

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review:

2nd Cycle, 23rd Session

SAO TOME AND PRINCIPE

I. BACKGROUND INFORMATION

Sao Tome and Principe is a State party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*). Sao Tome and Principe is not party to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) nor to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*). Sao Tome and Principe has neither ratified the *1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa*, nor the *2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (the *Kampala Convention*). There is no national legislation governing specific issues relating to asylum-seekers and refugees or stateless persons.

The Republic of Sao Tome and Principe is an archipelago with 187,356 inhabitants covering an area of 1,001 square kilometres, located in the Gulf of Guinea. Sao Tome and Principe is one of the poorest, least developed and most indebted country in the world, with 50 per cent of its GDP being provided through international assistance. Consequently, Sao Tome and Principe experiences a high rate of emigration mainly to Angola, Gabon and Portugal. Moreover, as a small island with limited resources, Sao Tome and Principe is particularly vulnerable to the effects of climate change and rising sea levels.¹

UNHCR is not aware of any registered refugees or other persons of concern residing in Sao Tome and Principe.

¹ For more information, see UNDP Africa Adaptation Programme, available at: <http://www.undp-aap.org/countries/sao-tome-and-principe>.

II. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Protection of refugees and access to asylum procedure

Despite the ratification of the *1951 Convention*, Sao Tome and Principe does not possess any national legislation relating to persons in need of international protection. Although UNHCR acknowledges that Sao Tome and Principe is geographically isolated, incorporation of the *1951 Convention* and its *1967 Protocol* into its national legislation will strengthen the protection framework for UNHCR's persons of concern, in case they are identified. Moreover, being situated in a region that has been characterized by internal unrest generating outflows of persons in need of protection, accession to the *1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa*, which is the regional complement of the *1951 Convention*, would facilitate provision of adequate protection and assistance.

UNHCR stands ready to lend its support to the Government of Sao Tome and Principe in the development of a sound national asylum system, including the drafting of national refugee legislation, reinforcement of the capacities of key stakeholders, etc.

Recommendations:

UNHCR recommends that the Government of Sao Tome and Principe:

- Develop and adopt national law on the protection of persons in need of international protection;
- Accede to the *1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa*; and
- Seek UNHCR's technical advice in putting in place an effective asylum system.

Issue 2: Climate change and climate-induced displacement

UNHCR recognizes that climate change poses a unique set of challenges for many small island-developing States, including Sao Tome and Principe. Sao Tome and Principe is already experiencing the effects of climate change caused by rising sea levels and storms of increasing frequency and severity. In a worst-case scenario, rising sea levels will expose populations to the gradual loss of territory and potable water scarcity, and will have serious impacts on traditional livelihood activities. UNHCR calls on the international community to ensure a stronger and better-coordinated response to the displacement resulting from both sudden - and slow - onset disasters, and from the effects of climate change, both within countries and across international borders.

The negative impact of climate change on populations living in coastal rural areas is acknowledged by UNDP, which is supporting local authorities through the implementation of

climate change-resilient livelihood activities for the affected population.² However, there have been so far no reports of any displacement of persons which could have been caused by climate change in Sao Tome and Principe.

Recommendation:

UNHCR recommends that the Government of Sao Tome and Principe:

- Actively participate in regional and international initiatives and fora which may contribute to avert or mitigate the negative impact of climate change, including climate-induced displacement.

Issue 3: Protection of internally displaced persons

We wish to note that the *Kampala Convention* reaffirms that national authorities have the primary responsibility to provide protection and assistance to internally displaced persons (IDPs). The *Kampala Convention* was adopted on 23 October 2009, during a Special Summit of Heads of State and Government on Refugees, Returnees and Internally Displaced Persons in Uganda. It contains explicit provisions on equality and non-discrimination. It specifically renders it mandatory for State parties to protect women and children from sexual and gender-based violence (SGBV), including sexual slavery and trafficking. It requires State parties to take measures improving the sexual and reproductive health of women and girls, including psycho-social support for victims of SGBV. The *Kampala Convention* also encourages family unity and family tracing activities, and clearly calls on State parties to ensure that men and women have access to individual identity documentation when faced with internal displacement.

Furthermore, Article 5 (4) of the *Kampala Convention* specifically requires that: “States Parties shall take measures to protect and assist persons who have been internally displaced due to natural or human made disasters, including climate change.”³ For this reason, accession to the *Kampala Convention* would be particularly pertinent to the issues faced by Sao Tome and Principe. Accession to this regional instrument and incorporation of its provisions into the national law would ensure early identification of persons who are internally displaced and protection of their human rights in the face of displacement.

Recommendation:

UNHCR recommends that the Government of Sao Tome and Principe:

- Accede to the *2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (the *Kampala Convention*).

² For more information, see: UNDP, Sao Tome and Principe, “Projects,” available at: http://www.st.undp.org/content/saotome_and_principe/fr/home/operations/projects/environment_and_energy/renforcement-de-l-information-climatique-et-des-systemes-d-alert.html.

³ African Union, *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (“*Kampala Convention*”), 22 October 2009, available at: <http://www.refworld.org/docid/4ae572d82.html>.

Issue 4: Prevention of statelessness

There is no available data or precise number of stateless persons in Sao Tome and Principe. The country has never undertaken a study to assess the situation of potential stateless persons. Further, the term “stateless” is not defined in Sao Tome and Principe’s legislation, which further suggests the low attention devoted to this issue.

We would like to highlight that in November 2014, UNHCR launched its Global Campaign to End Statelessness by 2024. There is a global consensus on the importance of acceding to the *Statelessness Conventions*, and accession is also called for in Action Nine of the *Global Action Plan to End Statelessness: 2014 - 2024*.⁴ The *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness* are key international treaties designed to ensure that every person has a nationality and that stateless people enjoy a basic set of human rights. The *Statelessness Conventions* do not stand alone, but complement a much broader range of international legal standards, in particular those contained in human rights treaties.

The *1954 Convention* ensures minimum standards of treatment for stateless persons in respect to a number of fundamental rights. These include, but are not limited to, the right to education, employment, housing and public relief. The *1954 Convention* also guarantees stateless persons a right to identity and travel documents and to administrative assistance. The *1961 Convention* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to standards contained in other human rights treaties that address the right to a nationality. An increase in the number of State parties to these two *Conventions* is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights.

Action Ten of the *Global Action Plan* also encourages States to improve quantitative and qualitative data on stateless populations in order to assess the scale of the situation; the profile of the affected population; the causes and impacts of statelessness; and an overview of obstacles to and potential for solutions. This Action is essential for States to adequately respond to statelessness and to enable UNHCR to fulfil its mandate as well as measure progress in implementing the *Global Action Plan*.

Recommendations:

UNHCR recommends that the Government of Sao Tome and Principe:

- Accede to the *1954 Convention relating to the Status of Stateless Persons* and to the *1961 Convention on the Reduction of Statelessness*;⁵ and

⁴ UNHCR, *Global Action Plan to End Statelessness*, 4 November 2014, available at: <http://www.refworld.org/docid/545b47d64.html>.

⁵ Accession to the *1954 Convention relating to the Status of Stateless Persons* and to the *1961 Convention on the Reduction of Statelessness* was also recommended during the 1st cycle UPR examination of Sao Tome and Principe.

- Assess the situation of statelessness in the country to identify potential groups that may be in need of protection.

Issue 5: Birth registration and documentation

Birth registration is fundamental to the protection of children and to the prevention of statelessness. Failure to document a person's legal existence can prevent the effective enjoyment of a range of human rights, including access to education and health care. Most recently, the Human Rights Council adopted a resolution on birth registration and the right of everyone to recognition everywhere as a person before the law, calling upon "States to ensure free birth registration, including free or low-fee late birth registration, by means of universal, accessible, simple, expeditious and effective registration procedures without discrimination of any kind."⁶ Because birth registration legally establishes the place of birth, proof of age, and parental affiliation, it serves as important documentary proof to acquire the parents' nationality or the nationality of the State in which the child is born. It also provides children with a degree of protection against child labour, illegal adoption, early marriage, sexual exploitation, and trafficking.⁷

We wish to note that Action Seven of the *Global Action Plan to End Statelessness 2014 – 2024*⁸ urges States to ensure birth registration for the prevention of statelessness. Individuals can be at risk of statelessness if they have difficulties proving that they have links to a State. Lack of birth registration can create such a risk. Registering births that occur in the territory is the duty of every State. However, given that birth registration does not always occur in a timely manner, States also need procedures for late and delayed birth registration and may consider undertaking campaigns to register older children and adults. Birth registration needs to be free, accessible and undertaken on a non-discriminatory basis.

In its Concluding Observations on Sao Tome and Principe, the Committee on the Rights of Child "remains concerned that in spite of this progress, a significant number of children remain without birth certificates. In particular, the Committee is concerned about inadequate staffing to register babies born on weekends, informal fees frequently charged at birth registration and fines imposed for birth registration made after the age of 14 years."⁹

See: Report of the Working Group of the Universal Periodic Review: Sao Tome and Principe, A/HRC/17/13, 16 March 2011, para. 65.9 (recommended by Ghana), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/118/49/PDF/G1111849.pdf>.

⁶ UN Human Rights Council Resolution A/HRC/RES/19/9, 3 April 2012, available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/19/9.

⁷ UN High Commissioner for Refugees, *Birth Registration: A Topic Proposed for an Executive Committee Conclusion on International Protection*, 9 February 2010, EC/61/SC/CRP.5, para. 2, available at: <http://www.unhcr.org/refworld/docid/4b97a3242.html>.

⁸ UNHCR, *Global Action Plan to End Statelessness*, 4 November 2014, available at: <http://www.refworld.org/docid/545b47d64.html>.

⁹ Committee on the Rights of Child, Concluding Observation CRC/C/STP/CO/2-4, 29th October 2013 available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fSTP%2fCO%2f2-4&Lang=en.

Recommendations:

UNHCR recommends that the Government of Sao Tome and Principe:

- Ensure that all children are registered immediately after birth; and
- Ensure that the national legislation regulating birth registration is in line with the *Convention on the Right of Child*.

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Excerpts of Concluding Observations from UN Treaty Bodies

SAO TOME AND PRINCIPE

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations (in this case the Committee on the Rights of the Child) relating to issues of interest and persons of concern to UNHCR with regards to Sao Tome and Principe.

Committee on the Rights of the Child

[Concluding observations \(2013\) CRC/C/STP/CO/2-4](#)

Birth registration

29. The Committee welcomes the improvement in the birth registration rate resulting from the State party's Child Birth Registration Programme and the Permanent Birth Registration Strategy. However, the Committee remains concerned that in spite of this progress, a significant number of children remain without birth certificates. In particular, the Committee is concerned about:

- (a) Inadequate staffing to register babies born on weekends;
- (b) Informal fees frequently charged for birth registration;
- (c) Fines imposed for birth registrations made after the age of 14 years.

30. The Committee urges the State party to take further measures to ensure that all children are registered immediately after birth and that the national legislation regulating birth registration is in accordance with the provisions of article 7 of the Convention, including by:

- (a) Ensuring adequate staffing to register all babies, including those born on weekends;**
- (b) Ensuring that birth registration and the issuance of birth certificates are provided free of charge in practice;**
- (c) Providing adequate and accessible mechanisms to enforce free birth registration and to report on officials seeking informal fees for birth registration, and imposing commensurate sanctions on perpetrators;**
- (d) Abolishing fines for late birth registrations and allowing for birth certificates to be issued up to the age of 18 years.**

Adoption

42. The Committee notes that the State party is in the process of establishing a legal framework for inter-country adoptions. However, the Committee is deeply concerned at reports that child trafficking occurs through unregulated inter-country adoptions, and has continued despite the ongoing reform of adoption laws.

43. The Committee recommends that the State party consider acceding to the Hague Convention No. 33 on Protection of Children and Cooperation in respect of Inter-country Adoption, and ensure the implementation of legislation and procedures to give full effect to this Convention. Furthermore, the Committee recommends that the State party

expeditiously take measures to prevent the trafficking of children, particularly with regard to unregulated inter-country adoptions.