p. 1-21.

<sup>82</sup> EITI. 2010. *EITI Rules, Including the Validation Guide*, p. 19-20.

<sup>83</sup> Author telephone interview with an individual who worked closely with the Equatoguinean government on implementing the EITI, Washington, DC, October 7, 2010. This assertion was corroborated in an email communication from an international advisor to the author, February 27, 2011.

## The Marginalization of Civil Society in the EITI Process

In November 2007, the government held the country's first national EITI workshop. The government provided civil society organizations very little notice for the workshop, however, announcing the meeting via state-controlled radio only one day prior to its scheduled date of November 9. The low turnout at the meeting—just 10 individuals—resulted in its cancellation. The event was rescheduled. On November 13, the government announced that the meeting would take place on November 15, thus allowing civil society members just two days to make travel and other logistical arrangements. Despite the fact that approximately 70 percent of civil society organizations are based in and around Malabo, the country's capital, the meeting was held in Bata—a 45 minute, \$200 roundtrip flight from Malabo. The government did not make resources available to help transport civil society representatives to Bata in time for the meeting.<sup>84</sup>

The lack of adequate notice and resources influenced the composition of the National Committee elected at the workshop, since these prevented some groups from attending and participating. Representatives from just four NGOs—two which are fully independent of the government—with a national presence and significant activities in the country were among the 57 individuals that attended the workshop; the vast majority of civil society organizations in attendance were small groups from Bata with limited activities and influence, and lacking a mandate logically related to transparency in the extractive industry.<sup>85</sup> Consequently, the National Committee elected at the workshop was neither adequately representative of Equatoguinean civil society nor sufficiently informed to engage in a dialogue involving complex EITI-related issues. The reality in Equatorial Guinea is that there exists a discernible lack of civil society organizations whose work is related to the highly sensitive topic of citizen oversight of public affairs, meaning that few groups have the necessary professional or technical skills to fully engage in this task as members of the EITI National Committee.<sup>86</sup>

The adoption of the National EITI Action Plan at the workshop also occurred under dubious and nontransparent circumstances. Civil society representatives did not have sufficient time or information to effectively participate in the workshop. The government did not make the

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<sup>84</sup> Only after the workshop—and after repeated appeals to the EITI National Coordinator—were participants at the National Committee meeting reimbursed for 50 percent of their airfares from Malabo to Bata.

<sup>85</sup> The 57 invited participants included representatives from political parties (13), NGOs (29), religious groups (8), and associations (7).

<sup>86</sup> Carlos Wendorff, "Guinea Ecuatorial: Necesidades de Capacitación para una Efectiva Participación de la Sociedad Civil en la Implementación de la Iniciativa para la Transparencia en las Industrias Extractivas." September 25, 2008.



National Action Plan or the details of Decree No. 42/2007 available to civil society beforehand. Consequently, many of the civil society representatives in attendance had never heard of the EITI or the National Action Plan. The lack of understanding about the EITI process and the contents of the National Action Plan diminished the quality and substance of ideas and discussion at the meeting and prevented civil society from engaging as an equal partner in the EITI process. The National Action Plan, therefore, was approved by consent by an audience that was for the most part unaware of the significance or substance of the EITI.

Furthermore, concerns have been raised about the independence of some of the individuals selected to represent civil society on the National Committee. Equatoguinean civil society activists assert that a number of individuals on the National Committee had ties with the government or the ruling party. There is credible evidence that members of the government and Mr. Obiang's family formed civil society organizations that subsequently were granted positions on the National Committee.<sup>87</sup> In the end, a high percentage of the individuals representing civil society on the National Committee came from organizations that were either affiliated with the government or that had mandates unrelated to the EITI process. Government cooptation of the National Committee amounted to "a terrible joke" and "a classic kind of fraud" according to an independent international observer sent to Equatorial Guinea in August 2008 to evaluate the EITI process.<sup>88</sup> International organizations and multinational oil companies engaged in the EITI process thus found themselves in the position of engaging with and attempting to build the capacity of National Committee members who, in actuality, had no credible role in that process. In addition, the difficulties that autonomous civil society groups have had in acquiring the professional skills necessary to effectively engage in the EITI process due to the serious structural constraints detailed elsewhere in this report inhibited the formation of independent civil society groups capable of effectively engaging in the EITI process.<sup>89</sup> This raises serious concerns about the capacity of autonomous civil society organizations to have an equal and autonomous voice in the EITI process in the future in the absence of true reform.

Equatorial Guinea became an EITI Candidate country on February 22, 2008, with the understanding that it would have until March 9, 2010, to complete the steps required to be recognized as an EITI Compliant country. Despite its publicly stated desire to join the EITI and adopt the EITI's principles of transparency and good governance, however, the government failed to demonstrate the political will and commitment necessary to successfully implement the Initiative. For instance, the continued lack of independent newspapers and media outlets

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<sup>87</sup> Author interviews with civil society representatives, Malabo, Equatorial Guinea, October 2008.

<sup>88</sup> Author telephone interview with international observer, New York, September 24, 2010.

<sup>89</sup> Email communication from international advisor to author, February 27, 2011.

made it difficult for civil society organizations to effectively disseminate messages free from government influence. Despite promises to promote press freedom, there are no indications that the government has relaxed its control over the media.

Furthermore, civil society representatives on the EITI National Committee report experiencing intimidation, hostility, and marginalization. Two civil society activists elected by the National Committee to serve on the EITI Technical Committee<sup>90</sup> allege that the government used false information—accusing them of engaging in terrorist activities when they traveled to Cameroon to attend an Extractive Industries seminar and of attempting to sabotage the EITI process—to intimidate other civil society members into removing them from the Technical Committee.<sup>91</sup> In addition, members of civil society on the National Committee report that they were granted access to the final draft of the country’s first EITI National report only ten minutes before the meeting commenced to discuss and approve the report, effectively curtailing the ability of civil society representatives to offer informed comments or suggestions on it.<sup>92</sup> An international observer familiar with the process suggested that, although civil society representatives had limited access to the final draft of the report, they had seen earlier versions of the report in the days leading up to its publication. Earlier versions of the report, however, did not include the independent auditor Deloitte Conseil’s explanations for the discrepancies that occurred between oil company payments and government receipts.<sup>93</sup> This effectively undermined EITI Criterion #5, which requires that civil society be actively engaged in all aspects of the EITI process, including the evaluation phase.<sup>94</sup>

## Too Little, Too Late?

Ineffective management and coordination of the EITI process by government appointees seems to have contributed to the inability of the government to successfully complete the EITI process before the deadline.<sup>95</sup> Evidence suggests that the government official in charge of the national EITI process lacked the necessary authority, autonomy, and resources to coordinate and direct

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<sup>90</sup> The Technical Committee is a working group composed of three members from each multi-stakeholder group that is responsible for developing and implementing a work plan, paying special attention to the needs and the participation of civil society.

<sup>91</sup> EG Justice telephone interview with Equatoguinean civil society representative, Malabo, Equatorial Guinea, February 2, 2010.

<sup>92</sup> Confidential letter from Equatoguinean civil society representative to EITI President Peter Eigen, February 8, 2010 shared with EG Justice by its author.

<sup>93</sup> Author telephone interview with an international observer familiar with Equatorial Guinea’s EITI process, Washington, DC, October 7, 2010.

<sup>94</sup> EITI Secretariat, *EITI Rules, Including the Validation Guide*, p. 10.

<sup>95</sup> Author telephone interview with an international observer familiar with Equatorial Guinea’s EITI process, Washington, DC, October 7, 2010.

the numerous actors and procedures involved in the EITI process. In part, this stemmed from the fact that the EITI National Coordinator position was given to an existing Vice-Minister, who was already burdened with other obligations, rather than to an individual capable of acting autonomously of other ministerial obligations.<sup>96</sup>

On March 8, 2010, the government of Equatorial Guinea published the country's first EITI report, which covered the years 2007 and 2008. While certain discrepancies between oil company payments and government receipts were noted in the report, Deloitte Conseil determined that these were primarily due to differences in how and when payments were categorized and accounted for by the government, and they were eventually reconciled.<sup>97</sup> Deloitte Conseil noted that it was not able to fully validate the report, however, since certain payments-in-kind from select oil companies had not been made available in time to meet the EITI deadline. In addition, the report did not disaggregate revenue payments, a civil society request that was dismissed by the government and oil companies. In violation of the EITI guidelines, the government has not widely disseminated the report inside the country. In addition, the report was not available on the government's official website during the research and writing of this report.<sup>98</sup>

Also on March 8, 2010, the prime minister of Equatorial Guinea, Ignacio Milam Tang, sent a letter to the EITI Board requesting an extension to complete the EITI requirements. The EITI Board—based on its determination that the circumstances preventing Equatorial Guinea from completing the Validation process were not “exceptional and unforeseeable”—denied the country's request for extension and revoked its status as an EITI Candidate country on April 16, 2010. The EITI Board emphasized, however, that it “would welcome a reapplication by Equatorial Guinea with a renewed commitment and a clear outline of how the country will address the constraints that hampered the process the first time.”<sup>99</sup>

As this report outlines, the inability of civil society to participate fully and autonomously in the EITI process was a key barrier to the ability of the EITI process to successfully move toward validation in Equatorial Guinea. Obstacles to civil society participation in the EITI process must be addressed before Equatorial Guinea is readmitted to the EITI as a Candidate country.

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<sup>96</sup> Carlos Wendorff, “Fortalecimiento de Capacidades de Sociedad Civil Para la Implementación Exitosa de la Iniciativa para la Transparencia en las Industrias Extractivas en Guinea Ecuatorial.” November 2010.

<sup>97</sup> Republic of Equatorial Guinea, “First Report on the Extractive Industries Transparency Initiative (EITI), 2007-2008,” March 2010, <http://eiti.org/document/eitireports> (accessed August 30, 2010).

<sup>98</sup> The author conducted weekly searches for the document on the government's websites, [www.guinea-equatorial.com](http://www.guinea-equatorial.com) (no longer active), and [www.guineaecuatorialpress.com](http://www.guineaecuatorialpress.com), between August 2010 and February 2011.

<sup>99</sup> Peter Eigen, “Letter from EITI Chairman Peter Eigen to Teodoro Obiang, President of the Republic of Equatorial Guinea,” The Extractive Industries Transparency Initiative Chairman's Office, April 29, 2010.

**Table 4: Key Dates in EITI Implementation in Equatorial Guinea**

<b>2005</b>	<p><b>January:</b> The first EITI informational meeting for Parliamentarians occurs.</p> <p><b>March:</b> The first meeting to familiarize civil society with EITI takes place.</p> <p><b>April:</b> The tripartite group meets for the first time.</p> <p><b>May 4:</b> Decree 87/2005 creates the EITI National Committee.</p>
<b>2007</b>	<p><b>July 30:</b> Decree 42/2007 sets guidelines for civil society participation in EITI.</p> <p><b>July 31:</b> The National Autonomous EITI Coordination Office is created via Presidential Decree, and the National Autonomous Coordinator and the Assistant National Autonomous Coordinator are appointed.</p> <p><b>November 15:</b> The first EITI workshop is held in Bata. The National Committee members are selected and the EITI Action Plan is adopted.</p>
<b>2008</b>	<p><b>February 22:</b> The EITI Board grants Equatorial Guinea Candidate country status at the EITI Board meeting in Accra, Ghana.</p> <p><b>November 29:</b> Civil society members are chosen for the Technical Committee.</p>
<b>2009</b>	<p><b>February 10:</b> A Memorandum of Understanding (MoU) defining the role of the EITI National Committee of Equatorial Guinea is signed by all parties.<sup>100</sup></p> <p><b>February 18:</b> Prime Minister Ignacio Milam Tang reiterates government commitment to EITI at the fourth International EITI Conference in Doha, Qatar.</p> <p><b>March 8:</b> Publication of the <i>Preliminary Report to the Reconciliation of Hydrocarbon Sector Financial Flows</i>, a report requisitioned by the National EITI Coordination Office and EITI National Committee.</p> <p><b>May 5:</b> The EITI National Committee adopts the terms of reference for the EITI reconciliation process.</p> <p><b>July 18:</b> The Terms of Reference for the final reconciliation are approved at the Fifth Reunion of the EITI National Committee of Equatorial Guinea.</p> <p><b>September:</b> The government retains the accounting firm Deloitte Conseil to reconcile payment and revenue flows for the hydrocarbons industry.</p> <p><b>December 17:</b> Deloitte Conseil submits the Initial Reconciliation Report to the EITI National Technical Committee.</p>
<b>2010</b>	<p><b>March 6:</b> The first EITI Report is submitted to the National Committee.</p> <p><b>March 8:</b> The first EITI Report is published.</p> <p><b>March 8:</b> The government of Equatorial Guinea sends a letter to the EITI Secretariat requesting an extension for EITI validation.</p> <p><b>April 16:</b> The EITI Board denies the country's extension request and revokes its status as an EITI Candidate country.</p>

<sup>100</sup> The MoU established the operation of the Committee and created a Technical Committee “to develop and convene a work plan and to ensure the efficient progress of the plan, with special attention to the needs and the participation of Civil Society.” Republic of Equatorial Guinea, “First Report on the Extractive Industries Transparency Initiative (EITI), 2007-2008,” March 2010.

## VII. Pledged Commitments to Transparency and Improved Governance

In 2010, the government of Equatorial Guinea signaled—at three international venues: the United Nations Human Rights Council’s Universal Periodic Review, the Cape Town Global Forum, and the 2011 African Union Summit—its commitment to greater transparency, an autonomous and fully functioning civil society, and improved governance practices related to human rights, freedom of expression, the protection of civil liberties, and the development of an independent judiciary and media.

### The Universal Periodic Review

The Universal Periodic Review (UPR) is a process under the auspices of the United Nations Human Rights Council that reviews the human rights records of all 192 UN Member States once every four years. It provides a mechanism for states to improve the human rights conditions in all countries and to address human rights violations when they occur. Equatorial Guinea underwent its first UPR review in 2009. In March 2010, the government of Equatorial Guinea pledged to implement 111 recommendations suggested by Member States during the UPR. These recommendations include: extending the transparency principles of the EITI to the budgetary process; working with civil society to develop a clear and transparent fiscal policy, including publishing the national budget, identifying foreign bank accounts, and verifying government expenditures; enforcing the law that requires government officials to declare their assets; removing all legal and procedural obstacles that hinder the establishment and operation of NGOs and an independent media; promoting the constitutionally guaranteed right to freedom of expression, association, and assembly; and ceasing all arbitrary and incommunicado detentions and taking the necessary steps to ensure that torture is not used against detainees.<sup>101</sup>

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<sup>101</sup> United Nations Human Rights Council, “Report of the Working Group on the Universal Periodic Review—Equatorial Guinea. A/HRC/13/16, [http://lib.ohchr.org/HRBodies/UPR/Documents/Session6/GQ/A\\_HRC\\_13\\_16\\_GNQ\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session6/GQ/A_HRC_13_16_GNQ_E.pdf) (Accessed September 8, 2010).

## **The Cape Town Global Forum**

In June 2010, the government of Equatorial Guinea publicly announced that it would reapply for membership in the EITI and vowed to establish policies that “exceed EITI auditing standards and do more than is necessary to ensure that transparency and accountability are as mandatory for the government as they are for civil society.”<sup>102</sup>

## **African Union Chairmanship**

In his January 30, 2011 acceptance speech as the new chair of the African Union, Mr. Obiang highlighted the importance of cultivating the “shared values” of governance, democracy, human rights, and civil society to “guarantee peace, improve public management, strengthen the role of institutions and attain the continental and global integration of [African] states.”<sup>103</sup> As the leader of the African Union, Mr. Obiang has the opportunity to lead by example and apply the shared values and principles of the African Union to his own country.

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<sup>102</sup> Obiang Nguema Mbasogo, “Turning the Page: Equatorial Guinea’s Commitment to Comprehensive Reform and Transparency,” Speech delivered at the Cape Town Global Forum, June 28, 2010. The government’s desire to rejoin the EITI was reiterated by Marcelino Owono Edu, the country’s Minister of Industry, Mines and Energy: “the Government is going to continue working to try to become a member of the [EITI] organization.” Government of Equatorial Guinea, “Interview with Marcelino Owono Edu, Minister of Industry, Mines and Energy.” August 13, 2010, <http://www.guineaecuatorialpress.com/noticia.php?id=757> (Accessed February 28, 2011).

<sup>103</sup> Obiang Nguema Mbasogo, “Speech of his Excellency Obiang Nguema Mbasogo, President of the Republic of Equatorial Guinea, Head of State, on the Occasion of his Accession to the Presidency of the Summit of Heads and Government of the African Union,” Speech delivered at the African Union Summit, Addis Ababa, Ethiopia, January 30, 2011.

## VIII. Toward the Future

The EITI mandates that civil society be an active participant in the design, monitoring, and evaluation of the EITI process and a contributor to a public dialogue about the use of revenues obtained from the extraction of natural resources. To ensure that the obstacles to civil society in Equatorial Guinea—and its effective participation in the EITI process—are addressed, the EITI Secretariat and Board should insist that the legal, informational, and operational barriers currently hindering civil society activity in Equatorial Guinea are thoroughly addressed before allowing Equatorial Guinea to be readmitted as a candidate country in the EITI.

This is a critical moment for Equatorial Guinea. The country's oil reserves—and the significant revenues they currently provide—are finite. The window of opportunity to use these revenues to foster sustainable growth and to improve the wellbeing of ordinary citizens is also finite. The time for rhetoric has passed; the time for action is now. The government of Equatorial Guinea has asked to be evaluated by its actions—not its words—regarding its commitment to the EITI, the principles of transparency and accountability, and improved governance.<sup>104</sup> To reestablish Equatorial Guinea as a Candidate country in EITI and ensure that the country's oil revenues are equitably used to promote the long-term welfare of ordinary Equatoguineans, the government will need to demonstrate through action its commitment to its citizens and the principles of the EITI. To achieve this, the government should identify and meet concrete benchmarks related to poverty alleviation, the eradication of corruption, and good governance.

The international community stands ready to assist the government and the people of Equatorial Guinea achieve these important objectives. In that spirit, this report includes a series of recommendations intended to facilitate the existence of a vibrant and independent civil society and to strengthen its capacity to monitor and hold the government accountable. These are essential prerequisites for the country's reentry into the EITI, and to ensure that the country's resource wealth translates into substantive and sustainable improvements for all Equatoguineans.

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<sup>104</sup> Obiang Nguema Mbasogo, "Turning the Page: Equatorial Guinea's Commitment to Comprehensive Reform and Transparency," June 28, 2010.

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