

SAO TOME AND PRINCIPE 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Democratic Republic of Sao Tome and Principe is a multiparty constitutional democracy. Voters elected President Manuel Pinto da Costa as head of state in August 2011 elections. On December 10, the president appointed Gabriel Arcanjo Ferreira da Costa as prime minister to replace Patrice Emery Trovoada, who was removed from office following a November 28 censure motion approved by a minority coalition in the National Assembly acting while Trovoada's party was absent. Trovoada and his party, which won the most parliamentary seats in 2010 legislative elections, subsequently contested the censure motion and described his removal as "illegal." International observers deemed both the August 2011 presidential and the 2010 legislative elections free and fair. Security forces reported to civilian authorities.

Key human rights concerns included difficult prison conditions, official corruption, and societal violence and discrimination against women.

While the government took some steps to punish officials who committed abuses, impunity was a problem.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prison conditions were difficult, but not life-threatening.

Physical Conditions: There was one prison and no jails or detention centers. Police stations had a small room or space to incarcerate offenders for brief periods.

There were 217 prison inmates, of whom 51 were pretrial detainees and seven were women. As a result of the closure of half the prison facility due to building deterioration, there was some overcrowding in the prison, which was built to hold 260 prisoners.

Authorities held pretrial and convicted prisoners together.

Medical care was poor, and food often was inadequate. Extremely high temperatures were frequent, and ventilation was insufficient. Prisoners and detainees had reasonable access to potable water.

There were no reports of prison deaths.

Administration: Little information was available on prison recordkeeping. Prisoners had access to visitors on a weekly basis and could observe their religious practices. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhumane conditions, although there was no prison ombudsman. Legal representatives from the prosecutor's staff and court personnel were available to address prisoner grievances. There was no provision for authorities to use alternatives to sentencing for nonviolent offenders.

Monitoring: The Ministry of Justice, Government Reform, and Public Administration investigated and monitored prison and detention center conditions.

The government permits human rights monitors to visit the prison, but no monitors, domestic or international, made requests for such visits during the year.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

In 2010 the government placed the national police and the immigration service under the control of the Ministry of Defense and Internal Affairs. The ministry also supervises and controls the military. Despite increased personnel and training offered throughout the year, police were viewed widely as ineffective and corrupt.

Civilian authorities maintained effective control over the security forces. While the government has mechanisms to investigate and punish abuse and corruption, impunity was a problem. Inadequate resources hampered efforts to reform the Criminal Investigation Police, a separate agency under the Ministry of Justice, Government Reform, and Public Administration.

Arrest Procedures and Treatment While in Detention

The law requires arrest warrants issued by a judge to apprehend suspects, unless the suspect is caught committing a crime. The law also requires a determination within 48 hours of the legality of a detention, and authorities generally respected this right. Authorities informed detainees promptly of charges against them and allowed them access to family members. Detainees had prompt access to a lawyer and, if indigent, to one provided by the state. There was a functioning bail system.

Pretrial Detention: Lengthy pretrial detention greatly hindered investigations in criminal cases since delays often made it hard to uncover the facts and evidence of a case. Inadequate court facilities and a shortage of trained judges and lawyers contributed to lengthy pretrial detention.

According to the director of the Sao Tome Prison, 25 percent of the country's prisoners were awaiting trial during the year. Authorities held approximately 15 pretrial detainees for more than a year.

Amnesty: On December 28, President Pinto da Costa announced an amnesty for prisoners who had served at least one-fourth of their prison sentence and who had not been found guilty of violent or sexual crimes.

e. Denial of Fair Public Trial

Although the constitution and law provide for an independent judiciary, at times the judicial system was subject to political influence or manipulation. Judicial salaries remained low, and judges reportedly accepted bribes.

Trial Procedures

The constitution provides for the right to a fair public trial by a judge (juries are not used), the right of appeal, the right to legal representation, and, if a person is indigent, the right to an attorney provided by the state. Defendants are presumed innocent and have the right to confront their accusers, confront witnesses, access government evidence, and present evidence and witnesses on their own behalf. In general, defendants are allowed adequate time and facilities to prepare a defense and are not compelled to testify or confess guilt. Defendants must be informed of the charges against them within 48 hours of arrest.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The same courts consider both criminal and civil cases, but different procedures are used in civil cases. Plaintiffs may bring lawsuits seeking damages for human rights violations; there are also administrative remedies for alleged wrongs.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions, and the government generally respected these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and press, and the government generally respected these rights in practice.

Censorship or Content Restrictions: Journalists occasionally practiced self-censorship as most media were government owned and operated.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms without judicial oversight.

According to the International Telecommunication Union, 20 percent of individuals in the country used the Internet during the year.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution and law provide for freedom of peaceful assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

Protection of Refugees

Access to Asylum: The law does not specifically provide for the granting of asylum or refugee status and the government has not established a system for providing protection to refugees.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right through periodic and generally free and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: On July 7, inconclusive presidential elections forced a runoff election on August 7. As a result of the latter election, citizens selected former

president Manuel Pinto da Costa with 52.88 percent of the vote. International observers deemed the elections generally free and fair.

The Independent Democratic Action (ADI) party won 26 of the 55 seats in the National Assembly in the 2010 legislative elections. International observers deemed the election generally free and fair. The ADI subsequently formed a government headed by Prime Minister Trovoada. On December 10, the president appointed Gabriel da Costa prime minister following a parliamentary motion of censure against the Trovoada government. Trovoada claimed the parliamentary action violated procedural rules and was “illegal.”

Participation of Women and Minorities: Women held 10 seats in the 55-seat National Assembly, two of 11 cabinet positions, one seat on the five-member Supreme Court, and five of the 12 judgeships on the circuit courts.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, but the government did not implement the law effectively, and some officials were viewed widely as corrupt. The World Bank’s 2011 Worldwide Governance Indicators reflected that corruption was a problem. The police were viewed as ineffective and corrupt.

The law does not require public officials to disclose their assets or income, but such disclosures are permitted, and the audit court reviews and makes them public. However, public disclosure of these financial statements rarely occurred.

While laws do not provide for public access to government information, there were no reports that the government restricted access to information by citizens or noncitizens, including foreign media.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A small number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, language, sexual orientation, gender identity, or social status, but the government did not effectively enforce the law.

Women

Rape and Domestic Violence: Rape, including spousal rape, is illegal and punishable by two to 12 years' imprisonment. The prosecution of rape occurred most often in cases where there was evidence of violent assault or the victim was a minor. However, no statistics on prosecutions were available. A government family planning clinic and nongovernmental organizations (NGOs) sought to combat rape by raising awareness of the problem.

Widespread reports of domestic violence continued. Although women have the right to legal recourse in cases of domestic violence, including against spouses, many were reluctant to bring legal action because of the cost and a general lack of faith in the legal system to address their concerns effectively. Women often were ignorant of their legal rights. Some observers claimed that women were inhibited from taking domestic disputes outside the family because of tradition and custom. The law prescribes penalties for domestic violence. If the victim misses fewer than 10 days of work, the penalty for assault is six months in prison. If the victim misses 10 to 20 workdays, the penalty is one year, and so forth. The law was strictly enforced, but there was no data on the number of prosecutions or convictions for domestic violence.

The Office of Women's Affairs and UNICEF maintained a counseling center with a hotline. The hotline did not receive many calls, but the counseling center received numerous walk-ins.

Sexual Harassment: The new penal code, effective since August, prohibits sexual harassment, which reportedly remained a problem. No data were available on its extent.

Reproductive Rights: The government recognized the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local NGOs operated freely in disseminating information on family planning under the guidance of the Ministry of Health. There were no restrictions on the right to access contraceptives, but they were not widely used. NGOs and the Ministry of Health had insufficient supplies of contraceptives, leading to a decrease in availability and use. According to the UN

Population Fund (UNFPA), 33 percent of women ages 15-49 used a modern method of contraception. The UNFPA estimated the maternal mortality ratio to be 70 per 100,000 live births in 2010. The government provided free childbirth services, but the lack of doctors obliged many women, especially in rural areas, to rely on nurses or midwives during childbirth, unless the mother or child suffered more serious health complications. Pre- and post-natal care outside the family was provided only in the government clinic. The UNFPA estimated that skilled health personnel attended 81 percent of births.

Discrimination: The constitution stipulates that women and men have equal political, economic, and social rights. However, women experienced some economic discrimination. The federal government was the largest employer, and there were reports that women were often forced to retire at age 57 despite a 1997 law that women can request permission to retire at age 57 and men at age 62. However, women were often terminated from government employment upon their 57th birthday without warning. Reportedly, women did not protest even though they were aware that the practice was illegal. While many women had access to opportunities in education, business, and government, women in general continued to encounter significant societal discrimination. Traditional beliefs left women with most child-rearing responsibilities and with less access to education or opportunity to enter a profession. A high teenage pregnancy rate further reduced economic opportunities for women. The Gender Equality Institute within the Office of Women's Affairs held numerous seminars and workshops to raise awareness of discrimination against women.

Children

Birth Registration: Citizenship is acquired either through parents or by being born within the country. Either parent, if a citizen, can confer citizenship on a child born outside the country. The law requires all children born in the country to be registered in the hospital where they are born. If not born in a hospital, the child must be registered at the nearest precinct office. Failure to register a birth can be penalized by a fine. According to UNICEF, approximately 75 percent of children less than five years old had their births registered during a survey conducted between 2000 and 2010.

Child Abuse: Mistreatment of children was not widespread; however, there were few protections for orphans and abandoned children.

Child Marriage: The legal minimum age of marriage without parental consent is 18. According to UNICEF, approximately 5 percent of women 20-24 years old were married before age 15, and 34 percent of women ages 20-24 were married before age 18.

Sexual Exploitation of Children: There were no reports of children engaged in prostitution. The penal code prohibits statutory rape and child pornography. In conjunction with the penal code, the government uses laws such as kidnapping or unlawful forced labor to address instances of sexual exploitation of children.

Displaced Children: The Ministry of Health and Social Affairs operated a social services program that placed street children in three centers where they attended classes and received training. Conditions at the centers were generally good; however, because of overcrowding, authorities returned some children to their families to sleep at night, and a few of these children ran away.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

There is no known Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons

During the year there were no confirmed reports that persons were trafficked to, from, or within the country.

Persons with Disabilities

The law does not prohibit discrimination against persons with physical, sensory, mental, or intellectual disabilities. Nevertheless, there were no reports of discrimination against such persons. The law does not mandate access to buildings, transportation, or services for persons with disabilities. Children with disabilities attended school and did so without fear of abuse.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The law does not criminalize consensual same-sex sexual activity, but there were occasional reports of societal discrimination, primarily rejection by family and friends, based on sexual orientation. While there were no official impediments, lesbian, gay, bisexual and transgender organizations did not exist.

Other Societal Violence or Discrimination

Communities and families often rejected and shunned persons with HIV/AIDS, although there were no reports of official discrimination due to HIV/AIDS status. There were a number of government-sponsored workshops and awareness campaigns to reduce societal discrimination. The government provided free HIV/AIDS testing and distributed antiretroviral drugs to all recognized patients.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law protects the right of workers to form and join independent unions, conduct legal strikes, and bargain collectively. The law does not prohibit antiunion discrimination. While the law provides for the freedom to strike, including by government employees and other essential workers, this right is strictly regulated. The provisions regulating strikes require that a majority is needed to call a strike, and replacement workers can be hired without consultation with the trade unions to perform essential services in the event the enterprise is threatened by a strike. Under the provision concerning “minimum services,” in the event of disagreement in determining such services, the matter is to be determined by the employer (instead of an independent body). The law also requires compulsory arbitration for services, including postal, banking, and loan services. The law does not prohibit retaliation against strikers.

The government effectively enforced the laws, and workers generally exercised these rights. The law provides for the right to strike, but no strikes occurred during the year. Worker organizations were generally independent of government and political parties.

Workers’ collective bargaining rights remained relatively weak due to the government’s role as the principal employer in the formal wage sector and key interlocutor for organized labor on all matters, including wages. The two labor unions -- UGT and ONSTP -- negotiated with the government throughout the year for a wage increase and for the establishment of a national minimum wage.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, including by children. There were no reports or evidence that such practices occurred.

c. Prohibition of Child Labor and Minimum Age for Employment

There are laws to protect children from exploitation in the formal sector workplace. The law sets the minimum age for nonhazardous work at 14 years and for hazardous work at 18 years, although hazardous work is not defined. The law prohibits minors from working more than seven hours a day and 35 hours a week. The law states that employers of underage workers can be fined. The Ministry of Health and Social Affairs is responsible for enforcing child labor laws. The laws were effectively enforced.

A media campaign aimed at preventing child labor continued during the year. The Community of Portuguese Language Countries held a conference in Sao Tome December 3-6 to raise awareness of child labor. The International Labor Organization and the Brazilian Embassy sponsored the conference.

The Ministry of Education mandated compulsory school attendance through the sixth grade, and the government granted some assistance to several low-income families to keep their children in school. The Department of Labor (within the Ministry of Health and Social Affairs) utilized teams of labor inspectors to inspect work sites.

Employers in the formal wage sector generally respected the legally mandated minimum employment age of 18. Children worked in informal commerce, including street work and begging. Children also reportedly performed light work in agriculture and domestic service.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

There is no national minimum wage. The legal minimum wage for civil servants was 750,000 dobras (\$40) per month. The legal workweek is 40 hours, with 48 consecutive hours mandated for rest. However, shopkeepers could work 48 hours

a week with eight hours of overtime or in shifts. The law provides for compensation for overtime work and prescribes basic occupational health and safety standards. The labor law specifies occupations in which civil servants may work if they pursue a second job.

Working two or more jobs was common. Working conditions on many of the largely family-owned cocoa farms--the largest informal wage sector--were unregulated and harsh. Inflation further eroded the low purchasing power of average salaries for agricultural workers.

The Ministry of Justice, Government Reform, and Public Administration and the Ministry of Health and Social Affairs are responsible for enforcement of these standards. However, they did not monitor labor conditions sufficiently, and enforcement of these standards seldom occurred. The Department of Labor Inspection lacked the necessary financial and human resources, as well as basic equipment, to conduct regular inspections. Reliable data on workplace fatalities or accidents was not available. Employees have the right to leave unsafe working conditions, but none sought to do so, and enforcement of the right was very limited. The government is the largest employer, and the standards on hours of work and health and safety were effectively enforced in that sector. Civil servants in “strategic sectors,” such as the court system; the Ministries of Finance, Customs, and Education; the Criminal Investigation Police; and the military, earned up to 400 percent more than other public sector employees.

Working conditions in the agricultural sector were harsh and sometimes hazardous because the sector lacked investment and all the work was manual. Salaries were low, although they also received salary in-kind. Most farms were family-owned, consisting of small parcels distributed by the government. Domestic household work was better because the work was performed in the families’ homes. Salary usually was at government minimum wage or higher.