

EQUATORIAL GUINEA | government-led expropriations enrich corrupt elite From Housing and the Abuse of Expropriation | an OSF Working Group

The government of Equatorial Guinea is marked by incredible levels of corruption, and blatant disregard for the law. Government officials and elites connected to them have been taking land from non-elites for decades, enriching themselves and their families, and entrenching the unequal power and wealth dynamics present in the country. Efforts led in part by OSF's Justice Initiative aim to address the corruption and inequality present in Equatorial Guinea through litigation against the illegal land-taking practices in the country.

THE CASE

In Equatorial Guinea, government officials and elites associated with them have taken non-elites' property without reference to any official process or principle of fairness. While sometimes there are slight and superficial references to acquiring private property for the public good, in fact elites take others' property and land without justification and without fear of any repercussions – in many cases government officials or other elites who take people's property do not even bother to employ the power of the state, to which they have exclusive access, because average people already have no access to justice.

A 2010 Open Society Justice Initiative (OSJI) report found that expropriation of property is one of the tools that have allowed a corrupt elite to enrich itself and retain control over the economy and political system. OSJI states: "Our own investigations and those of journalists and of other governmental and nongovernmental monitors and investigators have begun to identify and document some of the stratagems that appear to have been employed by the Nguema/Mongomo group to divert into private hands the benefit and value of Equatorial Guinea's natural resource wealth. Among the methods used are: a) Large-scale expropriations of properties and businesses from individual and communal proprietors, executed under one or another legal pretext, such as purported development needs, fictitious determinations of property "abandonment," by collection of – or forfeiture for alleged or actual failure to pay – discriminatory "taxes," technical disqualifications of legal title claims, or payment of

token compensation ("seldom provid[ing] equitable compensation or alternate housing"); or with no legal pretext provided;c) Rigged government procurement, construction, and licensing contracts "negotiated" by officials irremediably tainted by conflicts of interest...."

According to activist Wenceslao Mansogo, the government in Equatorial Guinea is also using selective expropriation of property as a tool of repression against dissidents. He says, "...expropriation is a tactic of repression [used] to incite fear. Often, as in [my] case, lands are taken from individuals who don't agree with the government (or who are the subjects of personal disagreements with government officials, elites, family members and close allies)." In such situations, the government barely goes through the motions of claiming self-interested actions are for the public good.

RIGHTS AND EVICTIONS

The land expropriations in Equatorial Guinea highlight the corrupt, powerful nature of the state. Of the current situation, Mansogo says, "Officially, the state argues that it is evicting individuals for 'public good,' but most of the time it is for private gain or just private leisure (e.g. the expansion of palaces). The state is less exercising a right, and more acting unchecked."

These expropriations also demonstrate the lack of respect the state holds for free speech. Mansogo says that in Equatorial Guinea the government has been able to use the promise of compensation (and threat of its being withheld) to dampen objections to

expropriations. He says, “Compensation is also used as a tool of silence – individuals who hope to be compensated will not speak out for fear of losing the possibility of compensation. The government is aware of this, and uses the (often false) promise of compensation to keep people silent.”

TOOLS AND TACTICS

Addressing expropriations as a way to address large-scale corruption | Challenges to state expropriation of private property are being developed to hold government officials in Equatorial Guinea accountable for unprecedented levels of corruption. The state has misused its power in order to acquire valuable property and then transfer it into the hands of a few elites, who have become rich as a result. Country observers already know that the government of Equatorial Guinea has a serious problem with corruption, but looking at property rights arms researchers and advocates with a concrete example of how that corruption plays out and the consequences for people’s lives.

Ken Hurwitz of the Open Society Justice Initiative (OSJI) notes that OSJI does not explicitly target housing or property rights, per se. Instead, OSJI uses them in order to address issues of corruption. He adds that natural resource corruption cases that can generate standing (e.g. cases that have a party who can actually bring a case) often involve land expropriation.

Therefore, cases addressing land expropriation can also address the larger issue of corrupt governments who are misusing or hoarding natural resources and the revenue generated by them.

The importance of litigation | Speaking of the advantages of tackling the problem of corruption through litigation of land expropriation cases, Hurwitz says, “...we can use law not politics.” That is, instead of critiquing the country’s shockingly low level of investment in education, OSJI tries to focus on issues that can be legally defended. The initiative aims to work on a legal/factual level, rather than on one of politics and policies, which can be harder to argue. Land expropriation claims can permit anticorruption advocates to tackle corruption with more detailed and concrete facts than just numbers in budget allocations. Land expropriation demonstrates a pattern.

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