

ACCESS TO JUSTICE FOR CHILDREN: **SAO TOME AND PRINCIPE**

This report was produced by White & Case LLP and Child Rights International Network (CRIN) in August 2015. CRIN takes full responsibility for any errors or inaccuracies in the report.

I. What is the legal status of the Convention on the Rights of the Child (CRC)?

A. What is the status of the CRC and other relevant ratified international instruments in the national legal system?

Sao Tome and Principe (“STP”) became a party to the CRC by accession on 14 May 1991.¹ As at the date of this report it has not ratified any of the Optional Protocols to the CRC.

According to Article 13.2 of the STP Constitution,² international conventions, treaties and agreements that are duly approved and ratified by the competent authorities, are an integral part of the STP national order as soon as they are ratified and published, and as long as they are in force in the international legal order.

Sao Tome and Principe has ratified, among others, the following other international human rights instruments: the ILO Convention 138 on the Worst Forms of Child Labour, the ILO Convention 183 on the Protection of Motherhood, the Anti-Corruption Convention, the Convention on the Illegal Trafficking of Drugs and Psychotropic Substances, and the Convention against Human Trafficking, particularly women and children.³ In 1986, the country signed the African Charter on the Rights and Welfare of the Child but has not yet ratified it.⁴ As a result, the Charter has no binding effect in the national legal order.

B. Does the CRC take precedence over national law?

The CRC does theoretically take precedence over national law. The STP Constitution recognises that international conventions, treaties and other international agreements that are duly approved and ratified by the competent authorities prevail over internal legislative and normative acts. If a conflict arises between a treaty and the Constitution, the latter should prevail since treaties do not have supra-constitutional status. However, Article 144.2. of the Constitution states that if a treaty regularly approved and ratified is found unconstitutional after its entry into force, the treaty provisions prevail, except

¹ Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en.

² Constituicao da Republica Democratica de Sao Tome e Principe, Lei no. 1/2003, available at: <http://www2.camara.leg.br/saotomeeprincipe/constituicao/constituicao-da-republica-democratica-de-s-tome-e#a95>.

³ *Combined second to fourth periodic reports of Sao Tome and Principe to the UN Committee on the Rights of the Child*, CRC/C/STP/2-4, 15 November 2011, para. 5. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fSTP%2f2-4&Lang=en.

⁴ Available at <http://www.achpr.org/states/>.

when they are contrary to fundamental provisions of the Constitution.

C. Has the CRC been incorporated into national law?

The CRC was automatically incorporated into STP law upon ratification (see part I.A above).

Sao Tome and Principe's latest report to the CRC (the "2011 Report") states that the "full exercise of all human rights, and those of children in particular, are closely linked to the progressive and successful attainment of development objectives." In other words, according to the Sao Tomean reporting body, implementation of the principles emphasised in the CRC is limited by 1) the high poverty rate, 2) "economic difficulties," and 3) a lack of alternative institutions, structured, coherent policies and programs for sheltering and following up child risk.⁵

Despite these difficulties, Sao Tome and Principe has adopted certain laws that incorporate aspects of the CRC. For example, Law No. 7/2010 aims to establish a justice system for children and Law Nos. 11/2008 and 12/2008 aim to strengthen the legal mechanisms for the protection of victims of domestic violence. Additionally, Sao Tome and Principe revised its Criminal Code in August 2012 and enacted Law No. 5/2008 to regulate the entry and exit of minors into the State party with a view to preventing child trafficking.⁶

Overall, the 2011 Report concludes that Sao Tome and Principe is "on its way toward the harmonisation of the CRC with national legislation, although it must continue to invest in the process of review and drafting of new laws to perfect aspects."⁷ Nonetheless, the CRC's summary report (2013) urged Sao Tome and Principe to develop a comprehensive strategy and national plan of action for implementing the CRC,⁸ which has yet to be done.

D. Can the CRC be directly enforced in the courts?

It is unclear whether lawsuits can be directly based on the CRC or international treaties, but theoretically this is possible given that the CRC is an integral part of the STP national legal order.

E. Are there examples of domestic courts using or applying the CRC or other relevant international instruments?

No. There are no reliable resources for locating cases in Sao Tome and Principe.⁹

⁵ *Combined second to fourth periodic reports of Sao Tome and Principe to the UN Committee on the Rights of the Child.*

⁶ UN Committee on the Rights of the Child, *Concluding observations on the combined second to fourth periodic reports of Sao Tome and Principe*, CRC/C/STP/CO/2-4, 29 October, 2013. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fSTP%2fCO%2f2-4&Lang=en.

⁷ *Combined second to fourth periodic reports of Sao Tome and Principe to the UN Committee on the Rights of the Child*, para. 221.

⁸ UN Committee on the Rights of the Child.

⁹ The website for the country's Supreme Court contains little information about current or past cases in any context, but particularly in application of the CRC and other international instruments. Available at:

II. What is the legal status of the child?

A. Can children and/or their representatives bring cases in domestic courts to challenge violations of children's rights?

Civil

Plaintiffs may bring civil lawsuits seeking damages for human rights violations. The Civil Procedure Rules¹⁰ allow children to bring cases in domestic courts through legal representatives.¹¹ The Civil Code states that, with the exception of emancipated minors, children under 18 years of age lack capacity to exercise their rights in court.¹² In principle, the parents are the legal representatives of a child.¹³ The Public Ministry represents child defendants when no defence is provided.¹⁴

Criminal

The Public Ministry is responsible for bringing criminal prosecution.¹⁵ In addition, the following equivalents to private prosecution are available:¹⁶

- “*Queixa*” (complaint).¹⁷ Some crimes have to be reported through a complaint to the Public Prosecutor, who will then initiate criminal prosecution.¹⁸
- “*Acusação Particular*” (private accusation): Some crimes that have to be reported through a complaint can only be prosecuted by the alleged victim him/herself.¹⁹

<http://www.stj.st/stj/index.htm>.

¹⁰ STP uses the 1966 Portuguese Civil Code (available at:

https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=7&cad=rja&uact=8&ved=0CE0QFjAGahUKEwig--f96JHHAhVpCNsKHeipCRg&url=https%3A%2F%2Ftrack.unodc.org%2FLegalLibrary%2FLegalResources%2FPortugal%2FLaws%2FPortugal%2520C%25C3%25B3digo%2520Civil%2520DL%2520344-1966%25201966.pdf&ei=AfHBVeD2MemQ7Abo06bAAQ&usg=AFQjCNGnevdiQBz-v2h9_aNy9Ut-rv3lmw&bvm=bv.99261572.d.ZGU) and the 1961 Portuguese Code of Civil Procedure as revised by a 1967 Decree (The 1967 Decree changing some provisions of the 1961 Code is available at: http://www.dgpi.mj.pt/DGPI/sections/leis-da-justica/pdf-leis2/dl-47690-1967/downloadFile/file/DL_47690_1967.pdf?nocache=1182362019.61. The 1961 Code is available at:

http://www.dgpi.mj.pt/sections/leis-da-justica/pdf-leis2/dl-44129-1961/downloadFile/file/DL_44129_1961.pdf?nocache=1182951595.6). However, Book IV (“Livro IV”) of the Civil Code was repealed and replaced by the STP Law 2/77 on the Judicial Regulation of Family Institutions, as provided by its Article 172, available at: <http://www.gddc.pt/CPLP/Codigo.pdf>).

¹¹ Code of Civil Procedure, Article 10.

¹² Civil Code, Articles 122-129.

¹³ Law 2/77, Article 85.e).

¹⁴ Code of Civil Procedure, Article 15.

¹⁵ Code of Criminal Procedure, Article 26, available at:

http://www.rjcp.org/sections/informacao/anexos/legislacao-sao-tome-e-2539/codigos-e-estatutos-sao2859/codigo-de-processo-penal1654/downloadFile/file/Cod_Proc_Penal.pdf?nocache=1365762812.35.

¹⁶ *Ibid.*, Articles 28 and 29.

¹⁷ This is also known as as “semi-public” prosecution.

¹⁸ For instance, parents or guardians who inflict abuse on children under 16 years of age who they are responsible for, fail to provide for their needs, or involve them in dangerous or inhuman activities, can only be prosecuted if the child files a complaint (Article 152 of the Criminal Code). Namely, other crimes that can only be prosecuted through a complaint are: Injuries due to negligence (Article 146 of the Criminal Code), threats (Article 153 of the Criminal Code), and duress (Article 154 of the Criminal Code).

¹⁹ All crimes “against honour” listed in Articles 185 and following of the Criminal Code must be

Habeas corpus is provided by Article 39 of the Constitution and governed by Article 157 of the Code of Criminal Procedure.

Administrative

Decree-Law 31/2005 creates the Code of Administrative Procedure.²⁰ However, no further information on how administrative law could be used to challenge child rights violations could be found.

- B. If so, are children of any age permitted to bring these cases by themselves in their own names/on their own behalf, or must the case be brought by or with the assistance of a representative?

As stated in part II.A above, children can normally only bring civil cases through their representatives.

Regarding private prosecutions, if the claimant is under 16 years of age or lacks discernment, only his/her legal representative can make a complaint (“*Queixa*”) and/or pursue criminal prosecution in the case of a private accusation (“*Acusação Particular*”). However, if the child is aged 16 or over, he/she can make the complaint on his/her own.

²¹

- C. In the case of infants and young children, how would cases typically be brought?

Cases would typically be brought in the same way as described in parts II.A and B above.

- D. Would children or their representatives be eligible to receive free or subsidised legal assistance in bringing these kinds of cases?

The right to a defence lawyer is guaranteed in criminal cases from the time of detention. The state provides for a trainee lawyer, but if one cannot be found, someone else can be appointed, “preferably with a Law degree”.²² Despite these guarantees, according to the 2013 concluding observations of the UN Committee on the Rights of the Child, “there is no free legal advice and representation for children in conflict with the law”.²³

There are no other provisions for state-funded legal aid in STP.

- E. Are there any other conditions or limits on children or chosen legal representatives bringing cases (e.g., would a child's parents or guardian have to agree to a case being brought)?

prosecuted through private accusation, pursuant to Article 195 of the Criminal Code.

²⁰ This Code was not found online, therefore no further details on administrative procedure in STP could be added.

²¹ Criminal Code, Articles 108 and 113, available at:

http://www.unodc.org/res/cld/document/stp/2012/codigo_penal_html/Codigo_Penal.pdf.

²² Code of Criminal Procedure, Articles 41 and 42.

²³ UN Committee on the Rights of the Child, para. 60(b).

There are no other such conditions or limits.

In guardianship cases, the best interests of the child are taken into consideration. When the parents disagree, the Public Prosecutor decides on the child's best interests.²⁴

III. How can children's rights violations be challenged before national courts?

- A. If there is a potential violation of the Constitution or other principles established in domestic law, or with the CRC or other relevant ratified international/regional instruments, how can a legal challenge be brought?

See part II.A above.

The Constitution ensures the right of children to be respected and protected by society and by the state,²⁵ and provides for the protection of certain human rights listed in Part II. However, individuals may not bring cases about violations of their constitutional rights directly before the Constitutional Court. Instead, a case may be referred to the Constitutional Court by another court if a party challenges the constitutionality of a norm that is being applied to them in the case.²⁶ The Constitutional Court will then issue a binding ruling.²⁷ An unconstitutionality claim can only be used to challenge a violation of the CRC if the particular CRC provision invoked is also protected by the Constitution.

African Commission on Human and Peoples' Rights

Individuals, groups or NGOs may submit complaints (known as "communications") to the African Commission on Human and Peoples' Rights ("African Commission") about violations of the African Charter on Human and Peoples' Rights ("African Charter").²⁸ All available domestic remedies must have been exhausted before bringing a case to the African Commission.²⁹ The complaint must include, amongst other things: the name of the person filing it or, in the case of an NGO, the name of the legal representative; whether or not the complainant wishes to remain anonymous and the reasons for this; and the name of the victim, in a case where he/she is not the complainant.³⁰ The African Commission will investigate the complaint and decide on the merits of the case, and make recommendations to the State, which may include compensation to the victim(s) and measures to prevent recurrence of the violation.³¹ If the case relates to serious or massive human rights violations or if the Commission considers that the State is

²⁴ Law 2/77, Article 89.

²⁵ Constitution, Article 52.

²⁶ Ibid., Articles 144 and following.

²⁷ Constitution, Article 129, available at:

<http://www2.camara.leg.br/saotomeoprincipe/constituicao/constituicao-da-republica-democratica-de-s.to-me-e#a95>.

²⁸ African Charter on Human and Peoples' Rights ("African Charter"), Article 55, available at:

<http://www.achpr.org/instruments/achpr>.

²⁹ Ibid., Article 56(5).

³⁰ Rules of Procedure of the African Commission on Human and Peoples' Rights of 2010, Rule 93, available at: <http://www.achpr.org/instruments/rules-of-procedure-2010/>.

³¹ War Resisters' International, Quaker United Nations Office Geneva, Conscience and Peace Tax International and the CCPR Centre, 'African Commission on Human and Peoples' Rights: communication procedure', 2012, available at:

<http://co-guide.org/mechanism/african-commission-human-and-peoples-rights-communication-procedure>.

unwilling to comply with its recommendations in the case, the Commission may refer the complaint to the African Court on Human and Peoples' Rights.³²

B. What powers would courts have to review these violations, and what remedies could they offer?

Civil courts can order damages,³³ and provisional measures ("*medidas cautelares*"),³⁴ such as injunctions.

Criminal courts can order imprisonment (which cannot exceed 25 years),³⁵ fines,³⁶ forced labour,³⁷ or community work.³⁸ The death penalty was abolished by the Constitution of 1990. Sentences for a particular crime are usually more severe when the victim is a child, particularly if they are under 16 years old.³⁹

Article 98(m) of the Constitution refers to the civil liability of administrative bodies, therefore it seems that public bodies are subject to regular civil remedies. In addition, Article 127.1 of the Criminal Code states that special legislation regulates cases in which a state agent is responsible for a crime but cannot afford to indemnify the victim, hence the state indemnifies the victim itself. Article 127.1 further provides that if the damage deprives the victim of basic needs, he/she can ask the court to pay him/her in advance in the place of the state agent. In such cases the state agent will later pay the state instead of the victim.

Pursuant to Article 150 of the Constitution, a norm declared unconstitutional is declared null from the day it was enacted.

C. Would such a challenge have to directly involve one or more individual child victims, or is it possible to challenge a law or action without naming a specific victim?

It is likely that in order to make such a challenge, one would have to name specific victims, as no provisions stating otherwise have been found. Constitutional reviews are possible without naming victims but this mechanism is not available for individuals.

D. Is any form of collective action or group litigation possible, with or without naming individual victims?

Collective action does not appear to be possible in STP. However, the Code of Civil

³² Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights, Article 5, available at: <http://www.achpr.org/instruments/court-establishment>; Rules of Procedure of the African Commission on Human and Peoples' Rights of 2010, Rules 84(2) and 118, available at: <http://www.achpr.org/instruments/rules-of-procedure-2010>.

³³ Civil Code, Article 483 and following.

³⁴ Code of Civil Procedure, Articles 381 and following.

³⁵ Criminal Code, Article 42.

³⁶ Ibid., Article 48.

³⁷ Ibid., Article 49.

³⁸ Ibid., Article 56.

³⁹ For instance, regular kidnapping is punished by 2 to 8 years while kidnapping a minor is punished by 5 to 10 years.

Procedure allows for cases to be joined when there is a link of between them (i.e. same cause of action).⁴⁰ The Code of Criminal Procedure also allows cases to be combined when there is a link between them (i.e. same perpetrator, same crime or connected crimes).⁴¹

E. Are non-governmental organisations permitted to file challenges to potential children's rights violations or to intervene in cases that have already been filed?

No information was found on NGOs' ability to file cases when consulting the Code of Criminal Procedure and the Code of Civil Procedure. Pursuant to Article 26 of the Code of Civil Procedure, a person can bring a case if he/she has an interest, which is described as being directly involved in the legal action. Therefore, it is unlikely that NGOs would have legal standing to bring a case on behalf of victims or in the public interest.

The Code of Civil Procedure provides for assistance (“*Assistência*”), according to which any person with an interest in one of the parties succeeding can intervene to support it.⁴² This provision seems to apply to NGOs as well.

IV. Practical considerations. Please detail some of the practical issues, risks and uncertainties that might be involved in bringing a case to challenge a violation of children's rights, such as:

A. Venue. In what courts could a case be filed (e.g., civil, criminal, administrative, etc.)? What would the initial filing process entail?

The legal system in Sao Tome and Principe is based on the Portuguese model in which the court system has two levels: circuit courts, and the Supreme Court and Constitutional Court. The same courts handle both civil and criminal cases in Sao Tome and Principe.⁴³

Civil or criminal cases would be filed in first instance tribunals, that is, the Regional Tribunal or Tribunal of First Instance.⁴⁴ *Habeas corpus* petitions are to be filed in front of the Supreme Court of Justice.⁴⁵

The Law on the Judiciary System (No. 7/2010) provides for the creation of juvenile courts. However, according to the Committee on the Rights of the Child's 2013 concluding observations, it “has not yet been implemented and no appropriate justice

⁴⁰ Code of Civil Procedure, Article 30.

⁴¹ See Code of Criminal Procedure, Articles 19 and following for all the possibilities.

⁴² Ibid., Articles 335 and following.

⁴³ Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights, Article 5, available at: <http://www.achpr.org/instruments/court-establishment>; Rules of Procedure of the African Commission on Human and Peoples' Rights of 2010, Rules 84(2) and 118, available at: <http://www.achpr.org/instruments/rules-of-procedure-2010>.

⁴⁴ See

http://www.rijcplp.org/sections/organizacao-judiciaria/anexos/sao-tome-e-principe7392/downloadFile/attachedFile_f0/S.Tome_e_Principe.pdf?nocache=1358937793.33. The Law on the judiciary system 7/2010 was not found online, therefore further details could not be added.

⁴⁵ Code of Criminal Procedure, Article 8.2.b).

system for children in conflict with the law is in place”.⁴⁶ Furthermore, “there are no alternative measures to detention, such as diversion, probation, mediation, counselling and community service”. Therefore, cases involving children in conflict with the law would be filed in regular courts.

- B. Legal aid / Court costs. Under what conditions would free or subsidised legal aid be available to child complainants or their representatives through the court system (i.e., would the case have to present an important legal question or demonstrate a likelihood of success)? Would child complainants or their representatives be expected to pay court costs or cover other expenses?

Under Decree-Law 53/94 establishing the Code of Judicial Costs (“*Código das Custas Judiciais*”),⁴⁷ children involved in court cases are entitled to special conditions in some circumstances:

- In civil proceedings in regular courts, when the child is represented by the Public Ministry, he/she is exempt from all costs, including justice fees (“*taxa de justiça*”) and taxes (“*encargos*”).⁴⁸ When no other exemption applies, justice fees are reduced to half in cases involving children.⁴⁹
 - In civil proceedings in juvenile courts, justice fees are reduced to a quarter or an eighth of their normal value, or even lowered to 500 Dbs depending on the case.⁵⁰ When no other exemption applies and if the case concerns the child’s legal representation, the administration of his/her patrimony, challenging acts conducted by the legal representative in the child’s name, adoption or filiation, the judge decides the costs that will be charged, if at all, by taking into consideration the child’s means.⁵¹ Initial fees (“*Preparos*”) are not payable, except if the person bringing the case is an adult and if the judge deems it necessary based on the circumstances.⁵²
 - In criminal proceedings, the parents pay the costs if the child is under 16 years of age.⁵³
- C. Pro bono / Financing. If legal aid is not available, would it be possible for child complainants or their representatives to obtain legal assistance from practising lawyers on a pro bono basis, through a children’s rights organisation, or under an agreement that does not require the payment of legal fees up front?

Pro bono legal assistance from law firms or NGOs does not appear to be available in STP.

- D. Timing. How soon after a violation would a case have to be brought? Are there any special provisions that allow young adults to bring cases about violations of their rights that occurred when they were children?

⁴⁶ UN Committee on the Rights of the Child, para. 60(a).

⁴⁷ Available at:

http://www.rjcppl.org/sections/informacao/anexos/legislacao-sao-tome-e-2539/codigos-e-estatutos-sao2859/codigo-das-custas7860/downloadFile/file/codigo_custas_judiciais.pdf?nocache=1365763548.86.

⁴⁸ Code of Judicial Costs, Article 2(d).

⁴⁹ Ibid., Article 28.2.

⁵⁰ Refer to Ibid., Article 23.1. for further details.

⁵¹ Ibid., Article 23.2.

⁵² Ibid., Article 73.7.

⁵³ Ibid., Article 142.

The right to bring a civil action is limited to three years from the day when the claimant became aware of his/her right, but it can never exceed the 20-year general limitation, which starts from the day of the tort.⁵⁴ Nevertheless, special provisions apply to children.⁵⁵ If the child does not have someone to represent them, the limitation period does not run except for acts for which they have legal capacity. If the child does have legal capacity, the limitation period does not expire until one year after the child acquired the capacity. When it comes to “presumed prescriptions”,⁵⁶ the limitation period is not suspended but does not expire until one year after the child has acquired legal capacity or has appointed a legal representative.

The right to bring a criminal action is limited to:⁵⁷

- 15 years for crimes punishable with prison sentences of 10 or more years and others;
- 10 years for crimes punishable with prison sentences of between five and 10 years;
- five years for crimes punishable with prison sentences of between one and five years; and
- two years for all other cases.⁵⁸

For crimes that require a complaint (“*queixa*”) or private accusation (“*acusação particular*”) in order to be prosecuted, the alleged victim has six months to make the complaint from when he/she became aware of the criminal acts.⁵⁹

There is no limitation period for prosecution of the following offences:

- Sexual abuse of children;
- “Homosexual acts” with adolescents;
- Incitement to prostitution and child trafficking;
- Genocide;
- War crimes against civilians, injured persons, sick persons and prisoners of war; and
- Torture and other cruel, inhuman or degrading treatment.⁶⁰

E. Evidence. What sort of evidence is admissible/required to prove a violation? Are there particular rules, procedures or practices for dealing with evidence that is produced or presented by children?

In criminal proceedings, except for persons suffering from a “psychic disturbance”, everyone is allowed to testify. However, if it seems necessary to determine one’s credibility and as long as it does not delay the regular course of the trial, the judge may verify one’s physical and mental ability to testify. A “personality check” may be undertaken for children under 16 years old testifying on sexual abuse.⁶¹ Witnesses are

⁵⁴ Civil Code, Article 498.

⁵⁵ Ibid., Article 320.

⁵⁶ Where the prescription period comes to an end, it is presumed that an obligation was fulfilled.

⁵⁷ These periods begin on the day of the commission of the crime, rather than on the day the when the victim became aware of the crime.

⁵⁸ Code of Criminal Procedure, Articles 115 and following.

⁵⁹ Criminal Code, Article 109.

⁶⁰ Code of Criminal Procedure, Article 114.2.

⁶¹ Ibid., Article 204.

required to testify under oath,⁶² but they are exempt if they are younger than 14 years of age.⁶³

In civil proceedings, every person is allowed to testify except for children under seven years of age, who are considered “naturally incapable”.⁶⁴

Special provisions or child-friendly procedures to enable children to give evidence could not be found.

Privacy

The Constitution affirms the publicity of trials.⁶⁵ However, tribunals can at their own initiative or at the request of the Public Prosecutor sentence hearings in criminal trials to be held in private whenever the rights of those involved are at risk in order to preserve their dignity. There is no specific provision concerning children’s privacy.⁶⁶

Right to be heard

Article 12 of the CRC concerning the right to be heard has not been expressly recognised in the country’s legislation.

F. Resolution. How long might it take to get a decision from the court as to whether there has been a violation?

The court system is systematically overburdened and underfunded, and plagued by long delays in hearing cases.⁶⁷ Inadequate resources result in lengthy pretrial detention and hinder investigations in criminal cases.⁶⁸ Therefore, a decision would likely be delayed, though it is difficult to confirm to what extent.⁶⁹

G. Appeal. What are the possibilities for appealing a decision to a higher court?

Appeals from rulings of first instance tribunals can be made to the Supreme Court of Justice.⁷⁰ Rulings from the Supreme Court and the Constitutional Court may not be appealed.⁷¹

⁶² Ibid., Article 205.1.b).

⁶³ Ibid., Article 86.

⁶⁴ Code of Civil Procedure, Articles 616 and 617.

⁶⁵ Constitution, Article 123.

⁶⁶ Constitution, Article 123 and Code of Criminal Procedure, Article 60.

⁶⁷ Human Rights in Sao Tome and Principe, FACTUALWORLD, http://www.factualworld.com/article/Human_rights_in_S%C3%A3o_Tom%C3%A9_and_Pr%C3%ADncipe (last visited Nov. 25, 2014).

⁶⁸ Sao Tome and Principe, U.S. DEP’T OF STATE, <http://www.state.gov/j/drl/rls/hrrpt/2005/61588.htm> (last visited Nov. 14, 2014).

⁶⁹ See Human Rights in Sao Tome and Principe, FACTUALWORLD, http://www.factualworld.com/article/Human_rights_in_S%C3%A3o_Tom%C3%A9_and_Pr%C3%ADncipe (last visited Nov. 25, 2014).

⁷⁰ See: http://www.rijcplp.org/sections/organizacao-judiciaria/anexos/sao-tome-e-principe7392/downloadFile/attachedFile_f0/S.Tome_e_Principe.pdf?nocache=1358937793.33. The Law on the judiciary system 7/2010 was not found online, therefore, further details could not be added.

⁷¹ Constitution, Articles 129 and 156, available at:

H. **Impact.** What are the potential short-term and long-term impacts of a negative decision? Is there a possibility for political backlash or repercussions from a positive decision?

The judicial system relies upon precedent. Pursuant to Article 122 of the Constitution, sentences have a binding effect on private and public entities, as well as all other authorities. The Supreme Court of Justice is responsible for the harmonisation of jurisprudence.⁷² Therefore, negative decisions may have long-term impacts.

I. **Follow up.** What other concerns or challenges might be anticipated in enforcing a positive decision?

Though formerly responsible to the National Assembly (Legislative Branch), the judiciary is independent under the 2003 amended Constitution.⁷³ However, according to a 2014 report by Freedom House, the judiciary remains susceptible to political influence.⁷⁴

V. **Additional factors.** Please list any other national laws, policies or practices you believe would be relevant to consider when contemplating legal action to challenge a violation of children's rights.

Locating substantive information on the legal system and status of the CRC in Sao Tome and Principe, beyond what is discussed above, is difficult as there are few documents, codes and laws available, even in Portuguese.

STP does not have a national human rights institution that is able to receive complaints about rights violations.⁷⁵ To date, there is no centralised national mechanism dealing with children's rights either. A National Child Rights Committee had been created but "ceased to operate in November 2012, due to inadequate human, technical and financial resources".⁷⁶

This report is provided for educational and informational purposes only and should not be construed as legal advice.

http://www.giaba.org/media/f/553_MER%20Sao%20Tome?+and++Principe+Portuguese+061213.pdf

⁷² Constitution, Article 127.

⁷³ Ibid., Article 121.

⁷⁴ <https://freedomhouse.org/report/freedom-world/2014/s-o-tom-and-pr-ncipe#.VcOOIryYO1E>.

⁷⁵ UN Committee on the Rights of the Child, para. 17.

⁷⁶ Ibid., Paragraph 10.