



SÃO TOMÉ AND PRÍNCIPE

Submission to the Committee on the Rights of the Child

93rd Pre-Sessional Working Group, September 2022

NGO Report

Submitted By

The WORLD Policy Analysis Center

University of California, Los Angeles



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INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 93rd Pre-Sessional Working Group of the Committee on the Rights of the Child.

This brief will focus on the following three areas:

- General Principles: **Equality and Non-Discrimination**
- Special Protection Measures: **Education, Leisure and Cultural Activities**

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g., original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current constitutional and legal landscape of a country.

In this report we first provide a summary of our constitutional and legislative findings, as well as suggested questions for the Committee to ask São Tomé and Príncipe, and topics we hope the Committee will address in its concluding observations. This summary is followed by detailed constitutional and legislative excerpts documenting our findings. We hope the Committee will recommend that São Tomé address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended São Tomé for having provisions in place, we hope the Committee will recommend that São Tomé work with stakeholders to overcome any obstacles in implementing these provisions.



SUMMARY OF FINDINGS AND RECOMMENDATIONS

1. General Principles: Equality and Non-Discrimination (Article 2)

Based on our review of full-text national constitutions, São Tomé’s constitution guarantees equality before the law and prohibits discrimination on the basis of race, sex, religion, political affiliation, convictions, and social class; it further prohibits discrimination of children on the basis of birth status.

However, some groups guaranteed equality in the Convention are not explicitly covered by this constitutional provision, including children facing discrimination based on language, national origin, or disability status.

RECOMMENDED CONCLUDING OBSERVATION

We hope the Committee will:

- Recommend in its concluding observations that São Tomé amend its constitution to add explicit guarantees of equality and non-discrimination regardless of language, national origin, and disability status, consistent with CRC commitments. These guarantees could be added to Article 15 of the constitution, which already guarantees equality before the law and non-discrimination based on other personal characteristics and statuses.

2. Special Protection Measures: Education, Leisure and Cultural Activities (Article 28)

São Tomé’s education law guarantees students with disabilities access to the public education system at the primary and secondary levels, integrating these students into mainstream schools. The law also guarantees curricular adaptation to students with disabilities at the primary level.

However, our review also finds that **São Tomé has not implemented any legislative provisions to prohibit discrimination against students with disabilities at either the primary or secondary levels, nor has it implemented any legislative provision that guarantees educational supports to students with disabilities beyond the primary level of education.**



RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask São Tomé: Can São Tomé outline any concrete, near-term plans to pass legislation that promotes equitable access to education for students with disabilities through guarantees of non-discrimination?
 - If São Tomé does not have concrete, near-term plans to guarantee non-discrimination for students with disabilities, recommend in its concluding observations that São Tomé pass and implement legislation to do so.

- In its list of issues, ask São Tomé: Can São Tomé outline any concrete, near-term plans to pass legislation that promotes equitable access to education through guarantees of individualized accommodation and supports for students with disabilities at the secondary education level?
 - If São Tomé does not have concrete, near-term plans to guarantee individualized accommodation and supports for students with disabilities at the secondary level, recommend in its concluding observations that São Tomé pass and implement legislation to do so.

DETAIL OF CONSTITUTIONAL AND LEGISLATIVE FINDINGS

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured, including new legislation or policies that have not yet been published globally.

1. General Principles: Equality and Non-Discrimination (Article 2)

Article 2.1 of the Convention states that:

States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

Constitutions state the values of a country, outlining the rights of people living within the country and profoundly influencing norms and practices. In nearly all countries, constitutions take precedence over other sources of law—making them critical tools for delineating and implementing equal rights. New



constitutions and new rights guaranteed in constitutions can be used to overturn discriminatory laws, as well as to legislate non-discrimination guarantees. Moreover, constitutions can offer protection against policy and legal changes during periods of social and political shifts that may seek to undermine equal rights. For these reasons and others, as the foundational document setting out the rights of all human beings in a country, a constitution and the rights contained therein are essential to realizing equal rights.

We reviewed full text constitutions for all 193 UN member states available from official government sources to determine whether the constitution took any approach to equality across the grounds listed in article 2.1 of the CRC by prohibiting discrimination based on each specific status, guaranteeing equal rights, guaranteeing equality before the law, or guaranteeing overall equality or equal opportunities.

SÃO TOMÉ'S CONSTITUTIONAL PROVISIONS: A NEED TO STRENGTHEN GUARANTEES OF EQUALITY AND NON-DISCRIMINATION

Based on our review of full-text national constitutions, Article 15 of São Tomé's constitution guarantees equality before the law and prohibits discrimination on the basis of race, sex, religion, political affiliation, convictions, and social class. Article 26 of the constitution further protects children from discrimination on the basis of birth status.

Constitution of São Tomé and Príncipe 1975, amended to 2003

Artigo 15.º

Princípios de Igualdade

- 1. Todos os cidadãos são iguais perante a lei, gozam dos mesmos direitos e estão sujeitos aos mesmos deveres, sem distinção de origem social, raça, sexo, tendência política, crença religiosa ou convicção filosófica.*
- 2. A mulher é igual ao homem em direitos e deveres, sendo-lhe assegurada plena participação na vida política, económica, social e cultural.*

Artigo 26.º

Família, Casamento e Filiação

(...)

- 4. Os filhos nascidos fora do casamento não podem, por esse motivo, ser objecto de qualquer discriminação.*

(...)

However, **some groups guaranteed equality in the Convention are not explicitly covered by these constitutional provisions**, including children facing discrimination based on language, national origin, or disability status.



2. Special Protection Measures: Education, Leisure and Cultural Activities (Article 28)

Article 23.3 of the CRC recognizes the rights and special needs of children with disabilities, and in particular, encourages States Parties to design assistance policies which “ensure that the disabled child has effective access to and receives education”.

For all 193 UN member states, we systematically reviewed education acts, child protection laws, and anti-discrimination legislation available online through UNESCO’s Observatory on the Right to Education Library and International Labour Organization’s NATLEX database. Through the review, we determined whether national legislation guaranteed non-discrimination in education based on disability, and whether legislative provisions guaranteed individualized accommodations and supports to enable students with disabilities to succeed in school alongside their peers and advance inclusion.

SÃO TOMÉ’S LEGISLATIVE PROVISIONS: A NEED TO STRENGTHEN LEGISLATIVE GUARANTEES OF EDUCATION FOR CHILDREN WITH DISABILITIES

São Tomé’s legislation guarantees access to the public system to children with disabilities, integrating these students in mainstream schools.

Law No. 2/2003 on the bases of the education system

*Artigo 18º
(Organização da Educação Especial)*

1. A educação especial organiza-se preferencialmente segundo modelos diversificados de integração em estabelecimentos regulares de ensino, tendo em conta as necessidades de atendimento específico e com apoio de educadores especializados.

(...)

However, based on our systematic review of national legislation, we did not find any indication that São Tomé has implemented any legislative provisions that would protect students with disabilities from discrimination within the education system. We appreciate that São Tomé has acknowledged in the State Party report the barriers faced by children with disabilities through the following observations: “[t]he social exclusion of persons with disabilities or special needs continues to be a problem in Sao Tome and Principe” (paragraph 172), and “[t]he data also show that 31.3 per cent of persons with disabilities aged 3 years and older have never attended school” (paragraph 180); these acknowledgements can form the basis for taking the valuable step of codifying the legal right to non-discrimination.



Further, our review found that students with disabilities are guaranteed accommodation and supports at school only at the primary level. While we welcome the adoption of the initiatives to improve inclusion of children with disabilities that are described in Table 4 of the State Party Report, our review found that education legislation in São Tomé only guarantees curricular and programmatic adaptation to students with disabilities at the primary level, and guarantees no accommodation or support to students with disabilities at the secondary level.

Law No. 2/2003 on the bases of the education system

Artigo 18º

(Organização da Educação Especial)

(...)

4. A escolaridade básica para crianças e jovens com necessidades especiais deve ter currículos e programas devidamente adaptados às suas características.

BRIEFING PREPARED BY THE WORLD POLICY ANALYSIS CENTER, UNIVERSITY OF CALIFORNIA, LOS ANGELES