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"Is There an African Resource Curse?"

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Chairman Smith, Ranking Member Bass, and distinguished members of this committee: In 2006, I was invited to testify about the need for transparency in the oil, gas, and mining sectors in Africa. To protect my family in Equatorial Guinea, I submitted an anonymous written statement and had it read here by a colleague. Today, thanks to the unwavering leadership I have witnessed from the U.S. Congress to advance transparency and accountability in the global extractive industries, I feel emboldened to speak up, and want to thank you, in person, for giving me a second opportunity to testify on this crucial issue of the resource curse in Africa.

Before I address your central question about whether there is an African resource curse, please allow me to tell you about my personal journey from my home country of Equatorial Guinea to the United States.

I am from Annobon, a poor and isolated, yet beautiful island in Equatorial Guinea. In August 1993, an event occurred in my hometown that forever changed my life. I was studying to become a Catholic priest, until one day the military arrived with orders to suppress an uprising by a group of young men. They arrested and tortured all the young men in sight, and publicly executed two of them. The military also burned down my family home.

That evening, I asked my father what the families of the dead young men would do, and what we were going to do about our house. I vividly remember the sadness and defeat in my father's face. "There is nothing we can do." His resignation was shared by the entire community.

I refused to believe that nothing could be done, and five months later, I came to the United States to begin educating myself in preparation for taking action.

Oil had just been discovered in Equatorial Guinea, and a country that until that then had been closed, repressive, and poor, was rapidly transforming into a very rich nation. Realizing that oil and gas were going to be inextricably linked to Equatorial Guinea's economic, social, and political future, I became a lawyer, and have since worked to advocate for transparency and accountability in Equatorial Guinea. I believe that to be the surest way to help bend the arc of history toward justice in my home country.

I have worked with many scholars and civil society advocates from oil-rich nations. I have advised lawmakers from an oil-rich nation about the potential pitfalls of the extractive industries in the absence of independent, transparent, and accountable state institutions. I have authored and co-authored reports, articles, and opinion pieces about the resource curse as it applies to Equatorial Guinea. So, if you wonder whether there is an African resource curse, I urge you to consider Equatorial Guinea, a country that has been referred to as the "Kuwait of Africa" in the Gulf of Guinea.

The Beginning of Oil in Equatorial Guinea

In 1994, Walter International, a small, fly-by-night U.S. oil company, formally launched oil production in Equatorial Guinea. There were no advance public procurements or consultation. Immediately, Exxon Mobil, Triton, Chevron, Amerada Hess, Ocean Energy, and many other multinational companies moved in.

The negotiations that led to the rapid allocation of oil blocks and swift oil production in Equatorial Guinea were all carried out in secret. The contracts that crystalized those negotiations were signed covertly and remained, to this day, undisclosed to the people of Equatorial Guinea. This secrecy extendeds to all institutions of the state, Parliament, relevant government agencies, and state-controlled media. Essentially, the people of Equatorial Guinea, and those ostensibly elected to represent them, are systematically stripped of the chance to know about, opine, or even defend their economic, political, or environmental rights and/or interests. How could such an oppressive regime—now the oldest in Africa—stay in power? The answer is oil money

When subsea hydrocarbons were first discovered in Equatorial Guinea, there was no law or legal framework in place to regulate any aspect of the extractive industry. There was no opportunity for national debate or dialogue about this new industry that would transform the country. Civil servants were severely punished for even attempting to discuss matters related to the oil industry in public spheres.

From the very beginning, the ruling elite considered oil a private matter, or, as President Teodoro Obiang Nguema referred to it, a "state secret" to be used for their self-enrichment and as a tool for monopolization of both political and military power.

Today, with an estimated population of 700,000, resource-rich Equatorial Guinea is Sub-Saharan Africa's third largest oil-producing nation, with estimated oil reserves of more than 1 billion barrels. It also has the highest level of per capita income in sub-Saharan Africa, with a 2011 average income of $27,478.

However, despite the enormous rise in the country's per capita income, the majority of citizens remain mired in poverty. The quality of life is poor; most Equatoguineans lacking reliable access to clean water and sanitation. The African Progress Panel, chaired by Kofi Annan, noted in its 2013 Africa Progress Report that Equatorial Guinea is richer than Poland, but has a child death rate nearly 20 times higher. The report also highlighted Equatorial Guinea as the country with the largest gap between income and human development in the world, and it ranks among the lowest countries in the world for primary school enrollment.

The Perils of Oil in Equatorial Guinea

Indeed there is a "resource curse" in Equatorial Guinea. But rather than *causing* a resource curse, oil has served to exacerbate and entrench the poor governance, nondemocratic politics, and corruption that existed before oil's discovery. And recent actions by some American oil companies to undermine a US transparency law only play into the hands of corrupt and secretive regimes like the one that has governed my home country for the past 34 years.

Equatorial Guinea is what Thomas Friedman termed a “petrolist state”— one that is “corrupt, antidemocratic, uses oil income to buy off its citizens with subsidies and government jobs, uses oil and gas exports to intimidate or buy off its enemies, and uses oil profits to build up its internal security forces and army to keep itself ensconced in power, without any transparency or checks and balances.”

Oil in the hands of an authoritarian, opaque, and impulsive government is a veritable curse.
In 2004, the U.S. Senate investigation into Riggs Bank exposed the truth about how Equatorial Guinea’s oil revenues flowed directly into the foreign bank accounts of President Obiang, his relatives, and a few government officials. This misappropriation of oil revenues allowed one of the world’s most corrupt and nepotistic governments to monopolize the country’s businesses and service industry. As a result, the government or those closely aligned with it control the services that the oil and gas industries demand, including property rentals and sales, local employment, and the marketing of oil and gas inside the country.

Proceeds from oil and gas in Equatorial Guinea have been sorely mismanaged or outright stolen by government officials. President Obiang appointed his oldest son, Teodorin, as Minister of Forestry and Agriculture, giving him responsibility for managing Equatorial Guinea’s forestry industry. Teodorin is alleged to have used his position to divert funds, with the help of several anonymous shell companies in the US, to purchase numerous luxury cars and a private jet, as well as a $30 million, 12-acre mansion in Malibu, where he incurred $100,000 in monthly maintenance and upkeep costs. Teodorin also owned a 101-room, six-story mansion in Paris, estimated to be worth $180 million, complete with a Turkish bath, a hair salon, two gym clubs, a nightclub, and a movie theater. Teodorin’s spending habits caught the attention of the U.S. Department of Justice (DOJ) and the French authorities, which believe that these items were obtained from the proceeds of corrupt activities in Equatorial Guinea. There are currently two DOJ forfeiture actions pending against property that Teodorin owns in the U.S., including over $2 million of various Michael Jackson memorabilia, the most famous of which is the white, crystal-covered glove worn during the “Bad Tour.” The French authorities have seized much of

Teodorin's assets in France, including the Parisian mansion, and this month the government auctioned off nine high-end sports cars – seized from Teodorin – for more than $3 million.

There is no independent judiciary in Equatorial Guinea. Judges are handpicked and appointed by President Obiang, the First Magistrate of the Nation, with no meaningful oversight by Parliament. The government rules by decrees that are not published in an official gazette or bulletin for public display or knowledge. Even justices on the Supreme Court have a hard time accessing legal archives and current legislation. Similarly, the Parliament lacks independence: currently, more than 98% of the members of Parliament belong to President Obiang's political party, the Democratic Party of Equatorial Guinea, and serve at the behest of the President.

The discovery of oil in Equatorial Guinea is exacerbating the country's inequitable distribution of power and resources. The intermarriage of political and economic power in Equatorial Guinea, concentrated in the hands of President Obiang and his family, is severe. Consider these facts:

- President Obiang owns and controls the two national electricity companies, the national telecommunication company and one of the country's largest construction companies. He holds a monopoly on the construction industry, the hospitality industry and the retail grocery industry. Additionally, he and his wife, Constancia Mangue, and other family members and government officials have misappropriated vast tracts of private land and property that they rent or sell to multinational companies operating in the country. In other words, U.S. companies make direct payments to the President and his family as landlord.

- The main private security company contracted by oil companies inside the country is owned and controlled by Army General Armengol Ondo Nguema, President Obiang's brother and National Security Advisor.

- Teodorin uses his power, prestige, and two alleged front companies to maintain a monopoly in the timber industry, and he owns the country's only private radio and TV stations.

- A consortium formed by President Obiang and two Cabinet Ministers owns the country's main telecommunications company.

- The country's oil and gas marketing company is 75% owned by President Obiang and 25% owned by the state.

- The state oil and gas management companies are partially owned by private, high-ranking members of the government, including President Obiang and his relatives.

- Similarly, the country's employment agencies that are authorized to employ local workers for the oil industry are managed by government officials, most from President Obiang's family. They include: President Obiang's brother, Army General Armengol Ondo Nguema; Gabriel M. Obiang Lima, son of President Obiang and Minister of Mines and Energy; Army General Antonio Mba Nguema, President Obiang's brother and Minister of Defense; Army General Manuel Nguema Mba, and other relatives of President Obiang.

The employment agencies owned by these individuals work directly with the oil companies and provide the manpower necessary for their operation. They only hire workers loyal to the ruling party.

The Role of Western Companies

Today, four American oil corporations dominate exploration and production in Equatorial Guinea: ExxonMobil, Hess, Marathon, and Noble Energy.

These and many other oil and gas companies invested in Equatorial Guinea due, in part, to the extremely favorable financial arrangements the government allows for oil exploration and production. For example, when oil was initially discovered in Equatorial Guinea, government contracts provided for the country to receive a smaller amount of the oil revenue compared to other Sub-Saharan African countries at the time – only 15% to 30%, instead of the region's more typical 45% to 80%. Although these amounts have increased, contracts for oil production in Equatorial Guinea generally continue to favor the oil producers.

Because the oil industry comprises a disproportionate percentage of state wealth, anthropologist Hannah Appel suggests that U.S. companies and the Equatoguinean state are deeply and problematically entangled.. According to Dr. Appel:

> Production sharing contracts between companies and the Equatoguinean state serve as the legal gateway to nearly $2 billion in oil – derived GDP annually, effectively keeping President Obiang – Africa's longest serving leader – in power. Hydrocarbons are essentially synonymous with Equatorial Guinea's national economy, accounting for over 99 percent of the nation's exports, and 98 percent of government revenues in 2008. Corporate social responsibility programs permeate nationwide education and healthcare projects. Amidst these deep and protracted entanglements, infrastructure – here in the form of gated corporate and residential enclaves – becomes central to the industry's framing work, abdicating liability for 'local' outcomes on the other side of the walls.

To fully understand the complex relationship of interdependency that Dr. Appel is describing, one must remember that when Western oil corporations started exporting oil from Equatorial Guinea, there was no legal framework regulating their work or relationship with one of the world's most corrupt and repressive regimes in the world. One must also keep in mind that oil revenues between 1994 and 2005 did not appear in the national budgets, and that state oil and gas companies, as well several other parastatal companies, operate outside parliamentary oversight.

To paraphrase Dr. Appel, complicated rearrangements of property, law, and the application of economic theories were necessary to forge a space where oil companies could relinquish responsibility while an authoritarian and corrupt government consolidated and legitimized its power.

Equatorial Guinea is consistently ranked among the world's most corrupt, closed, and undemocratic societies in the world. It occupies the 168th position in Transparency International Corruption Perception Index, while Freedom House ranks it among the worst of the worst in terms of basic freedoms.

Despite sporadic assurances from President Obiang of increased transparency, his government has repeatedly resisted transparency efforts. For example, although Equatorial Guinea stated its intention to join the Extractive Industries Transparency Initiative, it was expelled from the program in 2010 after failing to meet basic requirements. In 2011, the Equatoguinean government blocked the IMF from publishing its Article IV report.

Fortunately, the further squandering of Equatorial Guinea's resources can be prevented. The U.S. is not only a customer of Equatorial Guinea's resources, but also a major source of investment. In fact, it is the largest single foreign investor in Equatorial Guinea, investing billions of US dollars per year, mostly in the extractive industries sector. This puts the U.S. in prime position to support transparency efforts that would impact Equatorial Guinea. Section 1504 of the Dodd-Frank Wall Street Reform Act is one tool that can be used to bring transparency to the oil and gas industry and their activities in Equatorial Guinea. At the moment, the citizens of Equatorial Guinea are unable to access reliable information about how much their government receives from companies extracting natural resources in the country. Section 1504 will make vital information available to the public, allowing citizens to fight the systematic corruption and poverty that has continuously plagued their country.

It is highly disappointing, therefore, that the oil and gas industry, led by its trade association, the American Petroleum Institute, has led a legal challenge aimed at undermining Dodd-Frank 1504. In effect, these companies are suggesting that they value secrecy more than they value transparency, regardless of their rhetoric to the contrary. Actions speak louder than words, and the citizens of Equatorial Guinea are the real losers of the message that the oil and gas industries associated with the lawsuit are sending.

Recommendations for U.S. Policy on Equatorial Guinea

Given its vast U.S. oil investments, the U.S. government has a responsibility to play a much more constructive and assertive role in reversing the resource curse in “petrolist states” like Equatorial Guinea. The U.S. Government should strongly and publicly urge the Government of Equatorial Guinea to:

- take verifiable and irreversible steps to improve conditions for the creation and participation of local civil society organizations working for human rights, transparency and accountability.

- take demonstrable steps to ensure the legalization and full participation of opposition political parties and professional associations.

- create and implement a transparent revenue management system drawing on IMF recommendations;

The U.S. Government should furthermore:

- Create a road map that sets out specific benchmarks for human rights, good governance and transparency that could pave the way to a democratic transition in Equatorial Guinea and validate increased diplomatic engagement.

- expand the Magnitsky Act, to ban travel to the United States and freeze the U.S. assets of kleptocrats and human rights violators everywhere, including those from Equatorial Guinea.

- step up the implementation of Presidential Proclamation 7750 and deny visas to members of the government of Equatorial Guinea to prevent them from traveling to the United

States.

- actively support civil society and human rights initiatives in Equatorial Guinea.

- the US State Department should discontinue granting waivers to Equatorial Guinea to bypass the country's ineligibility to receive direct US foreign assistance as outlined by the Financial Management and Budget Transparency provision in the US Foreign Operations Appropriations bill until the country has made meaningful progress toward budget transparency.

- actively support the reinstatement of a UN Special Rapporteur to monitor human rights conditions in Equatorial Guinea.

- bring its overall foreign policy objectives in line with its stated concerns for human rights and democratization in oil-producing nations in Africa.

Like most people from Equatorial Guinea, I had hoped that the vast natural resources extracted by American oil companies and others over the last two decades would be a blessing for all Equatoguineans. Instead these resources have been a blessing only for the political elite, and a veritable curse to the vast majority of the country's people. The US government has an obligation to effectively regulate US corporations overseas. As long as the proceeds from US oil companies support corrupt dictatorships, my father's sentiment – that there is nothing we can do - will always be true. I look forward to the day that all Equatoguineans can benefit fully and equitably from our natural resources. I thank the Government of the United States for working hard to do all that it can do to bring that day closer, and thank you for holding this important hearing.