



**Convention on the  
Rights of the Child**

Distr.  
GENERAL

CRC/C/8/Add.49  
1 December 2003

ENGLISH  
Original: FRENCH

---

**COMMITTEE ON THE RIGHTS OF THE CHILD**  
**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES**  
**UNDER ARTICLE 44 OF THE CONVENTION**

**Initial reports of States parties due in 1993**

**SAO TOME AND PRINCIPE**

[4 March 2003]

## CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction .....	1 - 20	6
I. GENERAL MEASURES OF IMPLEMENTATION .....	21 - 61	8
A. Background .....	21 - 36	8
B. Harmonization of national law and policy with the Convention .....	37 - 60	9
C. Mechanisms for coordinating and monitoring implementation of the Convention .....	61	13
II. DEFINITION OF THE CHILD .....	62 - 124	13
A. Age of majority .....	63 - 66	13
B. Legal capacity of minors .....	67 - 72	13
C. Legal counselling without parental consent .....	73 - 76	14
D. Medical counselling without parental consent .....	77 - 78	14
E. Compulsory education .....	79 - 80	15
F. Employment of children .....	81 - 83	15
G. Hazardous employment .....	84 - 86	15
H. Sexual consent .....	87 - 91	16
I. Marriage .....	92 - 96	16
J. Conscription into the armed forces .....	97 - 99	16
K. Giving testimony in court .....	100 - 102	17
L. Criminal liability .....	103 - 104	17
M. Deprivation of liberty and imprisonment .....	105 - 115	17
N. Consumption of alcohol and tobacco .....	116 - 124	18

**CONTENTS (*continued*)**

	<i>Paragraphs</i>	<i>Page</i>
III. GENERAL PRINCIPLES .....	125 - 140	19
A. Non-discrimination .....	125 - 127	19
B. Best interests of the child .....	128 - 129	20
C. Right to life, survival and development .....	130 - 136	20
D. Right to express an opinion .....	137 - 138	21
E. Copyright .....	139 - 140	21
IV. CHILDREN'S CIVIL RIGHTS AND FREEDOMS .....	141 - 186	21
A. Name and nationality .....	142 - 156	22
B. Preservation of identity .....	157 - 160	23
C. Freedom of expression and information .....	161 - 162	23
D. Freedom of thought, conscience and religion .....	163 - 165	24
E. Freedom of association and of peaceful assembly .....	166 - 171	24
F. Protection of privacy .....	172 - 173	24
G. Right to respect for one's good name .....	174 - 182	24
H. Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment .....	183 - 186	25
V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE ....	187 - 270	25
A. Parental authority .....	187 - 197	25
B. Parental responsibilities .....	198 - 207	26
C. Separation from parents .....	208 - 217	27
D. Family reunification .....	218 - 226	28
E. Maintenance for the child .....	227 - 235	29

**CONTENTS (*continued*)**

	<i>Paragraphs</i>	<i>Page</i>
F. Children deprived of a family environment .....	236 - 243	29
G. Adoption .....	244 - 250	30
H. Periodic review of treatment .....	251 - 253	30
I. Arbitrary transfer or detention .....	254 - 259	31
J. Abuse and neglect .....	260 - 270	31
VI. BASIC HEALTH AND WELFARE .....	271 - 307	32
A. Survival and development .....	275 - 282	32
B. Disabled children .....	283 - 285	33
C. Health services .....	286 - 292	34
D. Social security and childcare services .....	293 - 299	35
E. Adequate standard of living .....	300 - 303	35
F. Cooperation with State bodies and non-governmental organizations .....	304 - 307	36
VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES ...	308 - 342	36
A. Education .....	308 - 336	36
B. Aims of education .....	337 - 339	41
C. Leisure, recreation and cultural activities .....	340 - 342	41
VIII. SPECIAL PROTECTION MEASURES .....	343 - 414	42
A. Children in situations of emergency .....	343 - 353	42
B. Children in conflict with the law .....	354 - 375	43
C. Children in situations of exploitation .....	376 - 412	44
D. Children belonging to a minority or an indigenous group .....	413 - 414	48

**CONTENTS (*continued*)**

	<i>Paragraphs</i>	<i>Page</i>
IX. CONCLUSIONS .....	415 - 433	48
A. Publicizing the Convention .....	417 - 418	49
B. Children's health .....	419 - 421	49
C. Nutrition .....	422 - 425	50
D. Education .....	426 - 429	50
E. Children in difficult situations .....	430 - 433	51
X. RECOMMENDATIONS .....	434 - 445	51
A. Education .....	439	52
B. Health .....	440	52
C. Children in difficult situations .....	441 - 445	53
Documents cited in this report .....		55

## Introduction

1. Sao Tome and Principe is made up of several small islands, the two largest of which are Sao Tome and Principe, and lies in the Gulf of Guinea, 250 kilometres off the coast of Gabon. It is a small island State measuring 1,001 square kilometres in area and with a population of some 130,000. The annual rate of growth of the population is around 2.9 per cent. Women account for more than half the population (50.61 per cent). The economically active population accounts for 35 per cent of the total, with 50 per cent employed in the agricultural sector and 25 per cent in the public sector.
2. Sao Tome and Principe became independent on 12 July 1975. It opted for multiparty democracy in 1990, with the adoption of a new Constitution, and free elections on the basis of direct universal suffrage were held in 1991, following which the country's democratic institutions were established.
3. Between 1991 and 2000, peaceful, free and transparent elections - presidential, legislative and municipal - have been held, leading to a democratic handover of power in 1994, with a shift in the parliamentary majority away from the Government that had won the 1991 elections. The party that had led the country since independence and lost in 1991, returned to power in 1994 and has since obtained two successive terms in office.
4. Yet, although most of the major difficulties surrounding the exercise of democracy and the establishment of democratic institutions have been overcome, there are still a number of constraints on the population's active, direct participation in the democratic process. Municipal elections, for example, have not been held as regularly as provided for in law, and there is a need for a more realistic framework for local structures in order to bring the exercise of power closer to the populations concerned.
5. Administratively, the country is divided into seven districts, six of which are on the island of Sao Tome; the island of Principe constitutes a single district.
6. The country faces problems due to its small size and geographic isolation, but also economic difficulties.
7. Since colonial times, Sao Tome and Principe's economy has been based chiefly on a single export, cocoa, and its economic situation has begun to deteriorate, partly owing to the decline in cocoa production and partly as a result of fluctuating world prices. Other factors include its island nature, its limited geographical area, the lack of territorial contiguity, its limited mineral resources and a sluggish production sector, all of which make the country very vulnerable to international pressures.
8. In the economic sphere, the problems stem from the low level of management skills, which are in turn the result of a lack of trained managers, poor coordination and administration of external technical assistance, and problems relating to the absorption of external funding and internalization of international aid.

9. Under the pressure of domestic demand, Sao Tome and Principe is obliged to import a wide range of products, from foodstuffs to products for use in agriculture to equipment, all of which must be financed by export revenue, loans or international aid; this places the country in a position of double dependence: it is dependent on external funding in order to meet its domestic needs, while its external debt is continually expanding, and now represents a serious obstacle to development.

10. In the socio-economic sphere, resource development, in terms of qualified technical and management staff at all levels, is negligible, the social infrastructure is crumbling and it is difficult to create a climate conducive to private-sector development.

11. As it falls ever deeper into poverty, the State is repeatedly forced to seek loans from abroad, and donations, in order to invest in economic and social infrastructure, with the result that an enormous external debt hampers the country in its efforts to regain economic health and sustained development. Following the signature of a structural adjustment programme with the World Bank, the International Monetary Fund (IMF) and the African Development Bank (ADB) in 1987, various steps have been taken to deal with the problem of Sao Tome and Principe's external debt, which in 1994 amounted to US\$ 250 million.

12. By mid-1999, the external debt stood at US\$ 265 million and had become an intolerable burden, since at that level it represented 4 times the country's gross domestic product (GDP) and 40 times its total annual exports.

13. Following efforts to relieve the country's bilateral debt and a debt-rescheduling agreement with the bilateral creditors of the Paris Club, a rescheduling of external debt servicing in accordance with the Naples terms was obtained, which amounted to a 67 per cent reduction of the debt on a net present value basis. Thus Sao Tome and Principe joined the group of 16 sub-Saharan African countries entitled to benefit from the highly indebted poor countries initiative (HIPC).

14. The World Bank group and IMF authorized debt service relief for Sao Tome and Principe in December 2000, in an amount of around US\$ 200 million, which represents an 83 per cent reduction in the net present value of the debt. The relief is spread over 20 years and is equivalent to some US\$ 131 million, or US\$ 6.5 million a year.

15. This decline in the socio-economic situation has had an impact on the living conditions of families in Sao Tome and Principe, who face problems of sanitation and access to drinking water owing to the deterioration and obvious inadequacies of the supply system left in place by the colonial regime.

16. Some of the water consumed is heavily polluted at source, or else it is polluted by contact with waste materials as a result of the poor state of repair of the piping, inadequate sanitation (only 26 per cent of the population had access to sanitation in 2000), shortages of energy, fuel and lighting, insufficient income to support large families, and the gradual impoverishment of families.

17. Statistics show that around 40 per cent of families in Sao Tome and Principe live in extreme poverty and 8 per cent of those are destitute. Because living conditions are so difficult in rural areas, the population density in urban areas is very high, particularly in the capital.

18. According to the 1991 census, 15 per cent of families have no income and around 4.5 per cent of families are homeless.

19. The early 1990s saw major political and economic developments as the country moved towards democracy, and this made it possible to strengthen the process of macroeconomic reform begun in 1987 under the structural adjustment programme.

20. It is against this troubled backdrop that Sao Tome and Principe is striving to implement the Convention.

## **I. GENERAL MEASURES OF IMPLEMENTATION**

### **A. Background**

21. After Sao Tome and Principe gained independence in 1975, far-reaching political, social, economic and cultural changes took place in the country. As a result, new legal relationships were established between the State and society and between society and the individual.

22. One of the outcomes of these changes was a new concept of the child as an entity with fundamental freedoms and rights, a concept that has been reinforced with time.

23. In the course of the 25 years that have elapsed since independence, awareness of the value of children's rights and the importance of protecting them has grown.

24. It is now recognized that, since it is difficult or impossible for children to assert their rights directly and in person, or to report any violations they may suffer, it is important that particular attention should be paid to them and special care and responsibility exercised by parents, the State and society in order to protect children's best interests, secure their future, meet their needs and safeguard their freedoms.

25. In the legal system of Sao Tome and Principe, children are considered to be different from adults, with specific characteristics as subjects of law.

26. The central tenet of the system is that children's rights must be improved, particularly within the family, which is recognized to be the basic unit of society and children's principal social institution and is therefore considered to require the protection of State and society.

27. Family relationships are based on parental authority, which is vested in the parents and conceived as a fundamental right, and a range of powers and responsibilities that are to be exercised in the interests of solidarity, cooperation and improved emotional ties between family members, and always with a view to the full and harmonious development of the child.

28. The system also provides for the limitation or withdrawal of those powers - subject in all cases to a judicial ruling - if they cease to be exercised in the interests of the child and where there is a reasonable likelihood of grave harm to the child.

29. Children's fundamental rights are enshrined in the basic law of the Republic, the 1990 Constitution. The Constitution establishes children's right to the respect and protection of society and the State, and to full development, as well as the equality of children born within and outside marriage and parents' obligation to educate and support their children.
30. These principles constrain, firstly, the legislator - since all laws must reflect the principles of the Constitution - and secondly the courts - since the interpretation of those laws must always take account of the interests protected by the Constitution.
31. The laws of Sao Tome and Principe make very clear reference to the rights of the child and a number of institutions have been established to realize those rights.
32. Act No. 2/77 of 28 December 1997, on the family introduced several major changes, notably with regard to the exercise of parental authority, equal powers and responsibilities for mothers and fathers, and parents' obligation to provide for their children. The Act also provides solutions for cases of children deprived of a normal family environment.
33. Act No. 6/90 of 13 September 1990, which establishes the conditions for granting, acquiring, losing and reacquiring Sao Tome and Principe nationality, ensures first and foremost that the child has the right to a nationality from birth.
34. Act No. 6/92 of 11 June 1992, on individual working conditions, regulates children's work. Children may not work before the age of 14 and then only in conditions appropriate to their age, in order to safeguard their physical and mental development.
35. The Civil Code and Criminal Code also contain explicit provisions on the protection of children's rights. Articles 125 and 488 of the Civil Code, for example, deal with children's legal incapacity and lack of criminal liability. Under the Criminal Code, children under the age of 16 are not criminally liable; ill-treatment and sexual exploitation of children and traffic in children are offences punishable by imprisonment.
36. Decree No. 417/71 of 29 September 1971, which defines the rules for legal assistance to minors, establishes that until the age of 16 minors are not yet liable under criminal law and that they may only be the subject of protection, assistance or education orders.

## **B. Harmonization of national law and policy with the Convention**

### **1. Legislation**

37. Since ratification of the Convention by Sao Tome and Principe in 1991, the Government has repeatedly stated its commitment to implementation.
38. In national legislation, the best interests of the child stands out clearly as the goal to be pursued by all who can contribute to children's harmonious development - parents through their responsibility for educating children, the State through the adoption of measures to ensure children's enjoyment of their rights, and society at large through community structures and by informal means.

39. In Sao Tome and Principe, problems occur more with the enforcement of the legislation than with the principles themselves, and much remains to be done to establish conditions conducive to the effective realization of the rights of the child.

40. Thus, domestic legislation needs to develop and incorporate concrete measures to safeguard the exercise of the rights established in the Convention: chiefly preventive measures targeting minors and families at risk or in emergency situations and measures to rehabilitate and integrate children who find themselves in such situations. Training for those working in this field would also be very useful.

41. In this context, support actions of a social, administrative or informal nature should be deployed first; judicial action should be considered only as a last resort, for protection in the most serious situations.

42. Such an approach will inevitably ensure that children's opinion will be heard and taken into account, in accordance with their level of maturity and in cases where their best interests are deemed to be at risk.

43. At the international level, Sao Tome and Principe has ratified the main conventions on the rights of the child, including the African Charter on the Rights and Welfare of the Child, and is making efforts to disseminate the principles established in those instruments and to develop further measures to implement them.

## **2. Institutions**

44. Despite the importance attached by the Government to the question of children's rights, no supervisory institution has been established specifically to coordinate initiatives to implement the Convention. Such initiatives are undertaken by sectors, State agencies and non-governmental organizations (NGOs) working with social issues, which are very active and dynamic. For example, a number of major projects are under way to publicize the Convention among the population at large - and children and young people in particular - through the media and by means of brochures written in simple language, in particular describing initiatives to promote children's well-being.

45. At this point it is important to highlight the extraordinary part played by the United Nations Children's Fund (UNICEF), whose efforts at mobilization, and whose partnership with the Government in all matters relating to children's survival and well-being, have been a major factor in the achievement of several of the objectives set.

## **3. Education**

46. In Sao Tome and Principe, education has been an explicit priority of the Government since the earliest years of independence, but the reality of the situation does not reflect the statements of intent.

47. Following independence, and in accordance with the then regime's political outlook, the State assumed responsibility for educating nearly the entire population, from pre-school education to adult literacy classes and including higher education and the sending of students

abroad. The ideological component was of great importance, and indeed underpinned the school curricula. Successive reforms have been undertaken, but they lack any overall vision for the system.

48. With the introduction of a democratic system in 1991, a new Constitution was approved, which established in its article 54 that education is a right recognized to all citizens; goals include the full development of all citizens and their active participation in the community, continuing education, and the elimination of illiteracy, through a national system of compulsory, free education.

49. In this regard, the Constitution covers articles 28 and 29 of the Convention. The relevant provisions of the Constitution are articles 51 (children), 52 (young people), 25 (family, marriage and filiation) and 30 (right to learn and freedom to teach).

50. As to other domestic legislation, Decree No. 53/88, the foundation of the education system, established a national system comprising the following levels:

Pre-school education (crèches and kindergartens) lasting five years and intended for children aged under 5;

General education, which includes five years of primary education, for children aged 6 to 14; five years of basic secondary education, for children aged 12 to 17; and three years of pre-university education, for young people aged 18 to 21;

Technical and professional training;

Management training;

Adult education.

#### **4. Youth**

51. In Sao Tome and Principe, 55.8 per cent of the population is aged under 19, which creates development problems that are in turn exacerbated by the difficult socio-economic situation, which is characterized by a poor distribution of available resources, low levels of investment, poverty, the fragility of the family unit, deficiencies in health care and problems arising from the introduction of a national education system.

52. The Government has made every effort to devise policies and implement measures that take account of young people's wishes and provide a response to the problems faced by this sector. However, there is still much to be done in every respect.

53. At the institutional level, and as part of its ongoing efforts to improve the context for its work for young people, the Government has established a youth secretariat and a youth support office.

54. Under Decree No. 58/93, the organization act for the Ministry of Education, Youth and Sports, the task of the youth support office is to study, plan, implement and support initiatives for young people that aim to integrate them and improve their status in the country's socio-economic and cultural life.

55. Depending on the nature of such initiatives, which may be concerned with organization, training or coordination, the youth support office has the following tasks:

- (a) Formal registration of youth organizations;
- (b) Definition of a national youth policy;
- (c) Establishment of rules for the operation of the youth support office;
- (d) Definition and implementation of policies to protect youth employment, promote self-employment and help develop reintegration programmes for young people with social problems;
- (e) Promotion of intellectual and cultural development initiatives, including conferences, study programmes and meetings.

## **5. Health**

56. Health, meaning the health of the population in general and of children in particular, is the other area for which special provision is made in the Constitution and legislation of Sao Tome and Principe. Article 49 of the Constitution, for example, stipulates that all citizens have the right to health care and a duty to protect their health. It also establishes a special right of the State, namely the right to promote public health - i.e., the population's physical and mental well-being and harmonious integration into the socio-economic environment - through the national health system.

57. Act No. 90/96 guarantees access to health care, on demand and free of charge, to women who are pregnant or have recently given birth; to children up to the age of 5; to those certified as indigent by a competent social service; to kidney patients, diabetics, haemophiliacs, TB sufferers and those with hypertension, ankylosing spondylitis, multiple sclerosis or Hansen's disease (in respect of treatment specifically for those conditions); and to volunteer blood donors.

## **6. Overall policy**

58. Notwithstanding the low rate of growth and the current efforts to restore macroeconomic stability, the Government has taken steps to respond to social concerns, so as to facilitate the genuine involvement of citizens, and particularly young people, in political, social, economic and cultural life, and to better exploit their potential to contribute to economic growth and participatory and harmonious social development in Sao Tome and Principe.

59. In order to meet the need to define and adopt a national policy for the country's children, older children and young people as a whole, the Government has developed various "horizontal" programmes (education and training) and "cross-sectoral" programmes (the family, the status of women, etc.).

60. The main thrust of these programmes is:

To support the drive to implement the Convention;

To guarantee free, compulsory education and promote equal opportunities for access to education, in order to ensure children's full and harmonious development to the maximum extent possible;

To work with civil society on initiatives aimed at helping abandoned children; and to adopt measures to make parents responsible for their children's education and to encourage responsible fatherhood.

### **C. Mechanisms for coordinating and monitoring implementation of the Convention**

61. Subsequent to ratification of the Convention, no coordination and monitoring mechanism has been established. Several programmes intended specifically for children have been designed and implemented by various public sector actors and NGOs, in particular for publicizing the Convention in schools and in the media, but thus far these activities have not been conducted in a coordinated manner.

## **II. DEFINITION OF THE CHILD**

62. In the terms of the Convention, as well as of the Constitution and the laws of Sao Tome and Principe, a child is defined as any person under 18, except where, as provided for in applicable legislation, the individual attains full age earlier.

### **A. Age of majority**

63. In Sao Tome and Principe, every person of either sex who is under 18 years of age is a minor.

64. The Constitution, the Act on elections, the Act on the family, the Act on labour and the Act on compulsory military service make express reference to the age of majority as 18.

65. The Civil Code provides that minors have no capacity to exercise rights, other than in exceptional circumstances, for those acts specifically provided for by law (art. 123).

66. The legal incapacity of minors is compensated for by parental authority, and in certain circumstances by guardianship, but ceases on the attainment of majority or full age (Civil Code, art. 129).

### **B. Legal capacity of minors**

67. The Civil Code provides for certain exceptions to the incapacity of minors, and recognizes their right to carry out certain legal acts in connection with the right to work and other acts of lesser importance that are in consonance with their natural capacity.

68. Thus, a minor, whether or not living with parents, may legally undertake acts relating to the administration or disposition of assets acquired through his or her work (Civil Code, art. 127).
69. A minor may legally conclude a work contract where his or her legal representative is not known (Act No. 6/92, art. 130).
70. A minor has the capacity to receive remuneration for work, unless his or her legal representative objects (*ibid.*, art. 131).
71. Legal contracts concluded by a minor may be voided at his or her request or the request of his or her legal representative. Such an act may be reconsidered by the minor on attainment of the age of majority or full age, or by his or her legal representative, where appropriate (Civil Code, art. 125).
72. Any person who takes advantage of the innocence, needs or feelings of an under-age minor, and compels them, to their detriment, to enter into a verbal or written agreement to assume obligations or transmit rights involving loans or real estate shall be liable to a prison sentence and a fine (Criminal Code, art. 454).

### **C. Legal counselling without parental consent**

73. The legal representation of minors, in acts concerning them, lies in principle with the two parents.
74. In the event of a conflict of interest between the parents and their children, representation is undertaken by the special guardian appointed by the court (Act on the family, art. 85 (d)).
75. In the juvenile court, the public prosecutor's office is responsible for defending the rights and protecting the interests of minors, including by representing them at law as a principal party (Statute on judicial assistance for minors, arts. 12 and 13).
76. National legislation enunciates, although somewhat hesitantly, the right of the child to be heard. Certain provisions allow children over 7 to be heard, for example, in adoption or guardianship proceedings. In all cases a hearing for the child may be held only if necessary to his or her interests, and must be conducted in such a manner as not to imperil the child's equanimity and well-being.

### **D. Medical counselling without parental consent**

77. Under the Civil Code (arts. 1-8) and Act No. 2/77 (arts. 84 and 85), parents, in the exercise of their authority, are bound to safeguard the health of their children, and children, in matters which are not unlawful or immoral, must obey their parents or their guardian and do their bidding.
78. Although existing legislation makes no reference to the age from which a child may seek medical counselling without parental consent, in practice only adolescents aged 16 or over are accepted.

### **E. Compulsory education**

79. Decree Law No. 53/88 regulating the national education system establishes five years of primary education, in addition to a mandatory pre-school year. Owing to financial constraints, the shortage of classrooms and the deterioration in the infrastructure in place, in 1988-1989 the obligation to attend a year of pre-primary schooling was suspended, and, in primary education, a triple-shift system was begun, involving three successive sessions of three classes in three-hour periods in the same classroom (instead of the regulatory five hours). This system has had serious repercussions on the quality of education and has introduced an element of discrimination in terms of opportunity to learn, as provided for by law. Similarly, mandatory schooling for all children through sixth grade has remained somewhat theoretical inasmuch as conditions in practice do not permit it. Schools providing education up to sixth grade are not accessible to children in remote areas, as they exist only in district capitals.

80. However, by law, compulsory education lasts for six years.

### **F. Employment of children**

81. Employment of children is regulated by Act No. 6/92 of 11 June 1992, which sets the minimum age of employment at 14 (art. 128).

82. Nevertheless, increasing numbers of children work. This is a complex reality, necessitating a comprehensive, interdisciplinary approach, to both study the phenomenon and to undertake measures to prevent and limit it. It is a fact that children who work are at greater risk of illiteracy or school dropout, the more so since most of them are from families with serious psychological and socio-economic problems.

83. According to the multiple indicator cluster survey (MICS) conducted in the country in 2000, approximately 20 per cent of children are working, whether for remuneration or otherwise.

### **G. Hazardous employment**

84. By law the employment of children under 18 in heavy work or work carried out in unsuitable or dangerous conditions, as well as work underground, is prohibited (Act No. 6/92, art. 129).

85. The law also prohibits night work by children, other than in exceptional circumstances and with the authorization of the labour authorities. In the case of work by a minor, the minor must be over 16 and the work must not imperil his or her physical or mental development and must be essential to his or her education (Act No. 6/92, art. 134).

86. The employer must offer working conditions that are appropriate to the age of the child, so as to encourage their physical and mental development, as well as appropriate training, and must facilitate attendance at technical and occupational training courses (Act No. 6/92, art. 132).

## **H. Sexual consent**

87. At present, intercourse with a female under 16, with or without her consent, although not considered debauchery or rape, is punishable by a prison sentence (Criminal Code, art. 391).

88. For debauchery, the victim of the crime must be under 18 years of age, whereas for rape it is sufficient for the victim, irrespective of age, not to have given consent. In both instances the punishment is long-term imprisonment.

89. Unlike the crimes described in articles 392 and 394 of the Criminal Code, in which only the woman may be considered a victim, article 391 provides that the victim as well as the offender may be male or female.

90. Abduction of a woman is also a crime, and is punishable by a prison sentence (Criminal Code, art. 396).

91. For sex crimes, with the exception of the crime covered by article 391, the sentence is specifically increased if the victim is under 12 and where the offender has relationships of kinship, authority, influence or subordination with the victim, or where, as a result of the act, the victim contracts a sexually transmitted disease (Criminal Code, art. 398).

## **I. Marriage**

92. National legislation recognizes only civil marriage. However, spouses are free to add a religious marriage to their civil union.

93. Marriage, to comply with the law and be valid, must observe certain requirements, set forth in Act No. 2/77.

94. Act No. 2/77 defines marriage as the voluntary union of a man and a woman with legal capacity for that purpose with the intention of living their lives together (art. 2).

95. The minimum age of consent to marriage is 18, for both men and women (art. 3).

96. Minors under 18 may enter into marriage, under exceptional circumstances, for a justified cause, from the age of 14 for a woman and the age of 16 for a man, but require authorization from their parents or legal representative.

## **J. Conscription into the armed forces**

97. The minimum age for beginning compulsory military service is 18.

98. Volunteers may enlist at the age of 17, with the prior authorization of their parents or legal representative.

99. Compulsory military service lasts two years.

### **K. Giving testimony in court**

100. In criminal cases, minors under 7 may not give testimony.
101. They may, however, be heard as witnesses once they possess natural capacity.
102. In civil cases, minors under 7 may not give testimony in that they are viewed as incompetent through natural incapacity (Code of Civil Procedure, art. 617).

### **L. Criminal liability**

103. In Sao Tome and Principe minors under 17 are considered to have no criminal liability, and are subject only to protection, assistance or education measures ordered by the juvenile court (Criminal Code, art. 42; Statute on judicial assistance for minors, arts. 15 and 16).
104. However, minority does not diminish civil liability. In cases of injury caused by a minor, the minor, on account of his or her age, is not subject to criminal legislation, but the parents or person responsible for his or her care have civil liability for the child, unless they can prove that there was no fault or negligence on their part.

### **M. Deprivation of liberty and imprisonment**

105. The Statute on judicial assistance for minors in force in Sao Tome and Principe provides that the purpose of juvenile courts is to assist minors with regard to criminal preventive measures by ordering protection, assistance or education, measures under the relevant civil provisions to defend their rights and interests (art. 1).
106. With regard to criminal preventive measures, only measures of protection, assistance or education provided for in the Statute may be applied to minors subject to the jurisdiction of the juvenile courts.
107. The juvenile courts have authority to order measures in respect of minors under 16 whose situation or behaviour indicates serious problems in adapting to normal social life, and who engage in begging, are on the streets, or involved in prostitution or debauchery, or who are the authors of any act characterized under criminal legislation as an offence or crime (Decree No. 417/71, art. 16).
108. The juvenile courts also have authority to order measures in respect of minors over 16 who display serious problems in adapting to discipline in the home, the workplace or an educational institution or support centre where they have been placed (Decree No. 417/71, art. 17).
109. The following measures, separately or cumulatively, may be applied to minors subject to the jurisdiction of the juvenile courts:
- (a) Warning;
  - (b) Return to the parents, guardian or person having custody;

- (c) Assisted freedom;
- (d) Bail subject to good conduct;
- (e) Withholdings from income or salary;
- (f) Placement in a family or in a State or private educational establishment;
- (g) Placement in an apprenticeship or work scheme with a State or private entity;
- (h) Placement in a medical/psychological centre on a semi-residential basis;
- (i) Attendance at a medical/psychological institute;
- (j) Residence at an educational institution.

110. When the court orders a measure of assisted freedom, or placement in a family or educational establishment or in an apprenticeship or work scheme, it establishes the obligations to which the minor is subject in terms of education, occupational training and timetabling, and defines the obligations of the individuals to whom the minor is entrusted.

111. When a minor with criminal liability (between 16 and 18) who is serving a measure imposed by a juvenile court commits a crime, a tutelary measure, rather than the punishment stipulated for the crime, will be applied.

112. A minor with criminal liability may be placed in a prison school or equivalent establishment if he shows an inability to adapt to an educational institution and if his personality and rebelliousness are such as to justify such a measure.

113. Notwithstanding the considerable increase in the number of minors at risk who are authors of criminal offences in the country, tutelary and corrective measures are not applied to minors in the absence of appropriate structures for the carrying out of the measures, whether or not the minor has criminal liability.

114. Nevertheless, there is increasing awareness of the importance of prevention and the need for special criminal treatment of minors.

115. At present a considerable effort is being made to provide information, raise awareness and train judges and other members of the legal profession, the social services and the community at large - an encouraging sign, to which should be added minimum support structures.

#### **N. Consumption of alcohol and tobacco**

116. Alcohol abuse is affecting an increasing number of young people, and has been observed among minors engaging in marginal conduct and unlawful acts.

117. Alcohol abuse is frequently associated with consumption of tobacco and on occasion with use of drugs.
118. There is often a link between alcohol consumption by the parents and by minors, and between the level of consumption of alcohol and performance at school.
119. National legislation includes Regulation No. 4,544 of 3 April 1954 on the consumption of alcohol, which prohibits access by minors under 16 and unaccompanied by their parents or other persons responsible for their care to outlets for the sale and consumption of alcohol.
120. In practice the instrument is rarely applied, and is not enough to protect minors.
121. Smoking, like alcoholism and the use of drugs which may create dependency, is viewed as drug addiction.
122. There is no national legislation on tobacco.
123. In view of the serious effect of alcohol and tobacco use on minors, who are more readily influenced, there is an urgent need for legislation in this area, and preventive measures must focus on minors as a priority.
124. Legislation should include restrictions on advertising, and on the sale and consumption of alcohol and tobacco; for example, the prohibition of the use of tobacco in school establishments and in places frequented by minors, the prohibition of the sale of alcohol to minors, and the restriction of access by minors to outlets for the sale and consumption of alcohol.

### **III. GENERAL PRINCIPLES**

#### **A. Non-discrimination**

125. As prescribed in the Convention, the Constitution, with regard to fundamental rights, establishes, in its article 14, the principle of equality of all citizens before the law, and enjoyment of the same rights and discharge of the same obligations without distinction as to social or racial origin, sex, political views, religious belief or philosophical conviction.
126. Similarly, the Government has ratified the major international conventions against all forms of discrimination or social exclusion, on violence against women, and for the promotion of human rights.
127. Although the principle of non-discrimination is reflected throughout national legislation, in practice it is apparent that a certain number of negative issues arise owing to the socio-economic difficulties affecting the country and the fragility of its institutions, in particular judicial and social institutions.

## **B. Best interests of the child**

128. The concept of the interests of the child, enunciated in article 3 of the Convention, is enshrined in the political and legal order of Sao Tome and Principe. It is reflected throughout national legislation, from the Constitution, in the title on individual rights (art. 51), down to the Act on the family, the Act on labour, and other laws and decrees of the Republic.

129. Similarly, sectoral policies reflect the Government's concern for the interests of children, in particular health and education, even if the results are not always those desired.

## **C. Right to life, survival and development**

130. Among the individual rights enshrined in the Constitution, the right to life is foremost, the death penalty being proscribed (art. 21).

131. With regard to economic, social and cultural rights, the Constitution provides that everyone has a right to work, and that it is for the State to guarantee equal opportunity of access to choice of employment. Remuneration is dependent on the nature, quantity and quality of work, and is subject to the principle of equal pay for equal work, so as to guarantee a decent existence (arts. 41 and 42).

132. The State, through the national insurance system, guarantees all citizens protection in the event of illness, invalidity, old age, widowhood and being orphaned, and also allows participation by other partners in the system (art. 43).

133. The Constitution guarantees the right to education, sport and housing (arts. 48, 54 and 55) and ensures young workers, in particular, the necessary protection for the realization of their economic, social and cultural rights.

134. On the basis of this legal foundation, the Government has conducted activities and programmes for the survival and comprehensive development of the individual, and of children in particular. In this regard attention is drawn to the positive results of the expanded programme of immunization (EPI), with a coverage rate of 80 per cent.

135. In the context of the national health action plan, the primary care programme has the following objectives: to eliminate poliomyelitis and neonatal tetanus, and to reduce by 90 per cent the mortality rate from measles and the number of cases of measles. To achieve and maintain a high rate of immunological coverage (95 per cent of children under 5) against EPI target illnesses, as well as for tetanus among women of childbearing age.

136. EPI has given satisfactory results, even though the intended coverage rates have not been completely attained, as indicated in the table below.

**Immunization coverage rate, children under 1 (percentage)**

Vaccine	1993	1994	1995	1996	1997
BCG	77	87.4	83.6	89.9	70.6
DTC 1	71	62.9	62	62.1	83
DTC 2	67	59.8	57	62	83.4
DTC 3	60	62.5	58.5	80.5	73.6
Polio 1	69	61.9	56.5	80.5	73.6
Polio 2	65	59.9	56.9	66	83.8
Polio 3	60	61.6	61.1	77	73.7
Measles	57	55	50	59	60.8

*Source:* Ministry of Health.

**D. Right to express an opinion**

137. Enunciated in article 12 of the Convention, the legal framework for this right is provided by article 28 of the Constitution, which states that all citizens have the right to freely express and make public their thinking in words or images or by any other means, and which punishes, at the discretion of the courts, violations of this right.

138. However, no mechanisms for hearing children and young people, as provided for in the Convention, have yet been established, although the occasional ad hoc measure has been taken, such as the Children's Parliament, held twice (in 2000 and on International Children's Rights Day), and participation by children in awareness-raising and publicization of the Convention and in programmes to combat malaria and AIDS conducted by the Government and NGOs.

**E. Copyright**

139. The Constitution guarantees the protection of intellectual property rights, including copyright (art. 45).

140. In terms of international conventions, Sao Tome and Principe has ratified the Convention establishing the World Intellectual Property Organization, but no mechanism has been established for implementation.

**IV. CHILDREN'S CIVIL RIGHTS AND FREEDOMS**

141. Civil rights and freedoms are enunciated in the Constitution. The Constitution also recognizes other rights set forth in other laws and norms of international law, and states that provisions relating to fundamental human rights are to be interpreted in consonance with the Universal Declaration of Human Rights (art. 17).

## **A. Name and nationality**

142. The Convention, in its article 7, enunciates the right of the child to be recognized immediately after birth, the right to a name and to a nationality from birth, and the right to know and be cared for by his or her parents.

143. The Constitution states that the right to a personal identity is inviolable (art. 23). From this constitutional guarantee springs the duty of the State to adopt measures to protect the exercise of this right.

### **1. Name**

144. The Civil Code provides that every person has the right to bear a name, in full or in a short form, and the right to prevent any other person from making unlawful use of that name to usurp his or her identity or for any other purpose (art. 72).

145. The civil registers offer a key means of protecting this right.

146. Act No. 2/77 on the family states that at birth the child must be registered by his or her parents at the civil registry and that children must bear the names of their mother and their father.

147. With respect to adoption, the adoption order establishes whether or not the adopted person keeps the names of his or her biological family or whether the child takes the names of the adoptive parents, in which case these names must be recorded with the civil registry.

148. Under the Act, if the declaration in the registry of births is made by the mother only and if she records the name of the father the latter is notified, so that, within 30 days, he may attend the civil registry; he is informed that failure to attend will mean that the child is registered as being his (Act No. 2/77, art. 68).

149. Where paternity is denied, the public prosecutor's office and the mother of the minor may initiate a paternity suit (*ibid.*, para. 3).

150. The multiple indicator cluster survey carried out in 2000 found that in Sao Tome and Principe 70 per cent of children under 5 are registered.

151. The fact that children are not registered or are registered by one parent only, in general the mother, arises because many deliveries take place outside a hospital, and because the *de facto* union of the parents is based on a very fragile relationship, which explains why, after birth, the child remains alone with his or her mother.

### **2. Nationality**

152. The right to nationality is set forth in Act No. 6/90. Article 2 of the Act states that Sao Tome and Principe nationality is attributed at birth, without prejudice to the validity of legal relationships established beforehand on the basis of another nationality.

153. Under this Act, the following are nationals of Sao Tome and Principe by origin:

(a) Children born in Sao Tome and Principe of a father and mother holding the nationality of Sao Tome and Principe;

(b) Children born abroad of a father or mother holding the nationality of Sao Tome and Principe who are in the service of the State of Sao Tome and Principe;

(c) Children of a father or mother holding the nationality of Sao Tome and Principe born abroad, who declare that they wish to take the nationality of Sao Tome and Principe;

(d) Children born in Sao Tome and Principe and holding no other nationality;

(e) Children born in Sao Tome and Principe of foreign parents residing in the territory of Sao Tome and Principe and not in the service of the State of Sao Tome and Principe.

154. Newborns abandoned in the territory of Sao Tome and Principe are presumed to have the nationality of Sao Tome and Principe.

155. Minor children of a father or mother who acquire the nationality of Sao Tome and Principe may also acquire that nationality.

156. Any person in respect of whom adoption formalities by nationals of Sao Tome and Principe have been completed acquires the nationality of Sao Tome and Principe.

### **B. Preservation of identity**

157. The law protects individuals against any form of abuse of or threat to their physical or legal personality (Criminal Code, art. 70).

158. The essential components of the personal identity of the child may not be altered other than in accordance with the law and in the interest of the child.

159. The name of the minor may be changed only through legal recognition, adoption or marriage.

160. A change of nationality by the minor is possible only with the consent of his or her legal representative.

### **C. Freedom of expression and information**

161. Freedom of expression and information is one of the fundamental rights of the democratic regime in Sao Tome and Principe, as defined in article 28 of the Constitution.

162. Similarly, the State guarantees freedom of the press (art. 29), through the relevant legislation (or the press Act), which guarantees a public service independent of the interests of economic and political groups.

#### **D. Freedom of thought, conscience and religion**

163. Article 26 of the Constitution provides that freedom of conscience is inviolable, and that no one may be persecuted, deprived of rights or exempted from civic obligations or duties because of his or her convictions or religious practices.

164. The State is secular, and religious denominations are separate from the State. They may freely exercise their activities with regard to worship, teaching, and their manner of organization.

165. The Civil Code regulates religious observance by minors.

#### **E. Freedom of association and of peaceful assembly**

166. Freedom of association is enunciated in article 34 of the Constitution, which provides that all citizens have the right, freely and independently of any authority, to form associations, provided that they are not contrary to criminal law and do not impugn the Constitution and national independence.

167. No one may be obliged to belong to or remain in an association against his or her will.

168. The Civil Code regulates the formation of associations.

169. The association movement is not well established or effective in Sao Tome and Principe owing to uncertain and weak capacities in terms of organization, management and mobilization of resources, as well as in human, financial and material terms.

170. Subsequent to the holding of the conference on NGOs organized by the Government in 1986, there has been an increase in the number of associations, for example, organizations of workers in different sectors of activity and trades, small-scale farmers, fishermen, women, young people and some communities. For young people alone there are more than 40 associations, although many of them, for the reasons indicated above, are not active.

171. There is no government policy on using associations as partners to tackle social problems, although this would be desirable.

#### **F. Protection of privacy**

172. Personal identity and respect for private and family life are recognized as inviolable under the Constitution (art. 23).

173. This right is regulated by the Civil Code, the Act on the family and other legislation.

#### **G. Right to respect for one's good name**

174. The Civil Code provides that legal personality is acquired at birth.

175. The law protects the individual against any infringement or threatened infringement of physical or legal personality.

176. Independently of civil responsibility, the person injured or threatened may seek the measures necessary in the circumstances so as to avert realization of the threat.
177. Every person has the right to prevent another person from making unlawful use of his or her name to usurp identity or for any other purpose.
178. Correspondence, family and personal papers and other confidential documents or documents relating to private life may be published only with the agreement of their author or judicial extinguishment of such agreement.
179. The image of a person may not be displayed, reproduced or commercialized if it impugns the honour or reputation or simply offends the decorum of the individual.
180. Under criminal legislation, allegations of facts impugning the honour or character of an individual constitute defamation, punishable by imprisonment and a fine.
181. Impugning the honour or character of a person, even where no specific allegation is made, constitutes contempt, an offence punishable by imprisonment and a fine.
182. These legal provisions are also applicable to minors.

#### **H. Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment**

183. The Constitution enshrines the principle of the inviolability of the psychological and physical integrity of the person, and provides that no one may be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 22).
184. In application of these principles, criminal legislation provides for sentencing to long-term imprisonment for any person who abducts a minor under 7 from his dwelling by violent means (Criminal Code, art. 343).
185. The same punishment is applied to anyone who obliges a minor under 17 to abandon his dwelling by violent means (Criminal Code, art. 343).
186. Concealment, swapping, kidnapping or abandonment of a minor are punishable by long-term imprisonment (Criminal Code, arts. 344 and 345).

### **V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

#### **A. Parental authority**

187. The Constitution sets forth the right to marry and to form a family on conditions of full equality (art. 25).
188. Act No. 2/77 recognizes de facto unions for the purposes of marriage once such a union meets all the conditions of monogamy and stability and is legally recognized (art. 18).

189. Under the Constitution, the family is the basic unit of society (art. 50) and is based on equality of rights and duties of parents and the principles of solidarity, cooperation and emotional ties between its members.
190. Under the Constitution and the Act on the family, the mother and father have rights and duties with regard to their children.
191. Children born out of wedlock may not be discriminated against in any way.
192. Children are subject to parental authority until the age of majority or they reach full age.
193. Parents and children must respect and help each other.
194. In all matters that are not unlawful or immoral, children have a duty of obedience towards their parents, and parents may rebuke and punish in an appropriate and moderate fashion the children over whom they have authority.
195. It is for the State to protect the family and to cooperate with parents in the education of children.
196. Orphaned and abandoned children have the right to special protection from society and the State (Constitution, art. 43, and regulations on social assistance).
197. Parents have the right and duty to raise, protect and assist their children, who may not be separated from their parents unless the latter fail to discharge their fundamental duties, in which case a judicial decision is always required.

### **B. Parental responsibilities**

198. Act No. 2/77 and Decree No. 417/71 establish the legal regime governing parental responsibilities, the aim of which is to foster the development of the child's personality and afford protection to the child and to promote his or her physical and moral interests.
199. Parents are required to support their minor children and meet the costs of ensuring their safety, health and upbringing.
200. Parents are responsible for encouraging the physical, intellectual and moral development of their children insofar as they are able. They must do their utmost to ensure that they receive an appropriate general education and vocational training.
201. Parents may use their children's property to meet the necessary costs of supporting them and ensuring their safety and upbringing and, with the prior agreement of the court and after ascertaining the opinion of the public prosecutor's office, certain other costs that are regarded as worthwhile.
202. For as long as a marriage lasts, both partners bear parental responsibilities.
203. Parental responsibilities are borne by only one parent if one partner dies, his or her parental responsibilities are suspended, or he or she is prevented from exercising them.

204. The regime governing the exercise of parental authority is the same if the parents are not married but are legally recognized as a couple.
205. In the event of divorce or separation, parental authority is conferred upon the parent who is granted custody of the child.
206. Abandonment of a child and unilateral refusal to bear the costs of maintaining minors are punishable by imprisonment.
207. Census data confirm that there are around 9,000 families (nearly 33 per cent of the total) in Sao Tome and Principe that are headed by women who exercise parental authority by themselves.

### **C. Separation from parents**

208. Divorce by mutual consent and contested divorce are both possible under the legal system; contested divorce is granted only if there are serious reasons why the marriage no longer makes sense for the partners, the children and society (Act No. 2/77, art. 51).
209. Divorce by mutual consent is certainly the least traumatic way of severing the marital bond for both the partners and their children because the partners do not have to disclose the reasons for the divorce but do have to come to terms on alimony, the exercise of parental authority and what to do with the family home.
210. In the event of divorce, the arrangements made for the exercise of parental authority always require the intervention of the court, either to endorse the agreement reached by the parents or to rule on custody of the children, visiting rights and maintenance payments.
211. The interests of the child are the paramount concern.
212. The legal system allows for single custody of minors but not for alternating custody, which would not be in keeping with the minor's interests since there would be a risk of insecurity (Act No. 2/77, art. 88).
213. The court can assign custody of a minor to a third party or to an educational institution or support centre if custody by either parent would put the health, moral safety or upbringing of the child at serious risk (Decree No. 417/77, arts. 97, 115 and 116).
214. It is the duty of the parent who is not responsible for the custody and care of the minor to keep abreast of the minor's upbringing and living conditions and to maintain contact through visits (*ibid.*, art. 97).
215. Visiting arrangements are made in the light of the circumstances of each individual case, but always in the minor's interests.
216. As only 4.5 per cent of couples in Sao Tome and Principe are formally married, the vast majority of people (33.7 per cent) living in undeclared *de facto* unions - 18.3 per cent of women and 17.6 per cent of men - it is easy to see that conjugal relations are loose and family ties are unstable.

217. In such conditions families tend to be ephemeral and transitory arrangements based on concubinage, under which women are plainly of lower status. The commonest feature of male-female relationships is extremely rapid changes in sexual partners, and the outcome is numbers of children by different fathers all being cared for by the mother, grandmother or some other relative - even some other adult to whom they are not related at all. This is what makes such families flimsy and vulnerable.

#### **D. Family reunification**

218. The Constitution acknowledges that all citizens are entitled to travel around and settle in any part of the country, to emigrate or to leave the country without impediment and to return (art. 32).

219. No restriction may be imposed on the exercise of these rights other than those provided for by law, or otherwise than by judicial decision.

220. The Civil Code states that the domicile of a minor is that of his or her legal representative; Act No. 2/77 stipulates that parental responsibilities include the right and obligation to accept custody and take care of one's children.

221. The effect of these two provisions is that minors may travel inside and outside the country if such travel is warranted for family reunification purposes.

222. Still, minors are allowed to emigrate only with the permission of their legal representatives. The juvenile court has the authority to override such permission to emigrate (Decree No. 4 17/71, art. 34 (j)).

223. Sao Tome and Principe being increasingly a country from which people emigrate, and policies for the protection and safety of immigrants from Sao Tome and Principe in the receiving countries being largely lacking, children find themselves in some rather disturbing situations; they are very often abandoned by their parents, who depart for neighbouring countries in search of better living conditions or means of subsistence which they cannot find at home.

224. As the economic and social situation in the country grows worse, more and more of its inhabitants are venturing abroad, where their living conditions are sometimes very uncertain. In the main, they emigrate to Gabon, the country next door, and to Angola and Portugal.

225. The national diaspora is changing in all regards, reflecting conditions in and the characteristics of the host countries concerned, and this may make family reunification easier or harder.

226. Particular emphasis must be laid on the hazardous situations to which emigration gives rise owing, on the one hand, to an absence of arrival facilities and support institutions and, on the other, to families' economic and social problems. In such cases, children generally have no chance to return to their family environment or even to rejoin the parents who have abandoned them, and thus end up being entrusted to people other than their relatives.

### **E. Maintenance for the child**

227. The Constitution states that parents have the right and duty to bring up and support their children (art. 25).
228. Act No. 2/77 requires both partners to care for the family they have started and states that they must strive to provide their children with stable housing, an appropriate diet, health care and proper protection (art. 85).
229. Minor children may seek support payments from their parents.
230. Partners, ascendant and descendant relatives, adoptive parents and those adopted and siblings, whatever link they may maintain with the child, are required to make support payments (Act No. 2/77, art. 123).
231. "Support payments" means anything necessary to provide support, and to meet housing, clothing, educational, recreational and developmental needs (Act No. 2/77, art. 121).
232. If the minor needs support payments, his or her legal representative or guardian or the principal of a children's institution can ask the courts to order them.
233. If an individual legally obliged to make support payments does not do so within the 10 days following the birth of the child, his or her earnings will be attached.
234. If payment cannot be secured in this fashion, the defaulter will be brought to justice (Decree No. 417/77, art. 104).
235. Unilateral failure to discharge obligations towards minors is an offence punishable by imprisonment and a fine (Criminal Code, art. 347).

### **F. Children deprived of a family environment**

236. Article 20 of the Constitution accords children temporarily or definitively deprived of their family environment, or who cannot, in their own best interests, be left in that environment, the right to special aid and protection from the State.
237. National legislation requires minors not subject to parental authority to be placed under guardianship (Act No. 2/77, art. 138).
238. Guardianship is established judicially; its purpose is the custody, care and upbringing, the defence of the rights and the protection of the property interests of minors not subject to parental authority (Act No. 2/77, art. 137).
239. The juvenile court is competent to establish guardianship, and will appoint the guardian. The court is also competent to oversee guardianship arrangements, dismiss the guardian if such action is warranted, and terminate guardianship.
240. For the purpose of instituting guardianship, the court may hear the minor if the minor is more than 7 years old.

241. Where possible, the guardian will be appointed from among the minor's relatives: first one of the grandparents; if not, a sibling; and failing that, an uncle.

242. Exceptionally, the court may appoint as guardian a person unrelated to the minor (Act No. 2/77, art. 145).

243. Instances of children living with members of their families other than their parents, in particular grandparents, are commonplace in Sao Tome and Principe. These, however, are arrangements that come about spontaneously, with no judicial intervention.

### **G. Adoption**

244. Adoption is the preferred way of dealing with the problem of children deprived of a normal family environment.

245. Adoption takes place for the benefit of the minor, creating between the adoptive parents and the individual adopted a bond equivalent to that which exists between parents and children: hence the need to regulate in legal terms the rights and obligations that stem from adoption (Act No. 2/77, art. 99).

246. Only minors below the age of 16 may be adopted, under the following conditions:

- (a) Their parents are unknown;
- (b) They have been abandoned by their parents, or are abandoned for any other reason;
- (c) They are no longer subject to parental authority.

247. These cases apart, all minors subject to parental authority can also be adopted provided that the persons exercising parental authority give their express consent.

248. Legal authorization for adoption is secured in proceedings brought before the juvenile court by the adoptive parents; the public prosecutor's office must be involved.

249. If the minor is aged 7 or older, the court may hear his or her wishes.

250. Adoptions are very rare in Sao Tome and Principe, for it is rare for children to be abandoned. If a child is orphaned, the family or other people will immediately offer to take care of the child with no need for a legal adoption procedure.

### **H. Periodic review of treatment**

251. When a child is assigned to part-time or full-time residence at a children's institution, its situation must be reviewed every three years (Decree No. 417/71, art. 73).

252. Enforcement of criminal preventive measures against minors may be suspended subject to conditions set by the court in each instance; while the suspension is in effect, the minors must be given guidance, assisted and kept under supervision (*ibid.*, art. 30).

253. Confinement to and assistance in a criminal pre-trial institution or prison school may be terminated by the court either outright or under a parole arrangement if that is thought more suitable (ibid., art. 33, para. 2).

### **I. Arbitrary transfer or detention**

254. In Sao Tome and Principe the removal, concealment, swapping and kidnapping of minors are crimes punishable by imprisonment.

255. Under the criminal law, anyone who by violence or fraud removes or causes a child under 7 to be removed from the house or place where, with the permission of the persons responsible for his or her custody or guidance, the child is, will be sentenced to a term of imprisonment ranging from two to eight years (Criminal Code, art. 342).

256. The same penalty awaits anyone who forces by violence or induces by fraud a minor under 18 to quit the home of his or her parents or guardians or other persons responsible for the minor's welfare (Criminal Code, art. 343).

257. Any individual who holds a child under 16 captive in a house or other place for up to 24 hours, whether on his or her own or another's account, will be sentenced to a term of imprisonment.

258. Anyone who conceals, swaps, or kidnaps a child under 7, or causes such a child to be concealed, swapped or kidnapped, is punishable by a prison term ranging from two to eight years. Anyone who fails to disclose the whereabouts of a child under 7 is punishable by a prison term ranging from 16 to 20 years.

259. There have been no instances of arbitrary transfer or detention of minors in Sao Tome and Principe.

### **J. Abuse and neglect**

260. National legislation contains no precise definition of what constitutes ill-treatment.

261. For a description of ill-treatment constituting abuse as an offence, it is necessary to look at the entire legal system, beginning with the Constitution.

262. Recognition of the child as an autonomous possessor of fundamental rights which may be seriously infringed serves, it transpires, to cover the concept of ill-treatment.

263. It is the task of the legal system, whose role is to interpret and apply the law in each case, to determine what constitutes ill-treatment and to establish whether particular circumstances are instances of abuse or legitimate punishment.

264. The law acknowledges parents' right to rebuke and punish their children in an appropriate and moderate fashion (Act No. 2/77, art. 86).

265. There is no law specifically dealing with ill-treatment of minors or violence within the family.

266. Instances of abuse generally attract the punishments laid down in the Criminal Code for physical assault and sexual crimes.

267. Physical abuse, which is not common in Sao Tome and Principe, is regarded as a breakdown in relations within the family, on the one hand, and between the family and society, on the other.

268. Recorded cases of physical abuse are more frequent in families subject to psychological and socio-economic pressure; as such, they require not merely legal but also medical, psychological and sociological intervention.

269. Alongside the establishment of specific legal standards, action must be taken to counter ill-treatment by informing and alerting the public and by encouraging people to come forward in the event of physical abuse.

270. At the same time, multidisciplinary teams will have to be set up, as will information services and institutions to which ill-treated children can turn.

## **VI. BASIC HEALTH AND WELFARE**

271. Public health indicators for Sao Tome and Principe are above the average for sub-Saharan African countries and even above those for certain other developing countries, in particular as regards life expectancy and infant mortality. Owing to environmental conditions, deficient infrastructure and shortages of human resources, however, the country is frequently said to be ailing.

272. As far as infrastructure and medical personnel are concerned, children have relatively satisfactory access to health centres and medical facilities.

273. The country had one doctor for every 2,300 inhabitants and one nurse for every 800 inhabitants in 1998. A survey of health coverage carried out in 2000 showed that 91 per cent of the population could reach a health facility within one hour.

274. In spite of this generally favourable picture, the health services face many problems that affect children, among them disorganization, segmented observation depending on the reasons for seeking a consultation, failure to apply preventive measures, absence of follow-up on how medical conditions progress, delay by parents in seeking consultations, the excessive and inappropriate use of technology in diagnosis and of drugs in treatment, and pointless admission to hospital to treat acute respiratory complaints and diarrhoea.

### **A. Survival and development**

275. There are considerable shortcomings in children's health. The incidence of diarrhoeal disease and worms is very high, an indication of the extent of the deficiencies in drinking water supply and basic sanitation and a scanty public grasp of sanitation. Data from the multiple indicator cluster survey for the year 2000 showed that only 26.2 per cent of homes had running water, while 44.7 per cent of the population fetched water from springs and 20.1 per cent used river water.

276. Malaria, respiratory diseases and acute diarrhoeal disease are the three main causes of infant mortality.
277. Malaria accounts for about 20.1 per cent of cases of illness, with over 40,000 recorded cases per year occupying 54 per cent of hospital beds in 1999 and killing about 4 in 10 of those infected. Children under 5 are the age group most seriously affected.
278. Malaria gives rise to anaemia and is responsible for the majority of cases of absence from school.
279. Malaria-related morbidity and mortality have followed the patterns below:
- Among children under 5, morbidity in hospitals was 74 per cent in 1995 and rose to 81 per cent in 1999;
- Among children over 5, morbidity was 29 per cent in 1995 and 31 per cent in 1999;
- For children under 5, mortality in hospitals was 62 per cent in 1995, and rose to 65 per cent in 1999.
280. To reduce morbidity and mortality in children under 5, action must be taken on the major health problems, with a systematic emphasis on preventive care - i.e. efforts to control diarrhoea, respiratory illnesses and malaria must be combined with immunization.
281. Children's nutritional state is related to their general state of health. When children are adequately fed they are not exposed to repeated bouts of disease, and when they are properly looked after they can grow to their full potential and are regarded as being in good health.
282. Sanitation is one area in which results are not very satisfactory. Very little investment has been made in this sector. The deterioration of the national economic fabric and families' limited ability to invest account for the very small number of individual sanitation systems installed. In collaboration with the Ministry of Health and non-governmental organizations, UNICEF is currently encouraging the use of latrines and self-build latrine schemes. The record of accomplishment is made all the poorer by the absence of intersectoral coordinating machinery for proper surveillance of disease-prevention and sanitary protection activities. Action should be being taken to tackle the problems of water supply and sewage systems, of identifying where contamination and pollution occur, of removing and sorting refuse, of sanitary conditions in homes, workplaces and sport and recreational facilities, and of sanitation in the country generally.

## **B. Disabled children**

283. Although the Constitution regards non-discrimination and equal opportunity as rights accorded all citizens, children with disabilities are in a doubly unfair situation since, besides the fact that the majority of them belong to the least well-off social classes, their handicaps limit their chances of being absorbed into society. To date, Sao Tome and Principe has done little for disabled children, to the point of being unaware how many of them there are or what disabilities

they suffer from. Some efforts by religious or civil associations apart, little or nothing has been done for them, leaving these children exposed to the double risks of ill-treatment and violence at the hands of adults. Ignorance of the extent of the problem also makes it hard for them to be properly integrated into society.

284. The country has no support mechanism for disabled children.

285. Under the community-based rehabilitation programme in the 1980s, a few teachers were trained in the techniques of teaching for children with special needs but, in the absence of policies and programmes for the integration of disabled children into society, the country has not benefited from their knowledge.

### **C. Health services**

286. There is a two-tier national health system, central and peripheral. The central level comprises the Ministry of Health, its services and central bodies, while the peripheral level is made up of seven health districts.

287. In the districts, the system is subdivided into three further levels. The first comprises community health workers and traditional midwives. Community health workers are essentially concerned with treating everyday illness and injuries, providing health education, seeing to local hygiene and encouraging mother-and-child health. The traditional midwives monitor pregnancies and deal with normal childbirths.

288. The second level comprises the rural and urban health points. A health point is run by an auxiliary or general nurse who provides basic therapeutic care. Some also have mother-and-child health-care nurses and malaria control workers. Some also have health teams responsible for maternal health care including family planning, growth monitoring for children under 5, nutritional advice and so forth.

289. The third level comprises the district hospitals with medical teams run by a doctor. In-patient care, with varying numbers of beds, is possible at this level.

290. The problems encountered at the district level are chiefly to do with weak management and supervisory machinery, including problems with coordinating intra- and extrasectoral activities, a lack of community involvement, a mismatch between the training that personnel receive and the tasks they are required to carry out, shortcomings in staff numbers, technical training and staff allocation, shortages of physical and financial resources, very low salaries and an absence of staff incentives.

291. At the central level, the health structure comprises the Ministry of Health and the two main hospitals, namely the hospital centre in Sao Tome and the hospital in Principe.

292. The weak points of the system are the absence of solid management structures, limited managerial abilities and the absence of either an information system or machinery for intra- and intersectoral collaboration.

#### **D. Social security and childcare services**

293. Sao Tome and Principe has had a structured social security system since 1979. This embraces the public and private sectors, with over 20,000 insured persons, and comes into play in case of sickness, accident, childbirth, death, disability and retirement. On the principle that coverage extends to insured persons' families, it is estimated that the number of beneficiaries may be as great as 80,000, or over 60 per cent of the population.

294. Each public and private sector worker contributes 10 per cent of monthly earnings to the social security system (6 per cent is deducted directly from salary, and the employer's contribution is 4 per cent).

295. Act No. 1/90 brought significant improvements to the mandatory scheme with the establishment of a voluntary social security scheme which more clearly defines the principles that guide welfare services.

296. Despite the progress that this represents, the scheme applies to only part of the population and is as yet of very limited scope.

297. The chief concerns of the Welfare Fund are medical evacuations abroad, very low-income families, and aid for the unemployed in straitened circumstances and disaster victims.

298. This being so, the family allowances carried over from the colonial period - i.e. the amounts payable to workers with dependent children up to the age of 14 - have been abolished.

299. Owing to the decline in the economy and financial constraints, social security benefits are far from adequate and cannot meet the needs of beneficiary families.

#### **E. Adequate standard of living**

300. The Constitution, the Civil Code and individual laws establish the principles and guarantee the exercise of the rights laid down in article 27, paragraphs 1 to 3, of the Convention.

301. The Constitution enshrines individual rights, including the right to life and a flat rejection of the death penalty, together with the economic social and cultural rights which are the main factors in an adequate standard of living for all - men, women, young people and children. It also proclaims the principle that the family is the basic unit around which the State is organized to bring about conditions permitting the overall development of children's physical and intellectual capacities and those of the population at large.

302. These rights cannot yet be guaranteed in practice, however, given the sizeable difficulties and objective constraints that are hampering the development of the country.

303. Life for the typical family in Sao Tome and Principe is one in which means of subsistence, conditions of hygiene, drinking water and electricity supplies, sanitation and food are all wanting.

## **F. Cooperation with State bodies and non-governmental organizations**

304. Sao Tome and Principe is cooperating with a number of multilateral (World Bank, United Nations Population Fund, World Health Organization, United Nations Development Programme, United Nations Children's Fund, European Union) and bilateral partners (Portugal, France, Taiwan) and with non-governmental organizations in developing its health sector.

305. The shortfall in financing for the health sector is made up to some extent by international cooperation.

306. The sectors which benefit most directly from foreign aid are the hospital centre, the mother-and-child health-care centre and the endemic diseases centre (malaria control).

307. The Coordination and Cooperation Office at the Ministry of Health was set up to improve coordination and the use of foreign assistance for the health sector.

## **VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### **A. Education**

308. In spite of the Government's proclaimed intentions and its efforts during the early years of independence, a shortage of available financial resources and trained staff has meant that major improvements in the level of coverage and quality of education have not been possible. According to the 1981 census, 37 per cent of the population aged 10 and over were illiterate, and up to 50 per cent of the female population was.

309. Among the population aged 15 and over, the 1981 census revealed large geographical variations and significant differences between urban districts (Agua Grande, the region around the capital) and rural districts (Caué, for example).

310. For example, the proportion of literate men in Agua Grande was 87 per cent, as against 44.7 per cent in Caué. The corresponding rates for women were 56 per cent and 21.4 per cent.

311. In 1981 again, educational levels were still very low: 7.9 per cent of the population had completed junior school (fifth and sixth grades) while only 0.7 per cent had completed high school. The higher education rate was 0.1 per cent.

312. Ten years on, the 1991 census showed substantial improvements.

313. The overall illiteracy rate had been reduced to 25.1 per cent, 16.5 per cent among women and 8.5 per cent among men, the illiteracy rate among women still being higher in almost all age groups. The inequality was also seen in the geographical spread, with higher illiteracy rates in the most rural districts.

314. As the table below shows, educational levels are still very low.

**Table 1****Levels of education in the population aged 10 and over, by sex (percentage)**

Level of education	Men	Women	Total
No diploma	22.7	25.5	24
Primary	64.1	64.9	64.5
Secondary	4.8	3.1	4
Vocational	1.2	1.5	1.4
Pre-university	1.6	0.7	1.2
Higher	1.1	0.4	0.9
Not stated	4.5	3.9	4.2
Total	100	100	100

*Source:* 1991 census.

315. The school attendance rate in 1991, i.e. the number of children of school age actually attending school, was 30.4 per cent - 31.5 per cent of boys and 29.4 per cent of girls.

316. The breakdown by sex shows an imbalance in almost all age groups, as can be seen from table 2.

**Table 2****School attendance by sex and age group**

Age	Student population			Percentage		
	Total	Male	Female	Total	Male	Female
6-9 years	9 395	4 669	4 726	60.2	29.9	30.3
10-14 years	13 776	6 950	6 826	80.8	40.7	40.0
15-19 years	4 340	2 306	2 034	34.3	18.2	16.1
20-24 years	931	526	405	9.3	5.3	4.1
25-29 years	313	181	132	3.8	2.2	1.6
30 years and over	142	72	70	0.5	0.3	0.2
Total	28 897	14 704	14 704	30.4	15.5	14.9

*Source:* 1991 census.

317. According to the Ministry of Education, there were in 1996 some 7,000 children attending 13 kindergartens (urban districts) and 93 nurseries (rural districts) staffed by 140 teachers and aides.

318. The primary school system consisted of 69 schools with 298 classrooms attended by 21,016 pupils taught by a staff of 638, of whom 306 had no training in primary teaching.

319. The secondary school system consisted of 10 schools, 1 of them on the island of Principe. There are only two schools, one on Principe and the other on Sao Tome, offering ninth grade, while tenth and eleventh grades exist only in the capital.

320. Secondary education was provided, in 1996, by 415 teachers, of whom 83 per cent had not received appropriate training.

321. No twelfth grade class has ever been offered.

322. Technical and vocational training is given at the Polytechnic Centre, which trained roughly 300 professionals in civil construction and mechanical and electrical engineering between 1987 and 1995.

323. In the academic year 1998/99, a shortage of classrooms led to the abolition of the pre-primary class, thus reducing the duration of primary education to three years, and to the introduction of a school year with a triple-shift system.

324. The tables below show changes in attendance at the primary, secondary and pre-university levels.

**Table 3**

**Changes in attendance at primary school (1975-1999)**

School year	Number of pupils
1975/76	14 290
1985/86	19 574
1995/96	21 010
1998/99	21 016

*Source:* World Bank report.

325. The numbers of pupils attending basic secondary school have varied greatly up to now. At independence, some 3,776 pupils were enrolled in secondary school, representing approximately 20 per cent of the population of the country. Ten years later, secondary school pupils numbered 11,107, making for an increase of 7,331 pupils in nearly 25 years.

**Table 4**

**Changes in attendance at basic secondary school (1975-1999)**

School year	Number of pupils
1975/76	3 776
1985/86	4 877
1995/96	11 352
1998/99	11 107

326. As mentioned earlier, the pre-university level is available only in the city of Sao Tome, at the national high school. Enrolment at this level has been uneven, with the number of pupils declining between 1982/83 and 1990/91 from 589 to 311.

**Table 5**  
**Changes in attendance at the pre-university level (1982-1996)**

School year	Number of pupils
1982/83	589
1985/86	450
1990/91	311
1995/96	604

*Source:* Ministry of Education and Culture and PARTEX report.

327. Although the Ministry of Education and Culture regards the current school enrolment levels as satisfactory given the general situation in the country, these figures need to be looked at in the light of the quality of instruction, and in this sense the situation is rather alarming.

328. Beside the fact that most teachers do not have appropriate training, the academic year theoretically offers 36 weeks of schooling; according to data for 1995/96, however, 43 per cent of pupils attended schools with a triple-shift system during the year, and 57 per cent had a double-shift system.

329. Fewer than 7 pupils in 10 completed the school year. The drop-out rate in primary schools was 30.3 per cent, being highest in first grade (around 40 per cent) and diminishing steadily in higher classes to 21.1 per cent in fourth grade.

330. Children repeating grades was also a matter of concern in secondary education. The repeat rate was above 60 per cent in ninth grade and 44 per cent at the pre-university level, being particularly prevalent in eleventh grade, where it was above 50 per cent.

**Table 6**  
**Repeat rates in secondary education (1995-1996)**

Grade	Repeat rate
Fifth	17
Sixth	18
Seventh	36
Eighth	39
Ninth	67
Average, fifth to ninth	29
Tenth	35
Eleventh	51
Average, tenth to eleventh	44
Overall average	32

331. Combined with the drop-out rate, the repeat rate is the main reason for the steady dwindling in numbers of children in education, which is particularly pronounced at the top of the pyramid. The narrowing of the pyramid shows the problem of the crossover classes, in particular the transition between fourth and fifth, seventh and eighth and, lastly, ninth and tenth grades.

**Table 7**

**Repeat rates in primary schools (1992-1993)**

Grade	Number of pupils repeating				Repeat rate
	First time	Second time	Third time	Total	
First	2 068	547	102	2 717	39.5
Second	1 246	381	85	1 722	29.5
Third	973	215	78	1 266	26.2
Fourth	728	133	63	924	21.1
Total	5 015	1 286	328	6 629	30.3

*Source:* World Bank.

332. Costs per pupil increase higher up the education system. They are around US\$ 50 per pupil in primary schools, rising to US\$ 80 in secondary education and up to US\$ 100 at the pre-university level.

333. The importance of outside assistance for the education sector, not least under the heading of public investment, must be emphasized. Outside funding increased considerably over the period 1993-1995, then fell off sharply in 1996.

334. Education is financed partly out of the general State budget and partly from outside assistance. In the total budget, according to a World Bank report produced in 2001, public expenditure on education has increased over the last five years from 10 per cent to 15 per cent of current spending and from 1.2 per cent to 2.2 per cent of GDP. These levels are considered low by comparison with comparable countries, where education spending accounts for between 20 per cent and 25 per cent of current State expenditure and 4 per cent of GDP. Primary education absorbs around 52 per cent of total spending.

335. Sao Tome and Principe having joined the heavily indebted poor countries initiative and decided to devote part of the resources which would otherwise have gone towards servicing external debt to the education and health sectors, it must be hoped that external funding levels for the education sector will increase from 2001 onwards.

**Table 8****External public investment in education (millions of dollars)**

	1993	1994	1995	1996
Education, culture and sport	1.6	3.62	4.54	1.97
Total external public investment	17.3	19.65	21.75	28.91
Percentage invested in education	9.25	18.42	20.87	6.81

336. With the addition of investment outlays financed from external assistance and included within GDP to overall education spending, the resulting figure amounts to 11.9 per cent of GDP. As, however, the current budget represents only 8.4 per cent of total spending on education, this, at no more than 1 per cent of GDP, is very low in relation to that of comparable African countries.

**B. Aims of education**

337. Education, as an important indicator of a country's development, has been one of the priorities of the Government of Sao Tome and Principe since the first years of the country's independence.

338. Education is seen as a process through which adults transmit knowledge to the younger generation, as well as the techniques that youngsters need to acquire knowledge and adapt it to their needs, thereby laying the basis for their development. In Sao Tome and Principe, this process has undergone significant changes in the years since independence. The country has endeavoured to create a situation in which all citizens, particularly children of school age, enjoy equal access to education and equal opportunities, in contrast to the elitism observed during the colonial period.

339. Decree No. 53/88, which regulates the present national education system, reaffirms the principle of equal access and opportunities. Its ultimate aim is to eliminate illiteracy, so that all citizens have access to knowledge and are able to fully develop their talents.

**C. Leisure, recreation and cultural activities**

340. Article 31 of the Convention recognizes the right of the child to rest, leisure and play and to recreational, cultural and artistic activities.

341. The problem is that there are very few leisure or sports facilities for children in Sao Tome and Principe. In schools, sports equipment is non-existent and there are no special play areas.

342. The most popular sport is football. Serious problems persist in the field of sport, which plays a vital part in children's development.

## VIII. SPECIAL PROTECTION MEASURES

### A. Children in situations of emergency

343. There are no cases of children considered as refugees or enjoying refugee status in Sao Tome and Principe.

344. However, the country's Constitution guarantees appropriate protection and humanitarian assistance to people in situations of emergency. Article 12 proclaims Sao Tome and Principe's acceptance of the principles of the Universal Declaration of Human Rights and the purposes and principles of the Organization of African Unity and the United Nations.

345. Political asylum is granted to foreigners who are persecuted or seriously at risk because of their activities to promote democratic rights (Constitution, art. 40).

346. It is clear that most of the children who do not go to school are street children selling various items to keep themselves and their families alive.

347. According to a study carried out in January 1999 on children at risk, 54.2 per cent of the children who go to school in the Agua Grande district live with their mother alone, and 58.2 per cent of children do not go to school.

348. The situation of children in Sao Tome and Principe is already difficult enough within the family because of the instability of the family as an institution, but when parents separate and mothers find themselves alone with responsibility for a large family of children whose fathers are absent, the children's situation gives cause for even greater concern, and they often end up on the street. This scenario reflects the social situation of many families in Sao Tome and Principe.

349. The average age of children who work in the street is 12.

350. The separation of their parents often marks the beginning of children's problems in terms of malnutrition, school dropout, crime, etc.

351. To try to improve the situation, a committee has been set up in Sao Tome and Principe to help street children. The International Committee of the Red Cross, Caritas and the World Food Programme are among the organizations represented on the committee. However, it is still not known how many abandoned or semi-abandoned children are living in the street and left to their own devices.

352. Among the main causes identified are irresponsible fathers, the financial problems of mothers or grandmothers (the people who usually take care of children) and the deep economic and social crisis in the country.

353. It should be stressed that the number of households headed by a woman is very high, as women suffer most from the consequences of the economic and social crisis in the country.

## **B. Children in conflict with the law**

### **1. Administration of juvenile justice**

354. Responsibility for sanctioning minors who commit offences before the age of 16 lies with the juvenile courts (Decree No. 417/71, art. 16).

355. The aim of the juvenile courts is to assist minors by taking preventive measures in the areas of protection, assistance or education and to defend their rights and interests by taking appropriate civil measures.

356. The juvenile court consists of a judge and a guardian; the latter's task is to look after minors' interests and determine their rights.

357. Another of the guardian's tasks is to represent minors in court, as the principal party, and to attend hearings presided over by a judge.

358. The necessary inquiries are carried out by social workers.

359. At the trial stage, or at any time before then, the judge may call on the assistance of one or more experts on child protection.

360. It is always possible to appeal against the decisions of juvenile courts.

### **2. Children deprived of their liberty**

361. Under the Constitution, no one may be subjected to torture or cruel, inhuman or degrading treatment or punishment (art. 22).

362. No one may be deprived of their liberty except in the cases provided for by law and following a judicial decision (art. 35).

363. No punishments or security measures that restrict a person's liberty or deprive a person of it permanently or for an unlimited or undefined period are permitted (art. 37).

364. In cases of imprisonment or arbitrary detention resulting from an abuse of authority, citizens may apply for a writ of habeas corpus (art. 38).

365. The pre-trial custody of a minor may not exceed 30 days and must always be served in a suitable room in the court or in a remand prison.

### **3. Sentencing of juveniles**

366. Once the inquiry into the facts has been completed, the judge delivers the judgement, but only after hearing the guardian.

367. The guardian, the minor's legal representative or the institution responsible for the minor must be informed of the final decision.

368. Of the sanctions that are applicable, the court chooses the one that is most appropriate in each case, while taking into account at all times its practicability, the actual capacity of the sectors and services concerned and other specific factors that increase the likelihood that the sanction handed down will be effective (Decree No. 417/71, art. 22).

369. Under the Constitution, the court's decision may never involve subjecting the minor to torture, cruel, inhuman or degrading punishment or treatment or to life imprisonment.

370. The court's decision is always open to appeal.

#### **4. Physical and psychological recovery and social reintegration**

371. Under article 39 of the Convention, States have an obligation to take appropriate measures to promote the physical and psychological recovery and social reintegration of children at risk (the victims of neglect, exploitation or ill-treatment).

372. No studies have been carried out in Sao Tome and Principe on the question of children at risk, but it has been observed that in most cases such children are the victims of neglect.

373. Generally speaking, the following factors are decisive in cases of child neglect:

Families living in poverty;

Unemployment;

Low wages;

Illiteracy or low cultural level;

Lack of housing or serious overcrowding;

The fragility and precariousness of the family unit in San Tome and Principe, which leads to situations in which children whose fathers are absent live in households headed by their mother or with other relatives, especially grandmothers, who play a vital role in this respect.

374. The country makes no special provision either in its judicial system or in its social institutions to deal with this kind of problem.

375. The fact that juvenile crime is still not a major concern for the people of Sao Tome and Principe perhaps explains the current situation to some extent. However, it would not be far-fetched to start thinking about the need for and practicability of adequately funded mechanisms that would be able to deal with situations of this kind.

#### **C. Children in situations of exploitation**

376. There is no record of cases of child exploitation in Sao Tome and Principe.

377. However, measures need to be taken now to prevent such situations from arising.

378. Children in Sao Tome and Principe, like children everywhere, are particularly prone to abuse or humiliating treatment, if only because they are small and physically less capable of protecting and defending themselves.

379. Perhaps because of the country's remote location and relative lack of contact with the behavioural models found in more developed societies, certain kinds of free, extravagant behaviour that are common elsewhere are still seen as abnormal in Sao Tome and Principe. For the moment, therefore, only traditional forms of child exploitation, such as child labour, are found, while other, more sophisticated forms of exploitation occur only sporadically.

### **1. Economic exploitation, including child labour**

380. Act No. 6/92, which established the legal regime covering working conditions, also regulates child labour.

381. The minimum age for admission to employment is 14. Children below the age of 18 may not work for more than 7 hours a day and 35 hours a week.

382. Under the Act, minors can only sign an employment contract and receive remuneration for their work with the consent of their legal representative.

383. The Act imposes an obligation on employers to make sure that the working conditions for child workers are appropriate to their age and to their technical and vocational training.

384. Employers may not force children to work at night or to work overtime, except in the cases provided for by law.

385. Legislation in Sao Tome and Principe thus protects children from economic exploitation at work.

386. However, child labour, despite all its negative consequences, is undoubtedly the most common form of child exploitation in Sao Tome and Principe. According to the multiple indicator cluster survey carried out in December 2000, 20 per cent of the children in Sao Tome and Principe can be considered to be working.

387. The same survey indicates that barely 2 per cent of children aged between 5 and 14 perform paid work, while 6 per cent do unpaid work for someone other than a member of their close family. The survey also reports that about 70 per cent of children spend up to four hours a day, and 5 per cent even more, on household tasks such as cooking, washing clothes or dishes, fetching water or taking care of younger children.

388. Overall, the data paint a picture of child exploitation that cannot and should not be considered as normal. However, some of the data are related to a way of life that virtually forces children to participate in tasks essential to the sustenance and survival of their immediate family and that is imposed on them by the high cost of living and the need to survive.

389. Nevertheless, the consequences of child labour are always the same. The more time children spend working or doing household chores, the less time they have for school; and the less access they have to learning and the know-how provided by schools, the more difficult it

will be for them to find a well-paid job. They risk being drawn into a vicious circle of deprivation and poverty. At the very least, there is a real risk that poverty will become self-perpetuating - a fate that must at least be challenged by gradually establishing the conditions in which it can be avoided.

390. Nevertheless, there are no data to prove categorically that there are children in Sao Tome and Principe who are the victims of economic exploitation at work.

391. The role of parents and educators in this complex phenomenon should not be underestimated, as it is mostly they who encourage children to look for a job in order to contribute to household finances. This is understandable, even if one disagrees with their position, which is in any case at odds with the reforms and measures that could change this situation.

## **2. Drug abuse**

392. Although there are no studies to show the extent of this problem in Sao Tome and Principe, certain signs can be observed among people in the younger age bracket that suggest it would be advisable to pay attention to the problem before it gets worse with the opening up of the country to the outside world and the arrival of large numbers of immigrants, particularly from Nigeria.

393. Sao Tome and Principe has ratified all the international conventions on combating drug use and trafficking and has set up a national commission on drug use. However, the commission's work is not yet very clearly defined and is limited to a few activities aimed at raising awareness of the dangers posed by narcotics to society.

## **3. Sexual exploitation and sexual abuse**

394. The legislation of Sao Tome and Principe clearly protects children under the age of 16 from sexual violations. If the girl is under 12 years of age, her consent to sexual intercourse is totally irrelevant insofar as the law stipulates that a girl of that age is not capable of taking her own decisions. For this reason, the act is always treated as rape and is punishable by between 8 and 12 years' imprisonment (Criminal Code, art. 394).

395. If the girl is over 12 but under 16 years of age, consent does make some difference. The sexual act is still punishable with a prison sentence, but it is classed either as debauchery, if consent was obtained by means of seduction, or as indecent assault (Criminal Code, arts. 391 and 392).

396. When the sexual act is carried out against the wishes or without the consent of the victim, it constitutes rape, and is punishable by between two and eight years' imprisonment (Criminal Code, art. 393).

397. Abduction with violence or deception for violent purposes is also punishable by imprisonment.

398. The abduction of children under the age of 18, even with their consent, is a crime punishable by a prison sentence.

399. Sexual offences in which the perpetrator and the victim are linked by kinship or a position of authority or subordination are treated by the law as aggravated offences.
400. Incitement of minors to debauchery, or, in other words, performing acts that encourage, facilitate or permit the depravation or corruption of minors, is a crime punishable by a prison sentence (Civil Code, art. 406).
401. The juvenile court has the authority to order tutelary measures in respect of children under the age of 16 who engage in prostitution.
402. The court may withdraw parental authority or suspend the rights of parents whose behaviour is depraved and criminal and incompatible with their obligations.
403. Although the precise extent of the problem in Sao Tome and Principe is not known, cases of sexual abuse of minors, especially girls, are reported. They are mostly cases of seduction by adult family members or neighbours taking advantage of the child's naivety and the hardships suffered by the child and the child's family, sometimes using force and intimidation.
404. At present, the lack of systematic information on the subject, in addition to its private and sensitive nature, means there is a wall of silence around all these problems, although anecdotal evidence suggests the situation is getting worse. The problem does indeed appear to be getting worse as a result of permissive behaviour and the decline of moral and social values, which may well have something to do with the crisis in the family.
405. The trend now appears to be away from the exploitation of children for purposes unrelated to money and towards their exploitation purely for financial gain. In other words, all the signs are that we are rapidly moving towards a situation in which children are prostituted and sexually exploited in more sophisticated ways, in many cases with the consent and complicity of the adults on whom they are dependent.
406. This view is confirmed by the cases of missing children announced almost every day on national radio. It is very common to hear an announcement that a child is missing from home, or from the house of the person bringing up the child, with a request that anyone with information on the child's whereabouts pass it on to those concerned. However, after the announcement has been broadcast two or three times, no one ever hears about the case again or finds out what has happened to the child. There is therefore an urgent need to set up an effective institutional mechanism to monitor, record and follow up situations like this in which children are put at risk.

#### **4. Other forms of exploitation**

407. As mentioned above, because of the country's relative isolation from the outside world and the lack of studies on the extent and nature of the problem, as well as the lack of institutions to deal with child exploitation and welfare issues, Sao Tome and Principe is still some way from experiencing the more sophisticated forms of child exploitation. For this reason it is not possible to talk here about any forms of exploitation other than child labour and sexual practices involving children.

## **5. Sale, trafficking and abduction**

408. The Criminal Code provides for penalties of up to eight years' imprisonment for the removal, concealment, swapping, kidnapping or abduction of minors (arts. 342-345 and 396).

409. The legislation of Sao Tome and Principe does not yet explicitly address the sale or trafficking of children.

410. There have so far been no known cases of such practices in Sao Tome and Principe. Although it might be suspected that some young children have been taken abroad, perhaps in exchange for payment, it is hardly possible to speak of the sale of children in the sense of transactions organized purely for profit.

411. It would be even more difficult to talk of organized trafficking taking place on a continuous basis. The abduction of either children or adults is as yet unheard of.

412. This fortunate situation should in no way prevent precautionary and preventive measures from being included in plans for legal reform or in the programmes of the relevant social institutions.

## **D. Children belonging to a minority or an indigenous group**

413. To all intents and purposes, there are no specific problems related to ethnic, religious or other minorities in Sao Tome and Principe. Although some cases could be found, they are not serious enough from either a social or a legal viewpoint - the law being the same for everyone - to be reported here. There is therefore nothing to be added at the moment with regard to either children or adults in this respect. Hopefully, this will be the situation in the future too.

414. Nevertheless, given the extreme poverty to be found in the country, mainly among single mothers with large families of children whose fathers are absent and among older people left to fend for themselves without a family - many of whom come from former Portuguese colonies which they left after enlisting - it would be advisable to draw up a coherent anti-poverty policy that would really involve the whole population in the development process.

## **IX. CONCLUSIONS**

415. The implementation of the Convention and the harmonization of domestic legislation with it are as yet incomplete.

416. The results achieved are still very far from the objective of significantly improving the welfare and development of children and young people. There are several kinds of constraint, particularly the lack of medium- and long-term development programmes and the lack of coordination between current programmes. Such coordination would have given an overview of the impact of the programmes on the situation of children.

### **A. Publicizing the Convention**

417. Although Sao Tome and Principe ratified the Convention in 1991 and although the Constitution and other laws of the land guarantee fundamental human rights and non-discrimination, legislative coverage is still far from satisfactory. Mechanisms still need to be established to protect children from all forms of violence. Likewise, the process of raising awareness about children's rights, which has virtually been entrusted to uncoordinated non-governmental organizations, is unlikely to have much of an impact on society.

418. In the absence of an institution with direct responsibility for children's issues, the action taken so far, though positive, has been carried out in piecemeal fashion by the public and private sectors with no overview and with no prospect of mobilizing society for the defence of children's rights.

### **B. Children's health**

419. The Constitution, the laws and the Government's programmes devote a good deal of attention to the health of children, young people and women. However, all the efforts made in the health sector, especially since the mid-1990s, have proved insufficient: the mortality rate for children under the age of 5 is still very high and in some cases has even risen.

420. Moreover, the poor state of the environment, which is getting even worse because of the lack of sanitation and because of communities' inability to manage and maintain infrastructure, has serious repercussions on public health.

421. The management of the health-care system is beset by numerous problems, the most serious of which are:

The lack of an overall frame of reference (national health policy, health development plan, national policy on pharmacies);

The widespread inefficiency of information and management systems and, more generally, of management as a whole (human resources, logistical and financial resources);

Variable infrastructure and the marked deterioration of health facilities;

Poor deployment of human resources and demotivation as a result of low salaries and poor working conditions;

Lack of specialists among doctors from Sao Tome and Principe;

Extreme concentration of medical demands on the hospital service in Sao Tome;

The fragility of intra and intersectoral cooperation mechanisms;

Frequent interruptions of medical supplies and delays in reorganizing the supply chain;

The lack of coordination of external aid.

### **C. Nutrition**

422. Because of the as yet limited development of the agricultural production sector, food insecurity is rife in Sao Tome and Principe, leaving the country extremely dependent on food imports.

423. The country has no plan of action in this area, despite the urgency of the situation.

424. As a result of the deteriorating social and economic situation in the country, nutritional deficiencies are getting worse, affecting, in particular, children aged between 6 and 11 months who are being weaned.

425. Growth retardation tends to be more pronounced after the first 12 months of life because of the shortage of breast milk. According to the multiple indicator cluster survey, 13 per cent of children under the age of 5 are underweight, 29 per cent suffer from growth retardation and 4 per cent are too thin. Poor nutrition is more marked when the children's mothers have a very low level of education or are illiterate.

### **D. Education**

426. The Constitution, laws and government decrees guarantee the right of all citizens to education and regulate the national education system with the aim of giving effect to this right.

427. However, although the Government recognizes the importance of pre-school education for children under the age of 5 in promoting their development and preparing them for entry to primary school, only 17 per cent of children have access to such education. The difficult social and economic situation, the privatization of farming enterprises and increasing poverty affecting parents, together with the lack of facilities, human resources and teaching materials, have made the situation of pre-school education increasingly critical.

428. There is a relatively high rate of entry to basic education, which by law consists of six years of compulsory schooling, in comparison with sub-Saharan African countries. However, the decline observed since 1988-1989 and the gap between the number of pupils enrolled in first grade and those who reach fourth grade (at the end of primary school) and between first-graders and those who are eventually enrolled in fifth grade (the beginning of secondary school), is very worrying. Almost half (47 per cent) of the children who are enrolled in first grade do not reach fifth grade. At the same time, the aim of extending compulsory schooling to six years has not been achieved because of constraints in terms of facilities, physical conditions and human resources.

429. It has to be said that the campaign against illiteracy in Sao Tome and Principe produced really positive results when the country designed and implemented a policy with very clear, well-planned objectives. Thus, the illiteracy rate was reduced to 30 per cent in the early 1980s. Now that the literacy campaigns are over, some regression can be observed if one looks not just at the people who cannot read or write but also at the people, especially women, who are still unable to read properly even after following literacy courses.

### **E. Children in difficult situations**

430. Child labour is an increasingly visible phenomenon in urban centres in the country, but there are not enough reliable data available to evaluate its extent. Because of the poverty to which many families are doomed, particularly in the case of single mothers with large families, child labour is increasingly seen as a source of extra income, even though it is well known that children who work are less likely to attend school and more likely to drop out of school.

431. With regard to the use of drugs, tobacco and alcohol by children, the seriousness of the problem is clearly related to the permissive behaviour of adults and to social and economic problems. However, there are not enough data available to assess the impact of the problem.

432. As the country opens up to the outside world, it will be necessary to address the problem of drugs and to take steps to prevent and combat abuse, and to establish a suitable institutional framework. Sao Tome and Principe has ratified all the conventions against drugs.

433. No specific steps have been taken to enable handicapped children to become integrated in society: these children suffer from double discrimination.

### **X. RECOMMENDATIONS**

434. With regard to the harmonization of domestic legislation with the principles of the Convention, many areas need to be regulated in order to protect more fully the interests and rights of the child, particularly by establishing juvenile courts and increasing the penalties for sexual offences and all forms of violence against children and young people.

435. Action to help children is currently taken on a sectoral basis with no overview and no national action plan aimed specifically at children and young people. It is therefore important to set up a national commission to support children and young people, taking the Convention as its starting point; its task would be to coordinate actions to promote the safety and protection of children and young people.

436. The commission should centralize the collection of indicators and statistical data on the impact of the policies and programmes now being implemented so as to help fine-tune them and improve their results. The commission would be a focal point for action taken by non-governmental organizations and would have several courses of action available to it, including the promotion of studies and the provision of institutional support to associations with a view to strengthening their capacity to design and set up programmes.

437. In order to publicize the Convention and raise awareness about children's rights, it will be necessary to make more use of the media and to introduce training and provide information for teachers and pupils.

438. The media also need to be involved in the process of raising the awareness of parents, teachers and society in general about the importance of children's welfare and development.

### **A. Education**

439. In the light of the above comments, there appears to be an urgent need to:
- (a) Review the national education system;
  - (b) Adopt a programme to improve education, with the following aims:
    - Increase opportunities for access to education;
    - Reduce the dropout, repeater and illiteracy rates;
    - Increase the number of schools in accordance with an updated review of demand;
    - Equip schools and provide textbooks and teaching materials;
    - Invest in teacher training and in-service training, wherever possible using new communication technology;
    - Train primary-school inspectors and give them the means to provide support and carry out inspections in remote regions;
    - Make provision for school awards and end-of-year prizes;
    - Set up groups of experts to reform the curricula at each educational level, allocating sufficient resources for them to be independent and carry out research;
    - Provide training leading to a recognized diploma for members of parent associations;
    - Provide a wider range of vocational courses.
  - (c) Gradually increase current-account spending on education over a period of three years to bring it up to 20 per cent of the State budget.

### **B. Health**

440. The Government has prepared a high-priority plan of action for the period 2002-2003 with a view to:
- (a) Adopting a national health policy and development plan;
  - (b) Drawing up a timetable for introducing promised increases in the Ministry of Health's budget;
  - (c) Establishing a national fund for medicines and introducing the new legislation on pharmaceuticals;

- (d) Stepping up the fight against malaria by means of information, education and communication campaigns, the distribution of impregnated mosquito nets, support for laboratories and the provision of anti-malarial medicines;
- (e) Combating sexually transmitted diseases and AIDS (preparation of a strategic plan and an information, education and communication campaign);
- (f) Establishing a permanent epidemiological surveillance system;
- (g) Improving the design of teaching materials;
- (h) Introducing training, specialist and refresher courses for district health workers (40) and for community health officials and traditional midwives (160);
- (i) Renovating existing health centres and building and equipping nine new ones (five in Agua Grande, two in Mé Zochi, one in Caué and one in Cantagalo);
- (j) Supplying three hospitals (in Neves, Angolares and Principe) with laboratory equipment;
- (k) Increasing the operational and managerial capacity of the Sao Tome hospital.

### **C. Children in difficult situations**

441. Given the social and economic difficulties facing families in San Tome and Principe and in order to ensure real protection for children, as set out by the Government in its strategic options for the period up to 2005, it will be necessary to:

Revise the legislation on social welfare so that the social welfare system can be reorganized to provide universal coverage and to allow the introduction of a voluntary scheme to supplement the current compulsory scheme. It will also be necessary to revise Act No. 2/77 on the family along the same lines;

Strengthen and improve the capacity of the National Institute and Department of Social Welfare by introducing computer-based services and training social workers to manage the system more efficiently.

442. There is also an urgent need to draw up a policy on partnerships with non-governmental organizations, associations and foundations promoting the protection and safety of children and young people, by raising the funding needed to support them in their work. Steps also need to be taken to encourage the expansion of current activities to help street children, youngsters who do not go to school and the disabled.

443. With regard to the problem of drug and alcohol use, a national programme needs to be set up to combat drug trafficking and use before the problem gets worse, and the existing regulations on alcohol use need to be upgraded to a law in order to give them greater legal force.

444. As far as children in situations of exploitation are concerned, the extent of the problem in Sao Tome and Principe needs to be studied and support mechanisms set up for children in the areas of psychological and social development, work, leisure activities, education and housing; centres also need to be set up to care for children in emergency situations.

445. Lastly, mechanisms need to be established to study and monitor any cases in which children are at risk, including the abduction, trafficking and sale of children, and to severely punish the perpetrators of such acts.

### **Documents cited in this report**

Act No. 2/77 on the family

Act No. 6/90 on nationality

Act No. 6/92 on the regulation of working conditions

Civil Code

Constitution of Sao Tome and Principe, 1990

Criminal Code

Decree No. 417/71 on legal assistance for minors

Framework law on the education system, 31 December 1988

Ministry of Health, Children at risk in the Agua Grande district, 1999

Ministry of Planning and Finance, Analysis of the population and gender situation in Sao Tome and Principe, February 2001

Multiple indicator cluster survey, Sao Tome and Principe, December 2000

Population census, 1981 and 1991

Programmes of the Government of Sao Tome and Principe, 1992, 1996 and 1998

Sectoral consultations on the health sector, Sao Tome and Principe, May 1995

Strategic options up to 2005, Sao Tome and Principe, October 2000

United Nations Children's Fund (UNICEF), Children and women in Sao Tome and Principe, 1995

United Nations Development Programme (UNDP), *Human Development Report, 1998*

World Bank reports, 1992/93, 1995/96 and 2001

-----