

**Democratic Republic**



**of São Tomé and Príncipe**

*National Assembly*

**CONSTITUTION  
OF**



**DEMOCRATIC REPUBLIC**

**OF SÃO TOMÉ AND PRÍNCIPE**

Preamble  
**Law 1/2003**

For five centuries the São Toméan people fought against colonial domination, a difficult and heroic battle, for the liberation of their occupied Homeland, for the victory of Sovereignty and National Independence, for the restoration of their usurped rights and for the reaffirmation of their human dignity and African personhood.

On 12 July 1975, under the enlightened leadership of the Movement for the Liberation of São Tomé and Príncipe (MLSTP), the São Toméan people gained their National Independence and proclaimed before Africa and all humanity the Democratic Republic of São Tomé and Príncipe. This victory, the greatest in our history, was only possible thanks to the sacrifices and determination of brave and heroic sons and daughters of São Tomé and Príncipe who, for centuries, always resisted the colonial presence, and in 1960 organized themselves in the CLSTP (Committee for the Liberation of São Tomé and Príncipe) and later on, in 1972, in the MLSTP to achieve the supreme objective of national liberation.

With the proclamation of National Independence, and through the provisions of Article 3 of the Basic Law passed then, the Representative Assembly of the São Toméan People entrusted to the Political Bureau of the MLSTP regarded as the highest political body of the Nation, the enormous responsibility of assuming leadership of the society and of the State in São Tomé and Príncipe, in pursuit of the noble objective of guaranteeing national independence and unity, by building a Democratic State, according to the government's long-term action plan (programa máximo) of the MLSTP.

Fifteen years later, and subsequent to thorough analysis of the experience of legitimate exercise of power by the MLSTP, the Central Committee, in its session of December 1989, loyal to the patriotic duty to promote the balanced and harmonious development of São Tomé and Príncipe, decided to ratify the just aspirations of the nation, expressed during the National Conference, from 5 to 8 December 1989, as a step towards opening up the space required for the participation of other politically organized forces, with the intent of strengthening democracy, to give way to modernization in São Tomé and Príncipe.

Inspired by the historic necessity of promoting increasingly broad and responsible participation of citizens in the various domains of national life, this revision of the constitutional text, in addition to enshrining the principle that monopoly power is not in itself sufficient guarantee of progress, represents the collective will of São Toméans in making their share of contribution to the universality of fundamental human rights and freedoms.

Accordingly, following the approval by the National Popular Assembly (Assembleia Popular Nacional), exercising the powers conferred upon it under subparagraph i) of Article 32, and ratification by Popular Referendum, pursuant to paragraph 2 of Article 70, all of the current Constitution in force, I promulgate the following Constitution:

## **PART I**

### **Principles and objectives**

#### Article 1

#### **Democratic Republic of São Tomé and Príncipe**

The Democratic Republic of São Tomé and Príncipe shall be a sovereign and independent State, committed to building a free, just and indivisible society, to the defense of Human Rights and to active solidarity among all human beings and all peoples.

#### Article 2

#### **National Identity**

The Democratic Republic of São Tomé and Príncipe shall guarantee São Toméan national identity and shall embrace each and every São Toméan resident inside and outside of its territory.

#### Article 3

#### **São Toméan Citizenship**

1. São Toméan citizens shall be all those born within the national territory, the children of a São Toméan father or mother and those who may be considered as such by the Law.

2. São Toméan citizens who acquire the nationality of another country shall retain their original nationality.

#### Article 4

##### **National Territory**

1. The territory of the Democratic Republic of São Tomé and Príncipe shall be comprised of the Islands of São Tomé and Príncipe, of the islets of Rolas, Cabras, Bombom, Boné Jockey, Pedras Tinhosas and other adjacent islets, of the territorial sea within a twelve-mile radius beginning at the base line determined by the law, of the archipelagic waters situated within the interior of the base line and the air space that extends over the combined territory as defined above.
2. The São Toméan State shall exercise 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 that may be found in all of the abovementioned spaces and those existing in the overlying waters next to the coasts, outside of the territorial sea, to the extent that the law determines, and in accordance with international law.

#### Article 5

##### **Unitary State**

1. The Democratic Republic of São Tomé and Príncipe shall be a unitary State, without prejudice toward the existence of local governments.
2. The capital of the Republic shall be the City of São Tomé.

#### Article 6

##### **State of Democratic Law**

1. The Democratic Republic of São Tomé and Príncipe shall be a State of democratic Law, based on fundamental human rights.
2. Political power shall belong to the people, who shall 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 shall imply the safeguarding of justice and of legality as fundamental values of collective life.

#### Article 8

##### **Secular State**

The Democratic Republic of São Tomé and Príncipe shall be a secular state having a separation of State and respecting all religious institutions.

Article 9

**State of Mixed Economy**

1. The economic organization of São Tomé and Príncipe shall rest 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 with means of production shall be guaranteed under the terms of the law.

Article 10

**Prime Objectives of the State**

The prime objectives of the State shall be:

- a) To guarantee national independence;
- b) To promote respect for, and the effectiveness of, the personal, economic, social, cultural and political rights of citizens;
- c) To promote and guarantee the democratization and progress of economic, social and cultural structures;
- d) To preserve the harmonious balance of nature and of the environment.

Article 11

**National Defense**

1. Responsibility for National Defense shall rest with the State.
2. National Defense shall have as its essential objectives the guaranteeing of national independence, of territorial integrity and of respect for democratic institutions.
3. Its organizational form shall be regulated by a special law.

Article 12

**International Relations**

1. The Democratic Republic of São Tomé and Príncipe shall contribute resolutely toward the safeguarding of world peace, toward the establishing of relations with equal rights and mutual respect for sovereignty among all States and toward the social advancement of humanity, on the basis of the principles of international law and peaceful coexistence.
2. The Democratic Republic of São Tomé and Príncipe shall proclaim its adherence to the Universal Declaration of Human Rights and to its principles and objectives of the African Union and of the United Nations.
3. The Democratic Republic of São Tomé and Príncipe shall maintain special ties of friendship and of cooperation with lusophone countries and with the host countries of São Toméan emigrés.
4. The Democratic Republic of São Tomé and Príncipe shall promote and develop privileged links of friendship and of cooperation with neighboring countries and those from the region.

## Article 13

### **Reception of International Law**

1. Rules and principles of general or customary international law shall be an integral part of São Toméan law.
2. Rules provided for in international conventions, treaties and agreements duly approved and ratified by their competent bodies shall be binding in the São Toméan legal order following their official publication, and so long as they remain internationally binding with respect to the São Toméan State.
3. Rules provided for in international conventions, treaties and agreements duly approved and ratified by their competent bodies shall have prevalence, following their enforcement in international and national law, over all internal legislations and regulatory rules of infra-constitutional force.

## Article 14

### **National Symbols**

1. The National Flag shall consist of three horizontal bars, green and of equal width at the [two (upper and lower)] edges, and the middle, in which there shall be two black five-pointed stars, yellow, and one and a half times wider than each of the other bands and by a scarlet triangle, whose base shall be located on the left side of the Flag. The triangle shall be half of the height of the base.
2. The National Anthem shall be “TOTAL INDEPENDENCE” (“INDEPENDÊNCIA TOTAL”).
3. The coat of arms shall be formed by the figure of a falcon to the left and a parrot to the right, separated by an ovular-shaped form, whose vertical abscissa shall be 0.33 times longer than the horizontal one and inside of which a palm tree stands out along the vertical abscissa.

**PART II**  
**Fundamental Rights and Social Order**

**TITLE I**  
**General Principles**

Article 15

**Principles of Equality**

1. All citizens shall be equal before the law, shall enjoy the same rights and shall be subject to the same duties, without distinction as to social origin, race, sex, political leaning, religious belief or philosophical conviction.
2. Women shall be equal to men in rights and duties, with the guarantee of full participation in political, economic, social and cultural life.

Article 16

**The Citizen Overseas**

1. Every São Toméan citizen who resides or finds themselves, overseas shall enjoy the same rights and shall be subject to the same duties as those of all other citizens, except where incompatible with the citizen's absence from the country.
2. São Toméan citizens residing overseas shall enjoy the care and protection of the State.

Article 17

**Foreigners in São Tomé and Príncipe**

1. Foreigners and stateless persons who reside, or find themselves, in São Tomé and Príncipe shall enjoy the same rights and shall be subject to the same duties as those of São Toméan citizens, except where it is a matter of political rights, the exercise of office and all other rights and duties expressly reserved by law for a national citizen.
2. The exercise of public offices may only be permitted to foreigners provided that such offices are of a predominantly technical nature, in the absence of an international agreement or convention.
3. On conditions of reciprocity, the law may attribute to foreign citizens residing on national territory, the right to vote and to stand for election as regards holders of posts in local government organs.

Article 18

**Scope and Meaning of Rights**

1. The rights enshrined in this Constitution shall not exclude any that might be specified in the laws or in the rules of international Laws.
2. The precepts relative to fundamental rights shall be interpreted in harmony with the Universal Declaration of Human Rights.

Article 19

**Restriction and Suspension**

1. The exercise of fundamental rights may only be restricted in cases provided for by the Constitution and suspended during a state of siege or a state of emergency declared under the terms of the Constitution and of the law.
2. No restriction or suspension of a right may be imposed for longer than strictly necessary.

Article 20

**Access to Courts**

Every citizen shall have the right to resort to the courts against acts that violate their rights recognized by the Constitution and by the law, and justice may not be denied because of an insufficiency of economic means.

Article 21

**Duties, and Limits to Rights**

Citizens shall have duties with respect to society and the State; they may not exercise their rights by violating the rights of other citizens, and by disrespecting the just demands of morality, of public order and of national independence defined in the law.

**TITLE II**

**Personal Rights**

Article 22

**Rights to Life**

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

Article 23

**Rights to Personal Integrity**

1. The moral and physical integrity of people shall be inviolable.
2. No one may be subjected to torture or to treatments or punishments that are cruel, inhumane or degrading.

Article 24

**Right to Identity and to Privacy**

Personal identity and the privacy of private and family life shall be inviolable.

Article 25

**Inviolability of the Home and of Correspondence**

1. The home and the confidentiality of correspondence and of other means of private communication shall be inviolable.
2. Entry into the home of citizens against their will may only be ordered by competent judicial authority, in circumstances and the manner prescribed by the law.

Article 26

**Family, Marriage and Relationships**

1. Everyone shall have the right to form a family and to enter into matrimony in full equality.
2. The law shall regulate the requirements and effects of marriage and of its dissolution, by death or divorce, independently of the form of its celebration.
3. Spouses shall have equal rights and duties with respect to civil and political responsibility and to the maintenance and raising of their children.
4. Children born out of wedlock may not, for that reason, be the object of any discrimination.
5. Parents shall have the right and duty to raise and maintain their children.

Article 27

**Freedom of Conscience, Religion and Worship**

1. Freedom of conscience, of religion and of worship shall be inviolable.
2. No one may be persecuted, deprived of rights or exempted from civic obligations or duties because of their convictions or practice of religion.
3. No one may be questioned by any authority about their convictions or practice of religion, except for collecting statistical data not individually identifiable, or be discriminated against for refusing to respond.
4. Religious confessions shall be free in worship, in education and in their organization.

Article 28

**Freedom of cultural creation**

Intellectual, artistic and scientific creation shall be free.

Article 29

**Freedom of expression and information**

1. Everyone shall have the right to express and divulge freely their thoughts in word, in image or by any other means.

2. Infractions committed in the exercise of this right shall remain subject to the general principles of criminal law, with the decision for their resolution left to the jurisdiction of the courts.

#### Article 30

##### **Freedom of the press**

1. Freedom of the press shall be guaranteed in the Democratic Republic of São Tomé and Príncipe, under the terms of the law.
2. The State shall guarantee a public service by the press independent of the interests of economic and political groups.

#### Article 31

##### **Right to learn and freedom to teach**

1. The right to learn and the freedom to teach shall be 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 32

##### **Freedom of choice of profession**

Everyone shall have the right to choose freely a profession or a type of work, except for restrictions imposed by law because of interest collective or inherent to the profession itself.

#### Article 33

##### **Right of relocation and emigration**

1. All citizens shall be guaranteed the right to relocate to, and establish themselves freely in, any part of the national territory.
2. Everyone shall be guaranteed the right to emigrate, or to leave the national territory, and the right to return.

#### Article 34

##### **Right of assembly and of demonstration**

1. Citizens shall have the right to assemble, peacefully and without arms, even in places open to the public.
2. The right to demonstrate shall be recognized for all citizens, under the terms of the law.

#### Article 35

##### **Freedom of association**

1. Citizens shall have the right to form associations freely and without dependence on any authorization, so long as they are not contrary to penal law or do not undermine the Constitution and national independence.

2. Associations shall pursue their ends freely.
3. No one may be obligated to join an association or be coerced by any means to remain in one.

#### Article 36

##### **Physical freedom and safety**

1. Everyone shall have the right to physical liberty and to personal safety.
2. No one may be deprived of freedom, except in cases provided for by the law and always by the decision or judgment by the court having jurisdiction as to it.

#### Article 37

##### **Application of the Penal Law**

1. No one may be criminally sentenced except by virtue of an earlier law that declares the act or omission punishable, nor suffer security measures whose preconditions are not supported by an earlier law.
2. However, penal laws of content more favorable to the defendant or to the convict shall be applied retroactively.

#### Article 38

##### **Limits of punishments and of security measures**

1. There may not be punishments or security measures that are deprivative or restrictive of liberty, perpetual in nature or of unlimited or indefinite duration.
2. Punishments shall not be subject to commutation.
3. No punishment shall presume the loss of any civil, professional or political rights.

#### Article 39

##### ***Habeas Corpus***

1. In the case of unlawful arrest or detention resulting from the abuse of power, the citizen shall have the right of recourse to the provision of *Habeas Corpus*.
2. The provision of *Habeas Corpus* shall be brought before the Court and its proceeding determined by the law.

#### Article 40

##### **Guarantees of criminal proceedings**

1. Criminal proceedings shall ensure all the guarantees of defenses.
2. Every defendant shall be presumed innocent until proven guilty, and must be tried in the shortest time compatible with the guarantees of defense.
3. The defendant shall have the right to choose an attorney and to be assisted by them throughout the legal proceedings, and the cases and phases in which legal assistance is mandatory shall be specified by law.

4. Investigation shall be within the jurisdiction of the judge, who may, under the terms of the law, delegate to other entities the handling of the investigative procedures that have no direct relation to fundamental rights.
5. Criminal proceedings shall have an adversarial structure, with the court hearing and investigative procedures, which the law shall determine to be subordinate to the adversarial principle.
6. All evidence obtained through torture, coercion, offense against the physical or moral integrity of a person, the abusive intrusion into their private life, home, correspondence or telecommunications, shall be invalid.
7. No case may be withdrawn from a court whose jurisdiction is established by an earlier law.

#### Article 41

##### **Extradition, expulsion and right of asylum**

1. Extradition and expulsion of São Toméan citizens from the National territory shall be prohibited.
2. Extradition for political reasons or for crimes which carry the death penalty according to the law of the petitioning State shall not be permitted.
3. Expulsion of foreigners who have obtained residency authorization may only be determined by judicial authority, with the law ensuring expeditious delivery of decision.
4. Asylum shall be granted to foreigners who are persecuted or gravely threatened by persecution, as a result of their activity in support of democratic rights.

### **TITLE III**

#### **Social Rights and Economic, Social and Cultural Order**

#### Article 42

##### **Right to work**

1. Everyone shall have the right to work.
2. The duty to engage in work shall be inseparable from the right to work.
3. It shall be incumbent upon the State to ensure equality of opportunity in the choice of profession or type of work and conditions so that access is not blocked or limited as a function of sex, access to any position, work or professional categories.
4. The right to exercise liberal professions shall be guaranteed on the conditions provided for by the law.

Article 43

**Workers' rights**

All workers shall have the right:

- a) To remuneration for work, according to the quantity, nature and quality, where the principle of equal pay for equal work is observed so as to guarantee a dignified existence;
- b) To union freedom, as a way to promote their unity, defend their legitimate rights and protect their interests;
- c) To the organization of work under socially dignifying conditions so as to provide personal fulfillment;
- d) To being able to perform their work under hygienic and safe conditions;
- e) To a maximum limit to the work day, to weekly rest and to periodic paid holidays;
- f) To go on strike, under terms to be regulated by law, taking into account the interests of workers and of the national economy.

Article 44

**Social Security**

1. The State shall guarantee to every citizen, through the social security system, the right to protection in illness, disability, old age, widowhood, orphanhood and in other cases provided for by the law.
2. The organization of the system of social security of the State shall not discriminate against the existence of private institutions in order to achieve the objectives of Social Security.

Article 45

**Cooperatives**

1. The right of free establishment of cooperatives shall be guaranteed.
2. The State shall stimulate and support the creation and activity of cooperatives.

Article 46

**Intellectual property**

The State shall protect the rights to intellectual property, including the rights of the creator of thereof.

Article 47

**Private property**

1. The right to private property and to its transfer in life or death shall be guaranteed to everyone, under the terms of the law.
2. Requisitioning and expropriation of property for public utility may only take place in accordance with the law.

Article 48

**Private enterprises**

1. The State shall oversee private enterprise compliance with the law and shall protect the economically and socially viable small and medium-sized enterprises.
2. The State may authorize foreign investment, provided that it is useful to the economic and social development of the Country.

Article 49

**Housing and environment**

1. Everyone shall have the right to housing and to a human life environment and the duty to defend it.
2. It shall be incumbent upon the State to design and execute a housing policy as a part of territorial planning.

Article 50

**Right to health care**

1. Everyone shall have the right to health care and the duty to defend it.
2. In accordance with the National System of Health, it shall be incumbent upon the State to promote Public Health aimed at the physical and mental well-being of the populations and their balanced integration into the socio-ecological environment in which they live.
3. The exercise of private medicine shall be permitted, on conditions determined by law.

Article 51

**Family**

1. The family, as the fundamental element of the society, shall have the right to protection by the society and by the State.
2. It shall be incumbent, especially, upon the State:
  - a) To promote social and economic independence of households;
  - b) To promote the creation of a national network of maternal-infant assistance;
  - c) To cooperate with parents in the raising of their children.

Article 52

**Childhood**

Children shall have the right to respect and protection by the society and by the State, as regards their integral development.

Article 53

**Youth**

The youth, above all, young workers, shall enjoy special protection for the fulfillment of their economic, social and cultural rights.

Article 54

**Old age**

Persons of advanced age shall have the right to satisfactory conditions for family coexistence and for economic security.

Article 55

**Education**

1. Education, as a right recognized for all citizens, shall strive for the total development of every person and for their active participation in the community.
2. It shall be the responsibility of the State to promote permanent education and the elimination of illiteracy, in accordance with the National System of Education.
3. The State shall ensure compulsory and free basic education.
4. The State shall gradually promote equal possibility of access to all other levels of education.
5. Education through private Institutions shall be permitted under the terms of the law.

Article 56

**Culture and sports**

1. Conditions shall be created so that all citizens may have access to culture and may be encouraged to participate actively in its creation and dissemination.
2. The State shall preserve, defend and value the cultural patrimony of the São Toméan people.
3. It shall be incumbent upon the State to encourage and promote the practice and diffusion of sports and of a physical exercise culture.

**TITLE IV**

**Rights and Civico-political Duties**

Article 57

**Participation in public life**

All citizens shall have the right to take part in political life and in the management of the affairs of the Country, directly or by means of freely-elected representatives.

Article 58

**Right of suffrage**

All citizens over eighteen years of age shall have the right of suffrage, excepting in the case of incapacities, under the general law.

Article 59

**Right of access to public office**

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

Article 60

**Right to petition**

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

Article 61

**Right of indemnity**

Every citizen shall have the right to be indemnified for damages caused by illegal or harmful actions to their legitimate rights and interests, whether by state organs, Social Organizations or public officials.

Article 62

**Civic organizations**

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

Article 63

**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. The formation of political parties shall be regulated by special law.

Article 64

**Duties with national defense**

1. It shall be the honor and supreme duty of citizens to participate in the defense of the sovereignty, independence and territorial integrity of the State.
2. Every citizen shall have the duty to render military service, under the terms of the law.
3. Treason to the Homeland shall be a crime punishable by the severest penalties.

Article 65

**Taxes**

1. All citizens shall have the duty to contribute to the public expenditures, under the terms of the law.
2. The purpose of taxes collected shall be to meet the financial needs of the State and to provide a just distribution of income.

**PART III**

**Organization of Political Power**

**TITLE I**

**General Principles**

Article 66

**Political participation of citizens**

The participation as well as the direct and active involvement of citizens in political life shall constitute a basic condition for the consolidation of the Republic.

Article 67

**Organs of political power**

The formation, composition, jurisdiction and the functioning of the organs of political power shall be defined by the Constitution.

Article 68

**Organs of Sovereignty**

Organs of sovereignty shall be:

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

Article 69

**Principle of separation and interdependence of powers**

1. The organs of sovereignty must observe the principles of separation and interdependence established by the Constitution.

2. No organ of sovereignty, of regional or local power may delegate their powers to other organs, except in cases and under terms expressly provided for by the Constitution and by law.

#### Article 70

##### **Legislative Instruments**

1. Laws, ordinances, decrees, regional decrees and regional executive decrees shall be legislative instruments.
2. Laws and ordinances shall have equal force, notwithstanding their subordination to relevant laws of ordinances published in the exercise of the legislative authorization and of those that form the general bases of the legal systems.
3. Regional decrees and regional executive decrees shall deal with matters of specific interest to the Autonomous Region of Príncipe and not reserved to the National Assembly or the Government; they may not contradict the fundamental principles of the general laws of the Republic.
4. Ordinances and decrees shall deal with matters concerning the organization and functioning of the Government.
5. The laws and ordinances whose *raison d'être* involves their application without reservation to the entire national territory shall be the general laws of the Republic.
6. No law may create other categories of legislative instruments or confer to instruments of another nature the power, with external efficacy, to interpret, integrate, modify, suspend or revoke any of its precepts.
7. Regulations must specify expressly the laws that seek to regulate or that define the subjective and objective jurisdiction for their issuance.

#### Article 71

##### **Referendum**

1. Citizens who have been registered voters within the national territory, except for the provision of paragraph 3 of Article 17, may be called upon to express their opinions directly, bindingly, by referendum, by decree of the President of the Republic, by proposal of the National Assembly or of the Government, on issues within their jurisdictions, in cases and terms provided for by the Constitution and the law.
2. The referendum may only have as its object, questions of relevant national interest that must be decided upon by the National Assembly or by the Government through the approval of an international convention or of a legislative act.
3. Amendments to the Constitution, matters set forth in Article 97 of the Constitution as well as issues and acts of a budgetary content, whether fiscal or financial, shall be excluded from the scope of the referendum.
4. Each referendum shall deal specifically with a single subject, with the questions essentially formulated in terms of YES or NO, with objectivity, clarity and precision, a

maximum number of questions to be determined by law, which shall also determine all other conditions of formulation and implementation of referendums.

5. The convocation and the implementation of referendums shall be prohibited between the date of the convocation and that of the holding of the general elections for the organs of sovereignty, of members of the Regional Assembly of Príncipe (Assembleia Regional do Príncipe) and of the local government organs.
6. The President of the Republic shall submit to mandatory preventive review of constitutionality and legality, the referendum proposals that have been referred to them by the National Assembly or by the Government.
7. The rules for elections of the holders of posts with actual state organs shall apply with any necessary changes thereto.
8. Referendum proposals rejected by the President of the Republic or by the negative vote of the electorate may not be renewed in the same legislative session, unless a new election of the National Assembly is held or the government resigns.

#### Article 72

##### **Incompatibility**

1. The functions of the President of the Republic shall be incompatible with any other public or private function.
2. The functions of Deputy in the National Assembly, members of the Government, and of the office-holders of the local government organs shall be subject to incompatibilities determined by the law.

#### Article 73

##### **Oath of Office**

Upon being sworn into their offices, the holders of offices in State organs shall take the following oath:

“I swear, upon my honor, to fulfill and ensure the fulfillment of the Constitution and the laws, to defend National Independence, to promote the economic, social and cultural progress of the São Toméan people and to perform with all loyalty and dedication the functions that are entrusted to me”

#### Article 74

##### **Scrutiny and responsibility**

1. Office-holders of local government organs shall have the duty of keeping citizens and their organizations informed with respect to public affairs, remaining subject to democratic scrutiny exercised through the forms of political participation established by the Constitution and the law.

2. Office-holders of organs of political power shall be politically, civilly and criminally accountable for the acts and omissions that they shall perform in the exercise of their offices.

Article 75

**Deliberations of collegial organs**

Deliberations by the collegial organs of political power shall be made in harmony with the principles of free discussion and criticism as well as with the acceptance of the will of the majority.

Article 76

**Publication of acts**

1. The forms of publication of laws and of all other acts of political power shall be determined by the law.
2. A lack of publication of laws shall imply their legal inefficacy.

**TITLE II**

**President of the Republic**

Article 77

**Functions**

The President of the Republic shall be the Chief of State and the Supreme Commander of the Armed Forces, shall represent the Democratic Republic of São Tomé and Príncipe, shall guarantee national independence and the unity of the State and shall ensure the regular workings of the institutions.

Article 78

**Election and assumption of office**

1. The President of the Republic shall be elected by universal, direct and secret suffrage.
2. Only a citizen of São Toméan origin, the child of a São Toméan father or mother, more than 35 years of age, who does not possess any other nationality and who over the three years immediately prior to the date of candidacy has had permanent residence in the national territory, may be elected President of the Republic.
3. The President-elect of the Republic shall take office before the National Assembly, on the last day of the mandate of the outgoing President of the Republic or, in the case of an election due to a presidential vacancy, on the eighth day following the day of the publication of the electoral results.

## Article 79

### **Mandate**

1. The President of the Republic shall be elected to serve for five years.
2. In the event of a vacancy, the election of the new President of the Republic shall take place ninety days after and the new President shall initiate a new mandate.
3. Re-election for a third consecutive term shall not be allowed, nor shall it be allowed during the five-year period immediately subsequent to the term of the second consecutive mandate.
4. If the President of the Republic resigns from office, they may not stand for office in the immediate elections or in those that shall take place within the five-year period subsequent to the resignation.

## Article 80

### **Specific jurisdiction**

The President of the Republic shall be responsible for:

- a) Defending the Constitution of the Republic;
- b) Exercising the functions of Supreme Commander of the Armed Forces;
- c) 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 regional and local authorities;
- d) Calling a referendum at the national level and setting the date of its holding;
- e) Enacting the laws, ordinances and decrees;
- f) Granting pardons and commuting sentences following a hearing with the Government;
- g) Declaring a state of siege or a state of emergency, following a hearing with the Government that shall then be approved by the National Assembly;
- h) Authorizing the participation of the São Toméan Armed Forces in peacekeeping operations within a foreign territory or in the presence of foreign Armed Forces in the country, by the proposal of the Government, following a hearing with the Council of State and subject to the consent of the National Assembly;
- i) Requesting from the Constitutional Court preventive review of the constitutionality or legality of legislation and of international treaties;
- j) Awarding decorations of the State.

## Article 81

### **Jurisdiction with respect to other organs**

In relation to other organs, the President of the Republic shall be responsible for:

- a) Presiding over the Council of State;
- b) Presiding over the Supreme Council of Defense;
- c) Presiding over the Cabinet of Ministers, at the request of the Prime Minister;

- d) Convening extraordinary sessions of the National Assembly provided that compelling reasons of public interest so justify;
- e) Dissolving the National Assembly, subject to the provisions of Article 103 and to hearings with political parties represented in the National Assembly;
- f) Addressing the National Assembly;
- g) Appointing the Prime Minister, following hearings with the political parties represented in the National Assembly and taking into consideration the election results;
- h) Appointing and dismissing members of the Government, on the proposal of the Prime Minister;
- i) Dismissing the Government, pursuant to Article 117;
- j) Appointing three members to the Council of State;
- k) Appointing a judge to the Constitutional Court;
- l) Appointing and dismissing the Attorney General of the Republic, on the recommendation of the Government.

#### Article 82

##### **Jurisdiction in international relations**

The President of the Republic, in the field of international relations, shall be responsible for:

- a) Representing the State in international relations;
- b) Ratifying international treaties after they have been duly approved;
- c) Declaring war and making peace, on proposal of the Government, following a hearing with the Council of State and with the permission of the National Assembly;
- d) Appointing and dismissing ambassadors, on proposal of the Government, and accrediting foreign diplomatic representatives;
- e) Conducting, in concert with the Government, any negotiation process towards the conclusion of international agreements in the sphere of defense and security.

#### Article 83

##### **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 15 days beginning on the day of its receipt.
2. In case the promulgation is not confirmed, the bill shall 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 eight days.
3. The legislative acts of the Government referred to in paragraphs *c)* and *d)* of Article 111 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 84

**Decision making**

The President of the Republic shall determine, in the exercise of their power and jurisdiction, the form of the presidential decree.

Article 85

**Absence from the territory**

1. The President of the Republic may not absent themselves from the national territory without assent of the National Assembly or of its Standing Committee, if the former is not in session.
2. Assent shall be dispensed with in instances of travel of an unofficial nature for not longer than five days. However, the President must give prior notice thereof to the National Assembly.
3. Failure to comply with the provision in paragraph 1 entails, as set forth by law, the forfeiture of office, by the respective proceedings, under the terms of the law.

Article 86

**Criminal responsibility**

1. The President shall be accountable to the Supreme Court of Justice for crimes committed in the performance of their duties,
2. The initiative of criminal proceedings shall rest with the National Assembly, upon the proposal of one fifth and a resolution passed by two-thirds majority of the Deputies in the exercise of their functions.
3. Conviction shall imply forfeiture of office and the impossibility of re-election.
4. For crimes committed outside of the exercise of their functions, the President shall respond after the end of the mandate before the common courts.

Article 87

**Interim Substitution**

1. During temporary incapacitation of the President of the Republic, as well as during the vacancy of the office until the new President-elect takes possession thereof, the Chairman of the National Assembly or, should the latter be incapacitated, their 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 Chairman of the National Assembly or of their substitute shall be automatically suspended.
3. The interim President may not exercise the roles contemplated in paragraph f) of Article 80 and e) of Article 81.

## **TITLE III**

### **Council of State**

#### Article 88

##### **Definition and Composition**

1. The Council of State shall be the political advisory body of the President of the Republic.
2. The Council of State shall be presided over by the President and composed of the following members:
  - a) The Chairman of the National Assembly;
  - b) The Prime Minister;
  - c) The President of the Constitutional Court;
  - d) The Attorney General of the Republic;
  - e) The President of the Regional Government of Príncipe;
  - f) Former Presidents of the Republic who were not dismissed from office;
  - g) Three citizens of recognized competence and merit, appointed by the President of the Republic for the period corresponding to the duration of the presidential mandate;
  - h) Three citizens elected by the National Assembly, in accordance with the principle of proportional representation, for the period corresponding to the duration of the legislature.

#### Article 89

##### **Possession and mandate**

1. The members of the Council of State shall be sworn in by the President of the Republic.
2. Members of the Council of State established in subparagraphs a) to e) of paragraph 2 of the preceding article shall remain in office while they perform their duties, and those specified in subparagraphs g) and h) shall remain in office until the investiture of those who shall replace them in the performance of the respective positions.

#### Article 90

##### **Operation and jurisdiction**

1. Meetings of the Council of State shall not be public.
2. The Council of State shall be responsible for:
  - a) Drawing up its rules of procedure;
  - b) Advising on the dissolution of the National Assembly;
  - c) Advising on the resignation of the government, when it is necessary to ensure the smooth operation of democratic institutions;
  - d) Advising on the declaration of war and on peacemaking;
  - e) Advising on treaties involving sovereignty restrictions, the country's participation in international organizations of collective or military security;

- f) Advising on the participation of the Armed Forces in operations on foreign territory or on the presence of foreign Armed Forces within the national territory;
  - g) Advising on all other cases provided for in the Constitution and, in general, advising the President of the Republic on the exercise of their duties, when the latter requests same.
3. The resolutions of the Council of State shall be of a non-binding nature.

#### Article 91

##### **Form and publicity of resolutions**

1. The resolutions of the Council of State shall take the form of opinions.
2. Opinions of the Council of State referred to in subparagraphs b) to e) of paragraph 2 of Article 90 shall be issued at a meeting convened for that purpose by the President of the Republic and made public at the time of the act referred to herein.

### **TITLE IV**

#### **National Assembly**

##### Article 92

##### **Functions**

The National Assembly shall be the highest representative and legislative body of the State.

##### Article 93

##### **Composition and elections**

1. The National Assembly shall consist of elected Deputies, under the terms of the law.
2. The Deputies shall represent all the people, and not just the constituencies in which they are elected.
3. The number of National Assembly members shall be determined by law.

##### Article 94

##### **Powers of the Deputies**

The powers of the Deputies shall be namely the following:

- a) To discuss all issues of national interest;
- b) To submit draft laws, draft resolutions and draft motions;
- c) To question the Government, orally or in writing;
- d) To propose the establishment of commissions of inquiry.

#### Article 95

##### **Immunities**

1. No Member may be harassed, persecuted, arrested, detained, tried or convicted in consequence of votes cast or opinions expressed in the exercise of their office.
2. Except in cases of flagrante crime that is punishable by imprisonment or greater by consent of the National Assembly or its Standing Committee, Deputies may not be prosecuted or arrested for crimes committed outside of the exercise of their office.

#### Article 96

##### **Rights, privileges and duties**

1. The rights, privileges and duties of Deputies shall be regulated by the law.
2. Any Deputy found to be severely omissive of their duties may be dismissed by the National Assembly, by secret ballot, by a two-thirds majority of the sitting Deputies.

#### Article 97

##### **Jurisdiction**

The National Assembly shall be responsible for:

- a) Conducting constitutional revision;
- b) Making laws and voting on motions and resolutions;
- c) Bestowing legislative authority on the Government;
- d) Ratifying ordinances expedited by the Government through the use of legislative authority;
- e) Appointing and dismissing under the terms of the law, judges of the Supreme Court of Justice;
- f) Granting amnesties;
- g) Approving the General Budget of the State;
- h) Approving development plans and the relevant law;
- i) Auditing State accounts for each fiscal year;
- j) Approving treaties, whose objective are matters of law contemplated in Article 98, treaties involving the participation of São Tomé and Príncipe in international organizations, treaties of friendship, of peace and of defense, besides any others that the Government may submit to it;
- k) Evaluating and approving the Government program and monitoring its implementation;
- 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 a state of emergency;
- n) Giving consent to the President of the Republic to authorize the participation of the Armed Forces in operations in foreign territory or the presence of foreign Armed Forces within the national territory, on a proposal by the Government;

- o) Authorizing the President of the Republic to declare war and to make peace;
- p) Monitoring compliance with the Constitution and laws and evaluating the acts of the Government and Administration;
- q) Reviewing, amending, or repealing legislative acts or any regulatory measures adopted by the organ of political power that may be contrary to this Constitution;
- r) Exercising such other functions as may be assigned to it by the Constitution and the law;
- s) Voting on motions of confidence and of censure delivered to the Government.

#### Article 98

##### **Reservation of legislative powers**

The National Assembly shall be entirely responsible for legislating on the following matters:

- a) Citizenship;
- b) Personal and political rights of citizens;
- c) Elections and other forms of political participation;
- d) Judicial Organization and statutes of the judiciary;
- e) State of siege and state of emergency;
- f) Organization of national defense;
- g) Sectors of property with means of production;
- h) Taxes and tax systems;
- i) Expropriation and requisitioning for public utility;
- j) Monetary system;
- k) Definition of crimes, sentences, security measures and criminal proceedings;
- l) General organization of State Administration, except as provided for in paragraph c) of Article 111;
- m) Staff Regulations of officials and civil responsibility of the Administration;
- n) Organization of local governments;
- o) Status or legal capacity of persons;

#### Article 99

##### **Legislative and parliamentary proceedings**

3. Legislative initiative shall be the responsibility of the Deputies and of the Government.
4. Deliberations of the National Assembly shall assume the form of laws, resolutions and motions.

Article 100

**Legislative authority**

1. The National Assembly may authorize the Government to legislate, by ordinance, on matters provided for in Article 98.
2. The legislative authority must establish its purpose, its scope and its duration.
3. The closing of the legislature and the change of government shall occasion the expiry of all legislative authority granted.

Article 101

**Ratification of ordinances**

The ordinances issued by the Government up to a month before each legislative session, using delegated legislative powers shall be considered ratified if, in the first five plenary sessions of the National Assembly subsequent to their publication, none of the Deputies requests that they be submitted for ratification.

Article 102

**Legislature**

The legislature term limit shall be four years and shall begin with the swearing in of all its members.

Article 103

**Dissolution**

1. The National Assembly may be dissolved in the event of a grave institutional crisis that impedes its normal operation, when such is necessary for the smooth operation of democratic institutions, and under the penalty of being rendered legally non-existent, the dissolution act must be preceded by a favorable opinion delivered by the Council of State.
2. Dissolution of the National Assembly may not take place in the twelve months following its election, during the last semester of the official term of the President of the Republic or during the enforcement of a state of siege or a state of emergency.
3. Failure to comply with the provision of the preceding paragraph shall render the dissolution decree legally non-existent.
4. Dissolution of the National Assembly shall not affect the mandate of the Deputies or that of the jurisdiction of the Standing Committee until the first meeting of the National Assembly after the election.

Article 104

**Internal organization**

1. The National Assembly shall draft and adopt its Rules of Procedure and elect, at the first meeting of each legislative term, its Chairman and other members of the Bureau.

2. The National Assembly shall create specialized standing committees in respect of the matter and may set up *ad hoc* committees to deal with matters to be determined.

#### Article 105

##### **Sessions**

1. The National Assembly shall meet in two regular sessions per year, one of which shall be dedicated in particular to evaluating the report of the government's activity and the discussion and voting on the General Budget of the State for the following fiscal year.
2. The National Assembly may hold extraordinary meetings in the instances provided for by its Rules of Procedure or upon convocation by the President of the Republic.

#### Article 106

##### **Presence of Members of the Government**

Members of the Government may take part and speak in plenary meetings of the Assembly, under the terms of the Rules of Procedure.

#### Article 107

##### **Standing Committee**

1. The Standing Committee of the National Assembly shall be in operation beyond the periods of actual functioning of the National Assembly, during the period in which it becomes dissolved and in other cases set forth in the Constitution.
2. The Standing Committee shall be chaired by the Chairman of the National Assembly and shall be composed of the Vice-Chairmen and by Deputies provided for in the Rules of Procedure.
3. The Standing Committee shall have the charge:
  - a) To monitor the activity of the Government and of the Administration;
  - b) To exercise the powers of the Assembly in relation to the mandates of the Deputies;
  - c) To promote the convocation of Assembly when necessary;
  - d) To prepare the opening of Assembly sessions;
  - e) To give consent to the absence of the President of the Republic from the national territory.

## **TITLE V**

### **Government**

#### Article 108

##### **Duties**

The Government shall be the executive and administrative organ of the State, with the responsibility of conducting the overall policy of the country.

Article 109  
**Composition**

1. The Government shall consist of the Prime Minister, the Ministers and the Secretaries of State.
2. The Prime Minister shall be the Head of Government, with the duty of directing and coordinating the action thereof and ensuring the implementation of laws.

Article 110  
**Appointments**

1. The Prime Minister shall be appointed by the President of the Republic, following hearings with the political parties represented in the National Assembly and taking into consideration the election results.
2. The Ministers and Secretaries of State shall be appointed by the President of the Republic on the proposal of the Prime Minister.
3. Only a citizen of São Tomé origin, the child of a São Toméan father or mother, who does not hold any other nationality, may be appointed Prime Minister.

Article 111  
**Jurisdiction**

The Government shall be responsible for:

- a) Defining and implementing political, economic, cultural, scientific, social, defense activities, security and external relations, included in its program.
- b) Preparing development plans and the General Budget of the State, and ensuring its implementation;
- c) Legislating, by ordinances, decrees and other legislative acts, in matters concerning its own organization and operation;
- d) Making ordinances in matters reserved to the National Assembly, with the permission of the latter;
- e) Negotiating and concluding international agreements and conventions;
- f) Exercising legislative initiative before the National Assembly;
- g) Directing the Administration of the State, coordinating and controlling the activities of the Ministries and all other central bodies of the Administration;
- h) Proposing the appointment of the Attorney General of the Republic;
- i) Appointing the holders of senior civilian and military positions of the State;
- j) Proposing to the National Assembly the participation of the São Toméan Armed Forces in peacekeeping operations on foreign territory or the presence of foreign Armed Forces within the national territory;
- k) Proposing to the President of the Republic the submission to referendum of issues of relevant national interest, pursuant to Article 71;

- l) Performing administrative supervision of the Autonomous Region of Príncipe and of the Local Governments, under the terms of the law;
- m) Appointing and dismissing the President of the Regional Government and the Regional Secretaries;
- n) Dissolving the Regional and District Assemblies, observing the principles defined by the law.

#### Article 112

##### **Cabinet of Ministers**

1. The Cabinet of Ministers shall consist of the Prime Minister and the Ministers.
2. The Secretaries of State may be called upon to participate in meetings of the Cabinet of Ministers.
3. The powers of the Government provided for in paragraphs a), c), d), f), h), i), j), k), m) and n) of the preceding Article shall be exercised by the Cabinet.
4. A Cabinet of Ministers specialized according to subject matters may be established.

#### Article 113

##### **Responsibility of the Government**

The Government shall be accountable to the President of the Republic and to the National Assembly.

#### Article 114

##### **Responsibility of Members of the Government**

1. The Prime Minister shall be accountable to the President of the Republic and, in the sphere of the political responsibility of the Government, to the National Assembly.
2. The Ministers and Secretaries of State shall be accountable to the Prime Minister and, in the sphere of the political responsibility of the Government, to the National Assembly.

#### Article 115

##### **Criminal responsibility of Members of the Government**

1. A Member of the Government charged definitively with a crime committed in the exercise of their office, punishable by imprisonment of more than two years, shall be suspended so that the proceedings may be pursued.
2. In the event of definitive prosecution for crime punishable by up to two years, it shall be the responsibility of the National Assembly to decide whether the Member of the Government ought or ought not to be suspended, for the same purposes.

Article 116

**Assessment of the Government Program**

The Government Program shall be submitted to the National Assembly, through a statement from the Prime Minister, within thirty days after appointment of the latter.

Article 117

**Resignation of the Government**

1. The following shall imply the dismissal of the Government:
  - a) The beginning of new legislature;
  - b) The acceptance by the President of the Republic of the resignation tendered by the Prime Minister;
  - c) The death or permanent physical incapacity of the Prime Minister;
  - d) The rejection of the Government Program;
  - e) Failure of a motion of confidence;
  - f) The adoption of a motion of censure by an absolute majority of the sitting Deputies.
2. In addition to the cases referred to above, the President of the Republic may only dismiss the Government when this becomes necessary for ensuring the smooth operation of democratic institutions, following a hearing with the Council of State.

Article 118

**Government of Management**

1. In the case of resignation of the government, it shall continue its official duties until the appointment and tenure of the Prime Minister of the new constitutional government.
2. The Government shall be limited to the practice of acts strictly necessary to the current management of public affairs and to ordinary administration, before having its program assessed by the National Assembly, or after its resignation.

Article 119

**Ministerial Solidarity**

Members of the Government shall be bound by the Government Program and by the decisions of the Ministerial Cabinet.

**TITLE VI**

**The Courts**

Article 120

**Jurisdictional Function**

1. The Courts shall be sovereign bodies with jurisdiction to administer justice on behalf of the people.

2. In the administration of justice, it shall be incumbent upon the courts to assure the defense of the legally protected rights and interests of citizens, to settle disputes of public and private interest and to curtail the violations of laws.
3. The law may institutionalize non-judicial instruments and ways for settling conflicts.

#### Article 121

##### **Independence**

Courts shall be independent and shall be subject only to the law.

#### Article 122

##### **Court decisions**

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

#### Article 123

##### **Court hearing**

Court hearings shall be public except when the court itself decides to the contrary, by reasoned order, to safeguard the dignity of the individuals and of the public moral or to guarantee their normal operation.

#### Article 124

##### **Participation of the People**

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

#### Article 125

##### **Judges' guarantees**

1. Judges shall be irremovable, not being able to be transferred, suspended, retired or dismissed, except in cases prescribed in the law.
2. Judges may not be held accountable for their decisions, save for the exceptions prescribed in the law.

#### Article 126

##### **Category of Courts**

1. In addition to the Constitutional Court, the following categories of courts exist:
  - a) The Supreme Court of Justice and the Court of First Instance, the Regional Court and the District Courts;
  - b) The Court of Auditors.

2. Military and arbitration courts may be established.
3. The law shall determine the cases and the ways in which the courts in the preceding paragraphs may be constituted, be organized and work.

#### Article 127

##### **Supreme Court of Justice**

The Supreme Court of Justice shall be the highest judicial court of the Republic, and it shall be responsible for overseeing the harmony of jurisprudence.

#### Article 128

##### **Criminal Courts**

1. The existence of courts intended exclusively for adjudication of certain categories of crimes shall be prohibited.
2. Having the responsibility for the judgment of essentially military crimes defined by law, military courts shall exempt themselves from the provisions of the immediate paragraph above.

#### Article 129

##### **Review of constitutionality**

1. In matters filed for judgment, the courts may not apply rules that contravene the provisions of the Constitution or the principles enshrined therein.
2. Questions of unconstitutionality may be raised officiously by the court, the Public Prosecutor or by either party.
3. Should the question of unconstitutionality be raised, the incident shall be filed separately with the Constitutional Court, which shall decide.
4. Decisions reached on matters before the Constitutional Court shall have general binding force and shall be published in the *Diário da República* (Official Gazette of the Republic).

#### Article 130

##### **Public Prosecutor's Office**

1. The Public Prosecutor's Office shall oversee the rule of law, represent the public and social interest in the courts and shall be in charge of the penal system.
2. The Public Prosecutor's Office shall be organized as a hierarchical structure under the direction of the Attorney General of the Republic.

## **TITLE VII**

### **Constitutional Court**

#### Article 131

##### **Definition**

1. The Constitutional Court shall be the court with jurisdiction specifically over the administration of justice in matters of a legal and constitutional nature.
2. The Constitutional Court shall be in session whenever there are cases for trial.

#### Article 132

##### **Composition and Statute of Judges**

1. The Constitutional Court shall comprise five Judges, designated by the National Assembly.
2. Three from among the appointed Judges shall be mandatorily chosen from among magistrates and others, from among lawyers.
3. The mandate of the Judges of the Constitutional Court shall have a term limit of five years.
4. The President of the Constitutional Court shall be elected by its Judges.
5. The Judges of the Constitutional Court shall enjoy the guarantees of independence, tenure, impartiality, and lack of accountability.
6. The law shall establish immunities and the remaining laws relating to the Statute of Judges of the Constitutional Court.

#### Article 133

##### **Competence**

1. The Constitutional Court shall be responsible for reviewing for unconstitutionality and illegality, pursuant to Articles 144 and following.
2. The Constitutional Court shall also be responsible for:
  - a) Verifying the death and the permanent physical impossibility of the President of the Republic, as well as verifying temporary inability of the President of the Republic to perform official duties;
  - b) Verifying the forfeiture of office of the President of the Republic, in the cases set forth in paragraph 3 of Article 85 and paragraph 3 of Article 86;
  - c) Judging in the final instance the regularity and validity of the acts of the electoral proceedings, under the terms of the law;
  - d) Verifying the death and declaring the incapacitation for the performance of the presidential duties of any candidate for the President of the Republic, for the purposes pursuant to paragraph 2 of Article 78;
  - e) Verifying the legality of the constitution of political parties and their coalitions, as well as evaluating the legality of their denominations, abbreviations and symbols, and ordering the dissolution, under the terms of the Constitution and of the law.

- f) Verifying in advance the constitutionality and legality of national, regional and local referendums, including assessment of the relevant requirements for the respective electorate;
  - g) Judging at the request of the Deputies, under the terms of the law, appeals relating to loss of parliamentary seat and the elections held in the National Assembly and the Regional and Local Assemblies;
  - h) Judging actions against elections and resolutions of organs of political parties that, under the terms of the law, may be subject to appeal.
3. It is also the responsibility of the Constitutional Court to exercise such other functions as may be assigned by the Constitution and by the law.

#### Article 134

### **Organization and Operation**

The law shall establish the rules relating to the headquarters, organization and to the functioning of the Constitutional Court.

## **TITLE VIII**

### **Public Administration**

#### Article 135

#### **General Principles**

1. Public Administration shall aim at meeting public interest, in the respect for the legally protected rights and interests of citizens and for the constitutional institutions.
2. 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 administered, specifically against acts which harm their legally protected rights and interests.

## **TITLE IX**

### **Regional and Local Organs of Power**

#### Article 136

#### **Functions**

1. The organs of local power shall constitute the organized expression of the specific interests of the local communities where the São Toméan people dwell.
2. The organs of regional and local power shall support themselves through the initiative and the creative capacity of the populations and shall act in close collaboration with the participatory organizations of citizens.
3. The organs of regional and local power shall draw on their own finances and assets, in accordance with the law.

Article 137

**Autonomous Region of Príncipe**

1. The Isle of Príncipe and the encircling islands shall constitute an Autonomous Region, with political and administrative statute, taking into consideration their specificity.
2. The Regional Assembly and the Regional Government shall be organs of the Autonomous Region of Príncipe.

Article 138

**Local authorities**

1. The democratic organization of the State shall comprise the existence of local authorities, such as local organs of power, in accordance with the law of the political and administrative division of the Country.
2. The local authorities shall be territorial collective persons granted representative bodies aimed at pursuing the very interests of the respective populations without prejudice to participation of the State.

Article 139

**District Organs**

Organization of the local authorities in each District shall comprise an elected District Assembly and with decision-making powers and a collegiate executive organ, called the District Chamber.

Article 140

**Composition and election of District Assemblies**

1. The number of members of each District Assembly shall be determined by the law.
2. The members of the District Assemblies shall be elected by universal, direct and secret suffrage of resident citizens.

Article 141

**Mandate**

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

Article 142

**District Chamber**

1. The District Chamber, consisting of a chairman and councilors, shall be a collegiate executive body of the district, elected from among the members of each District Assembly.
2. The District Chamber shall be politically responsible to the District Assembly and may be dismantled at any time, under the law.

Article 143

**Jurisdiction of the organs of regional and local authorities**

1. It shall be, in general terms, the responsibility of regional and local authorities:
  - a) To promote the satisfaction of the basic needs of their community;
  - b) To implement development plans;
  - c) To stimulate the activity of all enterprises and other existing entities in its scope, in order to increase productivity and the economic, social and cultural progress of the people;
  - d) To submit to the organs of political authority of the State all suggestions and initiatives conducive to the harmonious development of the autonomous region and of the districts.
2. The specific scope and the mode of operation of these bodies shall be established by law.

**PART IV**

**Guarantee and Revision of the Constitution**

**TITLE I**

**Guarantee of Constitutionality**

Article 144

**Unconstitutionality by action**

1. Rules in violation of provisions of the Constitution or of the principles enshrined therein shall be unconstitutional.
2. The organic or formal unconstitutionality of regularly ratified international treaties shall not prevent the application of its standards in the legal system of São Tomé, provided that such rules are applied in the legal system of the other party, unless such unconstitutionality results in violation of a fundamental provision.

Article 145

**Prior review of constitutionality**

1. The President of the Republic may request that the Constitutional Court carry out a prior review of the constitutionality of any regular provision of an international agreement or treaty that was submitted to it for ratification, or of law or ordinance sent to it for enactment.
2. The prior review of constitutionality must be requested within eight days from the date of receipt of the instrument.
3. The Prime Minister or one fifth of the sitting Deputies of the National Assembly, in addition to the President of the Republic, may request that the Constitutional Court

conduct a prior review of the constitutionality of any regular provision of a law sent to the President for promulgation as an organic Law..

4. The Chairman of the National Assembly, on the date on which the statute was sent to the President of the Republic for promulgation as an organic law, shall notify the Prime Minister and the Parliamentary Groups of the National Assembly.
5. The prior review of the constitutionality provided for in paragraph 3 must be requested within eight days from the date specified in the preceding paragraph.
6. Notwithstanding the provisions of paragraph 1, the President may not enact the statutes referred to in paragraph 4 until eight days after the receipt thereof or before the Constitutional Court has decided on them, where the latter has been seized.
7. The Constitutional Court must rule within twenty-five days, which, in the case of paragraph 1, may be shortened by the President of the Republic in cases of urgency.

#### Article 146

##### **Consequences of Judiciary decisions**

1. If the Constitutional Court rules that a provision of any statute or international agreement is unconstitutional by regular standard, it should be vetoed by the President of the Republic and returned to the body that had approved it.
2. In the case referred to in paragraph 1, the statute may not be promulgated unless the organ that approved it deletes the provision ruled unconstitutional or, as the case may be, it shall confirm by a majority of two thirds of the Deputies present, so long as it is higher than the absolute majority of the sitting Deputies in office.
3. If the law were to be reformulated, the President may request prior review of the constitutionality of any of its provisions.
4. If the Constitutional Court rules that a provision of unconstitutionality agreement or treaty, it may only be ratified if the National Assembly approves it by a majority of two thirds of the Deputies present, provided that that exceeds an absolute majority of the sitting Deputies.

#### Article 147

##### **Abstract review of Constitutionality and of legality**

1. The Constitutional Court shall review and declare with general mandatory force:
  - a) The unconstitutionality of any rules;
  - b) The illegality of any provision of legislative acts on the grounds of infringement of a law of superior force;
  - c) The illegality of any legal rule of a regional legislative on the grounds of infringement of the Political and Administrative Statute of the Autonomous Region of Príncipe or of the general law of the Republic;

- d) The illegality of any set of legal rules of legislatures issued by sovereign bodies on the grounds of infringement of the laws of the Autonomous Region of Príncipe enshrined in its Statute.
2. The Constitutional Court may be requested by the following officials to declare the unconstitutionality or the illegality, with general mandatory force:
  - a) The President of the Republic;
  - b) The Chairman of the National Assembly;
  - c) The Prime Minister;
  - d) The Attorney General of the Republic;
  - e) One tenth of the Deputies of the National Assembly;
  - f) The Regional Legislative Assembly and the President of the Regional Government of Príncipe.
3. The Constitutional Court shall review and furthermore declare, in general mandatory force, the unconstitutionality or illegality of any rule, so long as it has judged by it as unconstitutional or illegal in three concrete cases.
- 4.

#### Article 148

#### **Unconstitutionality by omission**

1. At the request of the President of the Republic or, on the grounds of infringement of the laws of the Autonomous Region of Príncipe, of the Chairman of the Regional Legislative, the Constitutional Court shall review and verify non-compliance with the Constitution by omission of the legislative measures necessary for making the constitutional rules enforceable.
2. Whenever the Constitutional Court verifies the existence of unconstitutionality by omission, it shall notify the appropriate legislative body.

#### Article 149

#### **Concrete review of Constitutionality and legality**

1. The Constitutional Court shall have jurisdiction to hear appeals against any of the following court decisions:
  - a) Refusing to apply a legal rule on the grounds of its unconstitutionality;
  - b) Applying rules whose constitutionality may have been challenged during the proceedings.
2. The Constitutional Court shall also have jurisdiction to hear appeals against any of the following court decisions:
  - a) Refusing to apply the legal rule of a regional law on the grounds of its illegality by infringement of a law of superior force;
  - b) Refusing to apply the legal rule of a regional legislature on the grounds of its illegality by infringement of the Political and Administrative Statute of the Autonomous Region of Príncipe or of the general law of the Republic;

- c) Refusing to apply the legal rule of a law emanating from a sovereign body on the grounds of illegality by infringement of the Political and Administrative Statute of the Autonomous Region of Príncipe;
  - d) Applying a rule, whose legality has been challenged during the proceedings on any of the grounds specified in subparagraphs a), b) and c).
3. If a rule, whose application has been refused, consists of an international convention, of a legislative act or of a regulatory decree, the appeals contemplated in subparagraph a) of paragraph 1 and paragraph a) of paragraph 2 of this article are required for public prosecution.
  4. The appeals contemplated in subparagraphs b) and d) of paragraph 2 may be instituted only by the party who has challenged the unconstitutionality or illegality, and the law shall regulate the rules on admissibility of these appeals.
  5. The Constitutional Court, mandatorily the Public Prosecutor's Office, shall also have jurisdiction to hear appeals against the decisions of courts that apply a law previously judged unconstitutional or illegal by the Constitutional Court itself.
  6. Appeals to the Constitutional Court shall be restricted to the question of unconstitutionality or of illegality, in conformance with the cases.

#### Article 150

##### **Consequences of the declaration of unconstitutionality or illegality**

1. A declaration of unconstitutionality or illegality with general mandatory force shall be effective from the entry into force of the rule declared unconstitutional or illegal and shall determine the revalidation of such rules it may have revoked should the need arise.
2. In the case, however, where unconstitutionality or illegality by infringement of constitutional or higher legal standard, the declaration shall take effect only from the enforcement of the latter.
3. Rulings in cases that have already been tried shall stand, save when the Constitutional Court rules to the contrary in relation to rules concerning penal or disciplinary matters or offense and their contents were less favorable to the defendant.
4. When the legal certainty, reasons of fairness or public interest of exceptional importance, which should be justified if requested, the Constitutional Court may determine the consequences of unconstitutionality or illegality that are more restrictive than the provisions of paragraphs 1 and 2.

## **TITLE II**

### **Revision of the Constitution**

#### Article 151

##### **Initiative and time of revision**

1. The initiative of the revision shall rest with the Deputies and the Parliamentary Groups.
2. The Assembly may revise the Constitution five years from the date of publication of the last revision law.
3. The National Assembly, regardless of any timeframe, may assume the powers of constitutional revision by a majority of three quarters of the sitting Deputies.
4. Once a proposal has been submitted for constitutional revision, any others must be filed within thirty days.

#### Article 152

##### **Approval and promulgation of amendments**

1. Amendments to the Constitution shall be approved by two-thirds majority of the sitting Deputies.
2. The Constitution, in its new text, shall be published together with the revision law.
3. The President of the Republic may not refuse the promulgation of the revision law.

#### Article 153

##### **New text of the Constitution**

1. Amendments to the Constitution shall be inserted in their proper place through the necessary substitutions, deletions and additions.
2. After being systematized, the Constitution, in its new text shall be published together with the revision law.

#### Article 154

##### **Material limits of the revision**

The following may not be the subject of constitutional revision:

- a) The independence, the integrity of the national territory and the unity of the State;
- b) The secular status of the State;
- c) The republican form of Government;
- d) The rights, freedoms and guarantees of citizens;
- e) The universal, direct, secret and periodical suffrage for the election of officials of the organs of sovereignty and of regional and local power;
- f) The separation and interdependence of organs of sovereignty;
- g) The autonomy of regional and local power;
- h) The independence of the courts;
- i) The pluralism of expression and of political organization, including political parties and the right of democratic opposition.

Article 155

**Circumstantial limits of the revision**

No act of constitutional revision may be carried out during a state of siege or state of emergency.

**PART V**

**Final and Transitional Provisions**

Article 156

**Supreme Court of Justice - Accumulation of powers of the Constitutional Court**

1. As long as the Constitutional Court is not legally established, the administration of justice on matters of a legal and constitutional nature shall be carried out by the Supreme Court of Justice, which shall be responsible for:
  - a) Assessing the unconstitutionality and illegality, pursuant to Articles 144 to 150;
  - b) Exercising the powers pursuant to Article 133.
2. The agreements of the Supreme Court of Justice, on matters of a legal and constitutional nature shall not be appealable and shall be published in the *Diário da República*, maintaining the statutory general force, in abstract and tangible review procedures, when deciding on the unconstitutionality.

Article 157

**Supreme Court of Justice – Composition in the accumulation of powers of the Constitutional Court**

1. While performing the Constitutional Court functions, the Supreme Court shall be composed of five judges, appointed for a term of four years, under the following paragraphs, namely:
  - a) Three Counselor Judges of the Supreme Court of Justice;
  - b) A judge appointed by the President of the Republic from among eligible judges or lawyers;
  - c) A judge elected by the National Assembly, from among the eligible lawyers, by two-thirds vote of the Deputies present, provided that exceeds an absolute majority of votes of the Deputies of functions.
2. Only citizens of reputed merit, graduated in Law and in full possession of their civil and political rights, at the time of the appointment, have performed at least 5 years of professional activity in the judiciary or in any other forensic activity and meet all other requirements established by law, may be appointed judges of the Supreme Court, pursuant to this Article.

Article 158

**Legislation in force on the date of Independence**

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

Article 159

**Date of the Constitution**

The Constitution of the Democratic Republic of S. Tomé and Príncipe 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 1975, published in the *Diário da República* no. 39, of 15 December 1975.

The First Text of the Constitutional Law no. 1/80, published in the *Diário da República* no. 7, of 7 February – First Constitutional revision.

The Second Text of the Constitutional Law no. 2/82 published in the *Diário da República* no. 35, of 31 December 1982. - Second Constitutional revision.

Constitutional Amendment Law no. 1/87, of 31 December – published in the Fourth Supplement to the *Diário da República* no. 13, of 31 December 1987. – Third Constitutional revision.

Third Text of the Constitutional Law no. 7/90 - published in the *Diário da República* no. 13, of 20 September 1990. – Fourth Constitutional revision.

Fourth Text of the Constitutional Law no. 1/03, published in the *Diário da República* no. 2, of 29 January 2003. – Fifth Constitutional Revision.

Article 160

**Enforcement**

1. This Constitution shall come into effect in the thirtieth day subsequent to its publication in the *Diário da República*, excepting the provisions in the following paragraphs.
2. The existing provisions of articles 80, 81 and 82 shall come into effect on the date of the commencement of the next mandate of the President of the Republic.
3. Until the date of entry into force of the articles referred to in the previous paragraph, with respect to the powers of the President of the Republic, the same shall be substituted by a single Article 80 with the following amendment:

**“Article 80 (Jurisdiction)**

The President of the Republic shall be responsible for:

- a) Defending the Constitution of the Republic;

- b) Directing the foreign policy of the Country and represent the State in international relations;
- c) Directing the defense and security policy;
- 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 the Regional and Local Governments;
- e) Holding extraordinary meetings in the National Assembly provided that they are substantiated by compelling reasons of public interest;
- f) Addressing the National Assembly;
- g) Appointing, swearing in, and dismissing the Prime Minister;
- h) Appointing, dismissing and swearing in the remaining Members of the Government, on a proposal by the Prime Minister, and presenting to them their mandate;
- i) Presiding over the Ministerial Cabinet when necessary;
- j) Appointing and dismissing the Attorney General of the Republic on the proposal of the Government;
- k) Appointing and dismissing ambassadors;
- l) Accrediting foreign ambassadors;
- m) Promulgating the laws, ordinances and decrees;
- n) Granting pardons and commuting sentences;
- o) Dissolving the National Assembly observed and pursuant to Article 103 and by hearings of the political parties holding seats therein;
- p) Declaring a state of siege or state of emergency;
- q) Declaring war and making peace;
- r) Conferring decorations upon the State;
- s) Exercising other duties that may be entrusted to them by law.”

National Assembly, in São Tomé, on 6 December 2002. –

Chairman of the National Assembly, *Dionísio Tomé Dias*

Promulgated on 25 January 2003

For publication –

President of the Republic, *Fradique Bandeira Melo de Menezes*