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# Sao Tome and Principe's Constitution of 1975 with Amendments through 1990

Subsequently amended

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## Preamble

During five centuries the Sao Tomean People were locked in a hard and heroic struggle against colonial domination for the liberty of their occupied Country, for the conquest of Sovereignty and National Independence, for the restoration of their usurped rights and for the reaffirmation of their human dignity and African character.

On 12th July, 1975, under the enlightened direction of the Liberation Movement of S. Tome and Principe - M.L.S.T.P, the Sao Tomean People attained their National Independence and proclaimed before Africa and all Humanity the Democratic Republic of S. Tome and Principe. That victory, the greatest of our History only was possible thanks to the sacrifices and to the determination of valiant sons of S. Tome and Principe who, for centuries, always resisted the colonial presence, and in 1960 organized themselves in C.L.S.T.P. and later on, in 1972 in M.L.S.T.P., until achieving the supreme objective of national liberation.

With the proclamation of National Independence, the Representative Assembly of the S. Tomean People entrusted to the Political Bureau of the M.L.S.T.P., through a stipulation in the 3rd Article of the Fundamental Law then approved, the heavy responsibility of, as the highest political organ of the Nation, assuming the leadership of the society and of the State in S. Tome and Principe, targeting the noble objective of guaranteeing independence and national unity, through the building of a Democratic State in accordance with the maximum plan of the M.L.S.T.P.

Fifteen years later and after deep analysis of the experience of legitimate exercise of power by M.L.S.T.P., the Central Committee in its session of December, 1989, faithful to the patriotic duty of promoting the balanced and harmonious development of S. Tome and Principe, decided to sanction formally the just national aspirations, expressed during the National Conference, of 5th to 8th December of 1989, in the sense of opening the necessary space to the participation of other politically organized forces, with a view toward broadening democracy, for the modernization of S. Tome and Principe.

Inspired by the historic necessity of promoting increasingly broader and responsible participation of the citizen in the various dominions of the national life, this present revision to the constitutional text, in addition to consecrating the principle that the monopoly of power does not constitute by itself alone sufficient guarantee of progress, represents the collective will of the Sao Tomeans in giving their share of contribution to the universality of the fundamental rights and liberties of Man.

In these terms, after approval by the National Popular Assembly, exercising the powers conferred upon it and contained in Line i of Article 32, and ratification by Popular Referendum, as provided in no. 2 of Article 70, all of the Constitution, in effect, I promulgate the following Constitution:

## PART I: Principles and Objectives

### Article 1: Democratic Republic of Sao Tome and Principe

The Democratic Republic of Sao Tome and Principe is a sovereign and independent State, pledged to the building of a free, just and interdependent society, to the defense of the Rights of Man and to the active solidarity among all men and all peoples.

- Human dignity
- Motives for writing constitution
- Reference to country's history

- Reference to fraternity/solidarity
- Type of government envisioned

## Article 2: National Identity

The Democratic Republic of Sao Tome and Principe guarantees the Sao Tomean national identity and encompasses every and any Sao Tomean resident within or outside its territory.

## Article 3: Sao Tomean Citizenship

Sao Tomean citizens are all those born in national territory, the children of a Sao Tomean father or mother and those who may be considered such by the Law.

## Article 4: National Territory

1. The territory of the Democratic Republic of Sao Tome and Principe is comprised of the Islands of Sao Tome and Principe, of the Islets of Rolas, Cabras, Bombom, Bone Jockey, Pedras Tinhosas and other adjacent islets, by the territorial sea within a circle of twelve miles beginning at the base line determined by the Law, by archipelagic waters situated within the interior of the base line and the air space which extends over the combined territory as previously defined.
2. The Sao Tomean State exercises its sovereignty over all of the national territory, the subsoil of the land space, the bottom and the subsoil of the aquatic territory formed by the territorial sea and the archipelagic waters, as well as the living and nonliving natural resources which may be found in all the aforementioned spaces and those existing in the overlying waters next to the coasts, outside the territorial sea, to the extent the law determines and in conformity with International Law.

## Article 5: Unitary State

1. The Democratic Republic of Sao Tome and Principe is a unitary State, without prejudice to the existence of local governments.
2. The Capital of the Republic is the city of S. Tome.

## Article 6: State of Democratic Law

1. The Democratic Republic of Sao Tome and Principe is a State of democratic Law, based on the fundamental rights of the human being.
2. Political power belongs to the people who exercise it through universal, equal, direct and secret suffrage under the terms of the Constitution.

## Article 7: Justice and legality

The State of democratic Law implies the safeguard of justice and legality as fundamental values of collective life.

## Article 8: Lay State

The Democratic Republic of Sao Tome and Principe is a lay State, within it existing a separation of the State with respect to all religious Institutions.

## Article 9: State of Mixed Economy

1. The economic organization of Sao Tome and Principe rests on the principle of a mixed economy, having in view national independence, development and social

justice.

2. The coexistence of public property, cooperative property and private property of means of production is guaranteed within the terms of the law.

## Article 10: Prime Objectives of the State

Prime Objectives of the State are:

- a. Guarantee the national independence;
- b. Promote respect and the becoming effective of personal, economic, social, cultural and political rights of the citizens;
- c. Preserve the harmonious balance of nature and of the environment.

## Article 11: National Defense

1. Responsibility for the National Defense rests with the State.
2. The National Defense has as essential objectives the guaranteeing of the national independence, the territorial integrity, the respect for democratic institutions.
3. A special law will regulate its form of organization.

## Article 12: International Relations

1. The Democratic Republic of Sao Tome and Principe is determined to contribute toward the safeguarding of universal peace, toward the establishment of equal rights and mutual respect for sovereignty among all the States and toward the social progress of humanity, on the basis of the principles of international law and peaceful coexistence.
2. The Democratic Republic of Sao Tome and Principe proclaims its adherence to the Universal Declaration of the Rights of Man and to its principles and objectives of the Organization of African Unity and of the United Nations Organization.

## Article 13: National Symbols

1. The National Flag consists of three horizontal bars, being green and those of the extremes of equal width, and the middle, in which are affixed two five-pointed black stars, yellow, being one and one-half times larger than each of the others and by a scarlet triangle, whose base is located on the left side of the Flag. The height of the triangle is half that of the base.
2. The National Anthem is "TOTAL INDEPENDENCE."
3. The insignia consists of the figure of a falcon to the left and a parrot to the right, separated by an ovular-form coat of arms, whose vertical abscissa is of a dimension 0.33 times larger than the horizontal and in whose interior a palm tree is featured along the vertical abscissa.

• Protection of environment

• International organizations  
• International human rights treaties

• National flag

• National anthem



# PART II: Fundamental Rights and Social Order

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## Title I: General Principles

### Article 14: Principles of Equality

1. All citizens are equal before the law, enjoy the same rights and are subject to the same obligations without distinction as to social or racial or racial origin, sex, political tendency, religious belief or philosophical conviction.
2. Woman is equal to man in rights and obligations, being guaranteed to her full participation in political, economic, social and cultural life.

### Article 15: The Citizen Overseas

1. Every Sao Tomean citizen who resides or finds himself overseas enjoys the same rights and is subject to the same obligations as the other citizens, except for that which would be incompatible with absence from the country.
2. Sao Tomean citizens resident overseas enjoy the care and protection of the State.

### Article 16: Foreigners in Sao Tome and Principe

1. The foreigners and displaced persons who reside or find themselves in Sao Tome and Principe enjoy the same rights and are subject to the same obligations as the Sao Tomean citizen, except insofar as are concerned political rights, the exercise of public office and other rights and obligations expressly reserved by law for the national citizen.
2. The exercise of public office only will be permitted to foreigners provided it has a predominantly technical character, save the presence of an international agreement or convention.

### Article 17: Scope and meaning of rights

1. The rights consecrated in this Constitution do not exclude any which might be foreseen in laws or in rules of International Law.
2. The precepts relative to fundamental rights are interpreted and integrated in harmony with the Universal Declaration of the Rights of Man.

### Article 18: Restriction and Suspension

1. The exercise of fundamental rights only can be restricted in cases foreseen in the Constitution and suspended during the validity of a state of siege or state of emergency declared in the terms of the Constitution and of the law.
2. No restriction or suspension of rights may be established for longer than strictly necessary.

- General guarantee of equality
- Equality regardless of gender
- Equality regardless of creed or belief
- Equality regardless of social status
- Equality regardless of political party
- Equality regardless of race
- Equality regardless of religion

- International law

- Emergency provisions

## Article 19: Access to the Courts

Every citizen has the right of resorting to the courts against acts which violate his rights recognized by the Constitution and by the law, justice not being deniable for insufficiency of economic means.

## Article 20: Obligations and Limits to Rights

The citizens have obligations with respect to society and the State, not being able to exercise their rights through violation of the rights of the other citizens, and not respecting the just demands of morality, of public order and of national independence defined in the law.

## Title II: Personal Rights

### Article 21: Right to Life

1. Human life is inviolable.
2. In no case, shall there be a death penalty.

### Article 22: Right to Personal Integrity

1. The moral and physical integrity of the people is inviolable.
2. No one may be submitted to torture or to cruel, inhuman or degrading treatment or punishment.

### Article 23: Right to Identity and Privacy

Personal identity and the confidentiality of the intimacy of private and family life are inviolable.

### Article 24: Inviolability of the home and of correspondence

1. The home and the secrecy of correspondence and of private means of communication are inviolable.
2. Entrance into the home of citizens against their will only may be ordered by competent judicial authority, in the cases and by the manner prescribed by the law.

### Article 25: Family, Marriage and Relationships

1. All have the right to form a family and to enter into matrimony in conditions of full equality.
2. The law regulates the requirements and effects of marriage and of its dissolution, by death or divorce, independent from the form in which it was celebrated.
3. Spouses have equal rights with respect to civil or political competency and to the maintenance and education of their children.
4. Children born out of wedlock cannot, for that reason, be the object of any discrimination.
5. Parents have the right and duty of educating and maintaining their children.

- Inalienable rights
- Right to life

- Prohibition of capital punishment

- Inalienable rights

- Prohibition of cruel treatment
- Prohibition of torture

- Inalienable rights
- Right to privacy

- Inalienable rights

- Right to found a family
- Right to marry

- Provision for matrimonial equality

## Article 26: Freedom of conscience, religion and worship

1. Freedom of conscience, religion and worship is inviolable.
2. No one may be persecuted, deprived of right or exempted from civic obligations or duties because of his convictions or practice of religion.
3. No one may be questioned by any authority about his convictions or religious practices except for the collection of statistical data not individually identifiable nor be prejudiced for refusing to answer.
4. Religious confessions are free in worship, in education and in their organization.

## Article 27: Freedom of cultural creation

Intellectual, artistic and scientific creation are free.

## Article 28: Freedom of expression and information

1. All have the right to freely express and divulge their thinking by word, by image or by any other means.
2. Infractions committed in the exercise of this right remain subject to the general principles of criminal law, their appreciation being within the competence of the courts.

## Article 29: Freedom of the press

1. Freedom of the press is guaranteed in the Democratic Republic of S. Tome and Principe, within the terms of the law.
2. The State guarantees a public service press independent of the interests of economic and political groups.

## Article 30: The right to learn and the freedom to teach

1. The right to learn and the freedom to teach are guaranteed.
2. The State may not reserve for itself the right to plan education and culture according to any philosophical, political, ideological or religious policies.

## Article 31: Freedom to choose profession

All have the right to freely choose a profession or a type of work, with the exception of the legal restrictions imposed by the collective interest or inherent to the profession.

## Article 32: Right of relocation and immigration

1. To all citizens the right is guaranteed to freely relocate and establish themselves in any part of the national territory.
2. To all is guaranteed the right to emigrate or to leave the national territory and the right to return.

## Article 33: Right to meet and to demonstrate

1. All citizens have the right to meet, peacefully and without arms, even in places open to the public.
2. The right to demonstrate is recognized for all citizens, within the terms of the law.

## Article 34: Freedom of association

1. The citizens have the right to, freely and without dependence on any authorization, form associations, so long as they are not contrary to the penal law or do not question the Constitution and national independence.
2. Associations pursue their ends freely.
3. No one can be obliged to take part in an association nor be compelled by any means to remain in one.

## Article 35: Personal freedom and security

1. All have the right to personal freedom and to personal security.
2. No one may be deprived of freedom, except in cases provided for in the law and always by decision or with the review of the appropriate court.

## Article 36: Application of the penal Law

1. No one may be sentenced criminally except by virtue of prior law which declares punishable the action or omission nor suffer security measures whose purposes are not fixed in prior law.
2. However, penal laws are applied retroactively when their content is more favorable to the accused or to the sentenced.

## Article 37: Limits of sentences and of security measures

1. There may be no punishments nor security measures which deprive or restrict liberty which are of a perpetual, unlimited duration or undefined nature.
2. Sentences are not subject to commutation.
3. No sentence presumes the loss of any civil, professional or political rights.

## Article 38: Habeas Corpus

1. In case of imprisonment or illegal detention resulting from the abuse of power, the citizen has the right of recourse to the provision of habeas corpus.
2. The provision of habeas corpus is lodged before the Court and its procedure is fixed by the law.

## Article 39: Guarantees of criminal procedure

1. Criminal procedure will assure all the defense guarantees.
2. Every accused is presumed innocent until proven guilty, being tried in the shortest time compatible with defense guarantees.
3. The accused has the right to choose defense counsel and to be assisted by him in all the acts of the trial, the law specifying the instances and the aspects in which that assistance is obligatory.
4. Every instruction is within the competence of a Magistrate, who may, within the terms of the law, delegate to other entities the practice of instructional acts which do not directly affect fundamental rights.
5. Criminal procedure has an accusatory structure with the hearing of the trial and the instructional acts subordinated to the principle of cross-examination.
6. All evidence obtained through torture, coercion or offense to the physical or moral integrity of the person, abusive intromission into private life, in the home, in correspondence or in telecommunications are null.

7. No case may be removed from the court whose competence has been established in prior law.

## Article 40

1. The extradition and the expulsion of Sao Tomean citizens from the National territory are not allowed.
2. Extradition for political motives is not permitted, nor for crimes which carry the death penalty according to the law of the petitioning State.
3. The expulsion of foreigners who have obtained residency authorization, only may be determined by judicial authority, the law assuring expeditious means of decision.
4. Asylum is granted to foreigners persecuted or gravely threatened with persecution, in virtue of their activity in favor of democratic rights.

## Title III: Social rights and economic, social and cultural order

### Article 41: Right to Work

1. All have the right to work.
2. The obligation to work is inseparable from the right to work.
3. It is incumbent upon the State to ensure equality of opportunity in the choice of profession or type of work and conditions do that access to any position, work or professional category are not blocked.
4. The right to exercise professions is guaranteed in the conditions obtaining in the law.

### Article 42: Rights of workers

1. All the workers have rights:
  - a. To recompense for work, according to quantity, nature and quality, observing the principal of equal salary for equal work, so as to guarantee a deserved living;
  - b. To labor-union freedom, as a means of promoting their unity, defending their legitimate rights and protecting their interests;
  - c. To the organization of work in socially dignifying conditions, in order to facilitate personal accomplishment;
  - d. To being able to perform work in hygienic and safe conditions;
  - e. To a maximum limit to the work day, to weekly rest and to periodic paid holidays;
  - f. To strike, under terms to be regulated by law, taking into account the interests of the workers and of the National economy.

## Article 43: Social Security

1. The State guarantees to every citizen, through the social security system, the right to protection in illness, handicap, widowhood, orphanhood and other instances prescribed in the law;
2. The organization of the system of social security of the State does not prejudice the existence of private institutions, with the implementation in mind of the objectives of Social Security.

## Article 44: Cooperatives

1. The right of free establishment of cooperatives is guaranteed.
2. The State stimulates, and supports the creation and the activity of cooperatives.

## Article 45: Intellectual property

The State protects the inherent rights to intellectual property, including the rights of the author.

## Article 46: Private property

1. The right to private property and to its transfer in life or through death is guaranteed to all, in accordance with the law.
2. Requisition and expropriation for public use only may be effected as based on the law.

## Article 47: Private enterprises

1. The State oversees the respect for the law by private enterprises and protects the economically and socially viable small and medium enterprises.
2. The State may authorize foreign investment, provided it is useful to the economic and social development of the Country.

## Article 48: Housing and environment

1. All have the right to housing and to an environment of human life and the duty to defend it.
2. It is incumbent upon the State to plan and execute a housing policy inserted in the plans for zoning of the territory.

## Article 49: Right to health care

1. All have the right to health care and the duty to defend it.
2. In accordance with the National system of Health, it is incumbent upon the State to promote the Public Health which has as objectives the physical and mental well-being of the populations and their balanced fitting into the socio-ecological environment in which they live.
3. The exercise of private medical practice is permitted, in the conditions fixed by law.

## Article 50: Family

1. As the fundamental element of the society, the family has the right to the protection of the society and of the State.

- State support for the disabled
- State support for children

- Provisions for intellectual property

- Right to own property
- Right to transfer property

- Protection from expropriation

- Right to establish a business

- Right to shelter

- Right to health care

2. It is incumbent, especially, upon the State:
  - a. To promote the social and economic independence of family tenant farmers;
  - b. To promote the creation of a national network of maternal infant assistance;
  - c. To cooperate with parents in the education of their children.

## Article 51: Childhood

Children have the right to the respect and to the protection of the society and of the State, with a view toward their complete development.

## Article 52: Youth

The youth, especially the young workers, enjoy special protection in order to render effective their economic, social and cultural rights.

## Article 53: Senior citizens

Persons of advanced age have the right to satisfactory family life and economic security.

## Article 54: Education

1. Education, as a right recognized to all the citizens, strives for the whole formation of man and his active participation in the community.
2. It is the responsibility of the State to promote the elimination of illiteracy and permanent education, in accordance with a National system of instruction.
3. The State ensures basic compulsory and free education.
4. The State gradually promotes the possibility of equal access to the other levels of education.
5. Education is permitted through private Institutions, in the terms of the law.

## Article 55: Culture and sports

1. Conditions will be created so that all citizens may have access to culture are encouraged to participate actively in its creation and dissemination.
2. The State preserves, defends and esteems the cultural patrimony of the Sao Tomean people.
3. It is incumbent upon the State to encourage and promote the practice and spreading of sports and of physical culture.

## Title IV: Civic-political rights and obligations

### Article 56: Participation in public life

All citizens have the right to take part in public life and in the management of the affairs of the country, directly or by means of freely elected representatives.

## Article 57: Right to suffrage

All citizens of more than eighteen years have the right of suffrage, excepting incompetence as provided in the general law.

## Article 58: Right to access to public office

All citizens have the right of access, in conditions of equality, and liberty, to public office.

## Article 59: Right of petition

All citizens have the right to present, individually or collectively, to the organs of political power or to any authorities petitions, representations, protests or complaints for defense of their rights in the Constitution, in the laws or of the general interest.

## Article 60: Right of indemnity

Every citizen has the right to be indemnified for damage caused by illegal and harmful actions to his legitimate rights and interests, whether from State organs, Social Organizations or whether from public officials.

## Article 61: Civic organizations

The State supports and protects the social organizations recognized by law which, in correspondence with specific interests, frame and foment the civic participation of the citizens.

## Article 62: Political Organizations

1. Every citizen may form or participate in political organizations recognized by law which encompass the free and plural participation of the citizens in public life.
2. Special law shall regulate the formation of political parties.

## Article 63: National defense obligations

1. It is the honor and the supreme duty of the citizen to participate in the defense of the sovereignty, independence and territorial integrity of the State.
2. Every citizen has the duty of rendering military service under the terms of the law.
3. Treason to the Fatherland is a crime punishable by the most grave penalties.

## Article 64: Taxes

1. All citizens have the obligation of contributing to the public expenditures, under the terms of the law.
2. The taxes seek to satisfy the financial necessities of the State and a just distribution of income.



## PART III: Organization of Political Power

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### Title I: General principles

#### Article 65: Political participation of the citizens

The participation and direct and active involvement of the citizens in public life constitutes a fundamental condition of the unity of the Republic.

#### Article 66: Organ of political power

1. The formation, the composition, the competence and the functioning of the organs of political power are those defined in the Constitution and in the law.
2. No organ of political power may delegate its powers to other organs, except in the instances and in the terms expressly foreseen in the Constitution and the law.

#### Article 67: Organs of Sovereignty

Organs of Sovereignty are:

- a. President of the Republic
- b. National Assembly
- c. Government
- d. Courts

#### Article 68: Incompatibility

1. The functions of the President of the Republic are incompatible with any other public or private office.
2. The functions of Deputy to the National Assembly, members of Government and of head of local power organs are subject to the incompatibilities established in the law.

#### Article 69: Oath of Office

Upon being empowered in their offices, the heads of organs of the State make the following oath:

"I swear, by my honor, to fulfill an ensure the fulfillment of the Constitution and the laws, to defend the national independence, to promote the economic, social and cultural progress of the Sao Tomean people and to perform with all loyalty and dedication the functions which are entrusted to me."

• Oaths to abide by constitution

## Article 70: Control and Responsibility

1. The heads of organs of political power have the duty of maintaining the citizens and their organizations informed concerning public affairs, remaining subject to democratic control exercised through the forms of political participation established in the Constitution and the law.

## Article 71: Deliberations of collegial organs

The deliberations of the collegial organs of political power are taken in harmony with the principles of free discussion and criticism and the acceptance of the will of the majority.

## Article 72: Publication of acts

1. The law determines the forms of publication of the laws and of the other acts of political power.
2. The lack of publication of the laws implies their legal inefficacy.

## Title II: President of the Republic

### Article 73: Duties

The President of the Republic is the Chief of State and the Supreme Commander of the Armed Forces, represents the Democratic Republic of Sao Tome and Principe, guarantees the national independence and ensures the regular operation of the institutions.

### Article 74: Election and assumption of office

1. The President of the Republic is elected by universal, direct and secret suffrage.
2. Only a citizen of Sao Tomean origin, older than 35 years, may be elected President of the Republic.
3. The President-elect of the Republic takes office before the National Assembly.

### Article 75: Mandate

1. The President of the Republic is elected for five years.
2. In the instance of vacancy, the election of the new President of the Republic will take place ninety days subsequent and he shall begin a new mandate.
3. The number of successive mandates of the President must not exceed two.

### Article 76: Competence

The President of the republic is charged with:

- a. Defending the Constitution of the Republic;
- b. Directing the foreign policy of the Country and representing the State in international relations;
- c. Directing the policy of defense and security;

• Designation of commander in chief  
• Name/structure of executive(s)

• Head of state selection  
• Minimum age of head of state  
• Eligibility for head of state

• Head of state term length  
• Head of state replacement  
• Head of state term limits

• Foreign affairs representative

- d. Setting, in harmony with the electoral law, the day of the elections for President of the Republic, for the National Assembly and for the Assemblies of local power;
- e. Extraordinary convocation of the National Assembly whenever compelling reasons of public interest so justify;
- f. Directing a message to the National Assembly;
- g. Naming, empowering and dismissing the Prime Minister;
- h. Naming, dismissing and empowering the remaining members of the Government, at the behest of the Prime Minister, and empowering them;
- i. Presiding over the Council of Ministers whenever he wishes;
- j. Naming and dismissing the Attorney General of the Republic, at the behest of the Government;
- k. Naming and dismissing the ambassadors;
- l. Accrediting the foreign ambassadors;
- m. Promulgating the laws, the decree-laws and the decrees;
- n. Pardoning and commuting sentences;
- o. Dissolving the National Assembly, in the instance of great political crisis, consulting the political parties with seat in the National Assembly;
- p. Declaring a state of siege and of emergency;
- q. Declaring war and making peace;
- r. Granting the decorations of the State;
- s. Exercising the other functions which may be conferred to him by law.

## Article 77: Promulgation and veto

1. The bills approved by the National Assembly and submitted to the President of the Republic must be promulgated by the latter, within a time limit of 15 days beginning on the day of its receipt.
2. In case the promulgation is not confirmed, the bill will be reviewed by the National Assembly and if a favorable vote of the qualified majority of the deputies is obtained, the President must promulgate it within the space of eight days.

3. The normative acts of the Government referred to in lines c) and d) of Article 99 shall be considered legally nonexistent if within a term of twenty days after their receipt they have not obtained the promulgation or the signature of the President of the Republic.

### **Article 78: Decision-making**

In the exercise of his powers and competence, the President of the Republic determines the form of the Presidential Decree.

### **Article 79: Absence from the national territory**

1. The President of the Republic may not absent himself from the national territory without assent of the National Assembly or of its Permanent Commission, if the former is not in session.
2. Assent is dispensed with in the instances of travel not of official character not longer than five days, however the President must give prior advice of it to the National Assembly.

### **Article 80: Interim substitution**

1. During the temporary incapacitation of the President of the Republic, as well as during the vacancy of the office until the inauguration of the new President elect, the President of the National Assembly or should he be incapacitated, his substitute, shall assume the duties.
2. While exercising on an interim basis the duties of President of the Republic, the mandate as Deputy of the President of the National Assembly or of his substitute is suspended automatically.
3. The interim President may not exercise the roles prescribed in lines n) and o) of Article 76.

## **Title III: National Assembly**

### **Article 81: Role**

The National Assembly is the highest representative and legislative organ of the State.

### **Article 82: Composition and election**

1. The National Assembly is composed of elected Deputies, within the terms of the law.
2. The Deputies represent all the people, and not just the electoral circles by which they are elected.
3. The number of members of the National Assembly is fixed by the law.

### **Article 83: Powers of the Deputies**

The Deputies have, by designation, the following powers:

- a. Discuss all questions of national interest;
- b. Introduce bills, of resolution and of motion;

• Legislative oversight of the executive

c. Question the Government; orally or in writing;

• Legislative oversight of the executive

d. Propose the establishment of commissions of inquiry.

• Immunity of legislators

## Article 84: Immunities

1. No Deputy may be inconvenienced, pursued, detained, imprisoned, judged or condemned for votes and opinions he may make during the exercise of his duties.
2. Except in the instance of flagrante delicto and for a crime punishable as a felony and by consent of the National Assembly or of its Permanent Commission, Deputies may not be pursued or imprisoned for crimes committed outside their duties.

## Article 85: Rights, prerogatives and duties

1. The rights, prerogatives and duties are regulated by the law.
2. The Deputy who is gravely omissive of his duties may be removed from the National Assembly, by secret vote, by a majority of two-thirds of the sitting Deputies.

• Removal of individual legislators

## Article 86: Competence

The National Assembly is charged with:

- a. Proceeding to constitutional revision;
- b. Making laws and voting resolutions and motions;
- c. Bestowing legislative authority on the Government;
- d. Ratifying the decrees-law expedited by the Government through its use of legislative authority;
- e. Naming and dismissing in the terms of law, the judges of the Supreme Court of Justice;
- f. Granting amnesties;
- g. Approving the State's Budget;
- h. Approving the plans for development and their respective law;
- i. Auditing the accounts of the State relative to each fiscal year;
- j. Approving treaties which have the objective materials of law envisioned in Article 87 the treaties which involve the participation of S. Tome and Principe in international organizations, the treaties of friendship, of peace and of defense and any others which the Government desires to submit to it;

• Supreme court selection

• Budget bills

• Treaty ratification

- k. Evaluating and approving the Government's plan and controlling its execution;
- l. Proposing to the President of the Republic the dismissal of the Prime Minister;
- m. Authorizing the President of the Republic to declare a state of siege or of emergency;
- n. Authorizing the President of the Republic to declare war and to make peace;
- o. Oversee the fulfillment of the Constitution and of the laws and evaluate the acts of the Government and of the Administration;
- p. Evaluating, modifying or annulling legislative bills or any measures of regulatory character adopted by the organ of political power which may contradict the present Constitution;
- q. Exercising the other functions which may be committed to it by the Constitution and by the law;
- r. Voting motions of confidence in or censure of the Government.

## Article 87: Reserved to legislative competence

It is the exclusive province of the National Assembly to legislate concerning the following matters:

- a. Citizenship;
- b. Individual and political rights of the citizens;
- c. Elections and other forms of political participation;
- d. Judiciary organization and ordinances for the judges;
- e. State of Siege and state of emergency;
- f. Organization of the national defense;
- g. Sectors of ownership and means of production;
- h. Taxes and revenue systems;
- i. Expropriation and requisition for public use;
- j. Monetary system;

- l. Definition of crimes, sentences and security measures and criminal procedure;
- m. General organization of Administration of the State, except as provided in line c) of Article 99.;
- n. Ordinance for public officials and civil responsibility of the Administration;
- o. Organization of local governments;
- p. State and capability of the people.

## Article 88: Legislative and Parliamentary Procedure

• Initiation of general legislation

1. Legislative initiative is reserved to the Deputies and to the Government;
2. The deliberations of the National Assembly assume the form of laws, resolutions and motions.

• Head of government decree power

## Article 89: Legislative Authority

1. The National Assembly may authorize the Government to legislate, by decree-law, on matters set forth in Article 87.
2. Legislative authority must establish its goal, its scope and its duration;
3. The closing of the Legislature and the change of Government occasions the expiry of legislative authority granted.

• Head of government decree power

## Article 90: Ratification of decrees-laws

The decrees-laws published until one month before each legislative session, in exercise of its delegated legislative authority, are considered ratified if, in the first five plenary sessions of the National Assembly subsequent to their publication, no Deputy requires they be submitted for ratification.

• Term length for first chamber

## Article 91: The Legislature

The legislature has a term of four years and begins with the inauguration of all its members.

## Article 92: Internal organization

• Leader of first chamber

1. The National Assembly approves its by-laws and elects, at the first meeting of each legislature, its President and the other members of its council.
2. The National Assembly creates permanent committees specialized by reason of subject matter and may institute contingent committees to occupy themselves with issues to be determined.

• Legislative committees

## Article 93: Sessions

• Budget bills

1. The National Assembly meets in two ordinary sessions per year, one of which is dedicated specifically to evaluating the report of the activities of the Government and to the discussion and voting of the Budget of the State for the following fiscal year.

• Extraordinary legislative sessions

2. The National Assembly may meet extraordinarily in the instances prescribed in its Bylaws or at the convocation of the President of the Republic.

## Article 94: Presence of members of the Government

The members of the Government may take part and speak in the plenary meetings of the Assembly, in the terms of the By-laws.

• Standing committees

## Article 95: Permanent Committee

1. The Permanent Committee of the National Assembly functions beyond the periods of actual functioning of the National Assembly during the period in which it finds itself dissolved and in the remaining instances set forth in the Constitution.
2. The Permanent Committee is presided over by the President of the National Assembly and composed of the Vice Presidents and by Deputies prescribed in the By-laws.
3. The Permanent Committee is charged to:
  - a. Follow the activity of the Government and of the Administration;
  - b. Exercise the powers of the Assembly relative to the mandates of the Deputies;
  - c. Promote the convocation of the Assembly whenever such be necessary;
  - d. Prepare the opening of the Assembly sessions;
  - e. Give assent to the absence of the President of the Republic from the national territory.

## Title IV: Government

### Article 96: Duties

The Government is the executive and administrative organ of the State, with responsibility to conduct the overall policy of the State.

• Establishment of cabinet/ministers

### Article 97: Composition

• Name/structure of executive(s)

1. The Government is composed of the Prime Minister, of the Ministers and of the Secretaries of State.
2. The Prime Minister is the Chief of Government, with responsibility for directing and coordinating its action and ensuring the execution of the laws.

### Article 98: Designation

• Head of government selection

1. The Prime Minister is designated by the President of the Republic, taking into consideration the electoral results.
2. The Ministers and Secretaries of State are nominated by the President of the Republic, at the proposal of the Prime Minister.

• Cabinet selection



## Article 99: Competence

It is the duty of the Government to:

- Powers of cabinet
  - a. Organize and direct the execution of political, economic, cultural, scientific and social, defense and security activities inscribed in its program;
- Budget bills
  - b. Prepare the development plans and the State Budget and ensure their execution;
- Powers of cabinet
  - c. Legislate, by decree, about matters respecting its own organization and operation;
  - d. Make decrees-laws in matters reserved to the National Assembly, through the latter's authority;
- Treaty ratification
  - e. Negotiate and conclude treaties and international conventions;
  - f. Exercise legislative initiative before the National Assembly;
- Powers of cabinet
  - g. Direct the Administration of the State, coordinating and controlling the activity of the Ministries and other central organisms of the Administration;
- Attorney general
  - h. Propose the nomination of the Attorney General of the Republic;
- Powers of cabinet
  - i. Nominate the heads of high civil and military offices of the State.
- Selection of active-duty commanders

## Article 100: Council of Ministers

1. The Council of Ministers is constituted by the Prime Minister and by the Ministers.
2. The duties of the Government prescribed in lines a), c), d), f), h) and i) of the previous article are exercised in the Council of Ministers.

## Article 101: Political responsibility

The Government is politically responsible before the President of the Republic and the National Assembly.

## Article 102: Ministerial solidarity

The members of the Government are bound to the Government's program and to the deliberations taken in the Council of Ministers.

## Title V: The Courts

### Article 103: Jurisdictional Function

1. The courts are sovereign organs with competence to administer justice in the name of the people.

2. In the administration of justice it is incumbent upon the courts to assure the defense of the legally protected rights and interests of the citizens, to settle public and private conflicts of interest and to repress the violation of the laws.
3. The law may institutionalize nonjudicial instruments and ways for settling conflicts.

## Article 104: Independence

The courts are independent and are subject only to the laws.

## Article 105: Decisions of the courts

1. The decisions of the courts are founded upon the cases and in the terms prescribed in the law.
2. The decisions of the courts are obligatory for all public and private entities and prevail over those of any other authorities.

## Article 106: Hearing of the courts

The hearings of the courts are public except when the court itself decides to the contrary, in well-founded decision, in order to safeguard the dignity of the individuals and of the public moral or to guarantee their normal operation.

## Article 107: Participation of the People

The law presupposes and stimulates appropriate forms of popular participation in the administration of justice.

## Article 108: Judges' guarantees

1. Judges are unremovable, not being able to be transferred, suspended, retired or dismissed except in cases prescribed in the law.
2. Judges cannot be held responsible for their decisions, save for the exceptions prescribed in the law.

## Article 109: Supreme Court of Justice

The Supreme Court of Justice is the highest judicial tribunal of the Republic and it is responsible for watching over the harmony of jurisprudence.

## Article 110: Criminal courts

1. The existence is prohibited of courts meant exclusively for adjudication of certain categories of crimes.
2. Excepting themselves from the provisions of the prior number are the military courts, with whom resides the judgment of essentially military crimes defined by law.

## Article 111: Oversight of constitutionality

1. In the deeds submitted to judgment, the courts cannot apply norms which infringe upon what is provided in the Constitution or in the principles consecrated therein.

• Constitutionality of legislation

2. The question of unconstitutionality may be raised obligingly by the court, by the Justice Department or by any of the parties.

• Constitutional interpretation

3. Admitted a question of unconstitutionality, the case goes to the National Assembly, which will decide.

4. The decisions taken in the matter of unconstitutionality by the National Assembly shall have general binding force and shall be published in the *Diario da Republica*.

## Article 112: Justice Department

1. The Justice Department oversees the rule of law, represents the public and social interest in the courts and is in charge of the penal system.

2. The Justice Department is organized as a hierarchical structure under the direction of the Attorney-General of the Republic.

• Attorney general

## Title VI: Public Administration

### Article 113: General Principles

1. The Public Administration seeks the prosecution of the public interest, in the respect for the legally protected rights and interests of the citizens and by the constitutional institutions.

2. The Public Administration shall be structured so as to avoid bureaucratization, to bring the services to the populations and to ensure the participation of those interested in its effective management.

3. The law establishes the rights and guarantees of those managed, specifically against acts which harm their legally protected rights and interests.

## Title VII: Organ of Local Power

### Article 114: Duties

1. The organs of local power constitute the organized expression of the specific interests of the local communities where the Sao Tomean people dwell.

2. The organs of local power support themselves through the initiative and the creative capacity of the populations and act in close collaboration with the participatory organizations of the citizens.

### Article 115: Local governments

1. The Democratic Organization of the State comprehends the existence of local governments, such as Organs of Local Power, in accordance with the Law of Politico-Administrative Division of the Country.

2. The local governments are collective territorial persons possessing representative organs which seek the pursuit of the particular interests of the respective populations without losing the participation of the State.

### Article 116: Special government

1. The Island of Principe shall have its own Politico-Administrative Statute, taking into account its own needs.

2. The law shall create specific forms for its organization.

• Municipal government

## Article 117: District organs

The District Assembly and respective executive committee are organs of local power in each district.

• Municipal government

## Article 118: Composition and election of District Assemblies

1. The number of members of each District Assembly is fixed by the law.
2. The members of the District Assemblies are elected by direct and secret universal suffrage of the resident citizens.

## Article 119: Mandate

The members of the District Assemblies are elected for three years and may have their mandate revoked by popular initiative, in the terms of the law.

## Article 120: District executive committee

1. At the beginning of their work after the elections, each district assembly elects, from among its members, an executive committee.
2. The executive committee is politically responsible to the district assembly and may be removed by it at any time, in the terms of the law.

• Municipal government

## Article 121: Competence of the organs of local power

The organs of local power are competent to:

- a. Promote the satisfaction of the basic needs of the local communities;
- b. Execute the local development plans;
- c. Give impetus to the activity of all the enterprises and other existing entities in their respective areas, seeking the increase in productivity and the economic, social and cultural progress of the populations;
- d. Present to the political power of the State all the suggestions and initiative conducive to the harmonious development of the districts.

# PART VI: Constitutional Revision

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• Constitution amendment procedure

## Article 122: Time and initiative of the revision

1. The Constitution may be revised at any time, by initiative of three-quarters of the Deputies to the National Assembly in exercise of their functions.
2. The project of review names the constitutional principles to be reviewed and the meaning of the amendments to be introduced.

• Constitution amendment procedure

## Article 123: Approval of the amendments

1. Any amendment of the Constitution is approved by a two-thirds majority of the Deputies to the National Assembly in exercise of the Deputies in exercise of their functions.
2. The National Assembly may propose to the President of the Republic the subjection of any amendment to popular referendum.

• Referenda

## Article 124

The Ordinance of the M.L.S.T.P. as a Political Organization is recognized independently of the formalities demanded by the law, as per Item 2 of Article 62.

## Article 125

The mandate of the President of the Republic and of the National Popular Assembly in effect as of the date of publication of the present Constitution, is considered implicitly extended until the holding of the new elections.

## Article 126

Legislation in force on the date of National Independence remains transitorily in effect in all that may not be contrary to the present Constitution and to the remaining laws of the Republic.

## Article 127

The Constitution of the Democratic Republic of S. Tome and Principe has the date of its approval in joint session of the Political Bureau of the M.L.S.T.P. and the Constituent Assembly of 5th November of 1975, published in the Diario da Republica no. 39, of 15th December of 1975.

The First Text of the Constitutional Law no. 1/80, published in the Diario da Republica no. 7, of 7th February - First Constitutional revision.

The Second Text of the Constitutional Law no. 2/82 published in the Diario da Republica no. 35, of 31st December of 1982. - Second Constitutional revision.

Constitutional Amendment Law no. 1/87, of 31st December - published in the Fourth Supplement to the Diario da Republica no. 13, of 31st December of 1987. - Third Constitutional revision.

Third Text of the Constitutional Law no. 7/90 - published in the Diario da Republica no. 13 of 20th September of 1990 - Fourth Constitutional Revision.

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