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**Human Rights Committee****Concluding observations on Saint Vincent and the Grenadines in the absence of the second periodic report\***

1. In the absence of a report by the State party, the Committee considered the situation of civil and political rights under the Covenant in the Saint Vincent and the Grenadines at its 3572th and 3573rd meetings (CCPR/C/SR.3572 and CCPR/C/SR.3573), held in public sessions on 5 and 6 March 2019. In accordance with rule 71, paragraph 1, of the Committee's rules of procedure, the failure of a State party to submit its report under article 40 of the Covenant may lead to an examination in a public session of the measures taken by the State party to give effect to the rights recognized in the Covenant and to adopt concluding observations.

2. At its 3596th meeting, held on 21 March 2019, the Committee adopted the following concluding observations.

**A. Introduction**

3. The Covenant came into force for Saint Vincent and the Grenadines on 9 February 1982. The State party was under an obligation to submit its second periodic report by 31 October 1991. The Committee regrets that the State party has failed to honour its reporting obligations under article 40 of the Covenant and that, despite numerous reminders, the State party has not submitted its second periodic report.

4. The Committee nevertheless expresses appreciation for the opportunity to engage in a constructive dialogue with the State party's delegation on the implementation of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/VCT/Q/2/Ad.1) to the list of issues (CCPR/C/VCT/Q/4), which were supplemented by oral responses by the delegation and additional information provided by the State party after the constructive dialogue.

5. In the light of the detailed written replies to the Committee's list of issues and the constructive dialogue that the Committee had with the State party's delegation, the Committee considers the written replies as the second periodic report of the State party and requests that the State party update its common core document (HRI/CORE/1/Add. 36) in order to facilitate future dialogues.

**B. Positive aspects**

6. The Committee welcomes the following legislative and institutional measures taken by the State party, including the adoption or establishment of:

- (a) The Children (Care and Adoption) Act, in 2010;

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\* Adopted by the Committee at its 125<sup>th</sup> session (4-29 March 2019).

(b) The Prevention of Trafficking in Persons Act, in 2011, and the national plan of action against trafficking, in 2015;

(c) The Domestic Violence Act, in 2015, and a national action plan on gender based violence, in 2015;

(d) The National Mechanism for Reporting and Follow-Up, in 2016.

7. The Committee also welcomes the accession by the State party to the following treaties:

(a) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, on 29 October 2010;

(b) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, on 29 October 2010;

(c) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 29 March 2011.

## C. Principal matters of concern and recommendations

### Constitutional and legal framework within which the Covenant is implemented

8. While many of the Covenant rights have been included in the Constitution, the Committee is concerned that some rights enshrined in the Covenant, such as equality between men and women and the prohibition of discrimination, have not been fully incorporated in the Constitution and domestic legislation. While noting the efforts made to train judges, prosecutors and lawyers and to raise awareness of general public, the Committee is also concerned that the Covenant has been rarely invoked in domestic courts (art. 2).

9. **The State party should ensure that the rights enshrined in the Covenant are fully incorporated into the Constitution and other relevant sources of domestic law and take all measures necessary to ensure that laws are articulated, interpreted and applied in full compliance with the Covenant. It should also train judicial and legal professionals, including judges, prosecutors and lawyers as well as public officials and the general public on the rights enshrined in the Covenant and the Optional Protocol and their application.**

### National Mechanism for Reporting and Follow-up and National Human Rights Institution

10. While welcoming the establishment of the National Mechanism for Reporting and Follow-up, the Committee is concerned at delays in fulfilling the State party's reporting obligations and implementing recommendations of international human rights mechanisms. It is further concerned at the absence of an independent national human rights institution to monitor human rights in the State party. The Committee is also concerned about a lack of data and statistics, which relate to the implementation of human rights (art.2).

11. **The State party should accelerate its efforts to ensure compliance with its reporting obligations, to implement recommendations of the Committee as well as other international human rights mechanisms, improve data collection, and avail itself of technical and capacity building assistance, as necessary. The State party should establish an independent national human rights institution with a broad human rights protection mandate and adequate human and financial resources, in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

### Prohibition against detention for inability to fulfil a contract

12. The Committee remains concerned that the Debtors Act permits imprisonment for debt in some civil cases (arts. 9 and 11).

13. **The State party should revise the Debtors Act to provide for alternatives to imprisonment for default in civil matters, in compliance with the provisions of the Covenant.**

#### **Non-discrimination and equality between women and men**

14. The Committee is concerned that the Constitution does not prohibit all grounds of discrimination stipulated by the Covenant and that no specific provision establishes that men and women have equal rights. The Committee is also concerned that women remain underrepresented in both the public and private sectors, particularly in decision-making positions, and regrets the persistence of stereotypes with respect to the position of women in society (arts. 2, 3 and 26).

15. **The State party should review its Constitution to ensure that it explicitly prohibits all grounds of discrimination in a non-exhaustive list, in accordance with article 26 of the Covenant, and ensure the equal rights of men and women, in accordance with article 3 of the Covenant. The State party should step up its efforts to increase participation of women in the public and private sectors, if necessary through appropriate temporary special measures, to give effect to the provisions of the Covenant. The State party should take the practical steps necessary to eradicate stereotypes regarding the position of women in society.**

#### **Non-discrimination and rights of lesbian, gay, bisexual and transgender persons**

16. The Committee is concerned at the absence of comprehensive anti-discrimination legislation in the State party. The Committee is concerned that consensual same-sex relationships remain criminalized in the State party and, even if the law is not enforced, it may promote homophobic attitudes and discourage lesbian, gay, bisexual and transgender persons from submitting complaints on discrimination, threats and harassment, especially since LGBT persons reportedly continue to be subject to such treatment (arts. 2, 9, 17 and 26).

17. **The State party, in addition to carrying out a review of the Constitution as above, should ensure its anti-discrimination legislation (a) provides for full and effective protection against discrimination in all spheres, including the private sphere, and prohibits direct, indirect and multiple discrimination; (b) contains a comprehensive list of grounds for discrimination in line with the Covenant, including sexual orientation and gender identity; and (c) provides for access to effective and appropriate remedies for victims of discrimination. It should adopt policies tackling discrimination, decriminalize same-sex relationships between consenting adults and take measures, including policy and public education initiatives, to change societal perceptions of lesbian, gay, bisexual and transgender persons and protect them from threats and harassment.**

#### **Violence against women and domestic violence**

18. While welcoming the adoption in April 2015 of the Domestic Violence Act, the Committee is concerned about allegations of the high prevalence of domestic violence, sexual violence and abuse, including high rates of rape, which disproportionately affects women and children, and is often underreported because of a lack of trust between victims and law enforcement authorities. The Committee is also concerned about the narrow definitions of rape and incest, the absence of statutory prohibitions of marital rape and sexual harassment, and the lack of a comprehensive definition of gender-based violence in the Criminal Code (arts. 2, 6, 7, and 26).

19. **The State party should (a) promptly amend its laws so as to afford adequate protection against gender-based violence including sexual violence and abuse such as rape, incest, and sexual harassment; (b) strengthen its efforts to raise public awareness of the adverse impact of domestic and gender-based violence, as well as on changing societal attitudes towards women and cultural gender norms; (c) encourage reporting of incidents of domestic and gender-based violence; (d) ensure that allegations are thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished**

**with sanctions commensurate with the severity of the crime; and (e) improve victim support facilities and mechanisms and ensure that victims of domestic and gender based violence receive proper legal, medical and psychological assistance.**

#### **Sexual and reproductive rights and voluntary termination of pregnancy**

20. The Committee is concerned about high teenage pregnancy rates and the lack of effective access to contraceptive methods for women and girls. The Committee is also concerned at the highly restrictive circumstances under which women can lawfully have an abortion in the State party. In particular, it is concerned at (a) the requirement of approval of two medical practitioners for therapeutic abortions; and (b) the socioeconomic barriers imposed by the reportedly high expenses of a proper medical procedure. It is concerned that the restrictions in the legislation, as applied in the State party, may compel women and girls to resort to unsafe abortions that place their lives and health at risk (arts. 2, 3, 6, 7, 17, 24 and 26).

21. **The State party should (a) ensure unimpeded access to sexual and reproductive health services and education and appropriate and affordable contraception for men, women and adolescents nationwide; (b) review its legislation to ensure safe, legal and effective access to abortion where the life and health of the pregnant woman or girl is at risk and where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or is not viable; (c) refrain from denying effective access by women and girls to safe and legal abortion services; and (d) ensure that women and girls who have abortions, as well as the physicians assisting them, are not subjected to criminal sanctions.**

#### **Right to life**

22. While welcoming that the State party has not carried out any executions since 1993 and that it has not sentenced any person to the death penalty since 2008, and has thus established a *de facto* moratorium on death penalty, the Committee is concerned that the death penalty remains in the Criminal Code and the Government has not instituted an official moratorium on the use of the death penalty, with a view to its abolition. It is furthermore concerned that one individual remains on death row (art. 6).

23. **In accordance with the General Comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights on the right to life, which reaffirms that States parties that are not yet totally abolitionist should be on an irrevocable path towards complete eradication of the death penalty, *de facto* and *de jure*, in the foreseeable future, the State party should consider: (a) establishing an official moratorium on the death penalty with a view to abolishing it; (b) acceding to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty; (c) carrying out appropriate awareness measures to mobilize public opinion in support of abolition of the death penalty.**

#### **Torture and ill-treatment**

24. The Committee is concerned about the absence of torture as a criminal offence in the Criminal Code and the non-existence of an independent body to investigate complaints and prevent torture or cruel, inhuman or degrading treatment or punishment by law enforcement officials (art.7).

25. **The State party should (a) review the Criminal Code with a view to including torture as a criminal offence; (b) establish an independent body to investigate complaints and prevent abuse and ill-treatment by law enforcement officials; and (c) ensure that all allegations of torture and ill-treatment are investigated promptly, impartially and thoroughly, that the perpetrators are prosecuted and, if convicted, sentenced to punishment commensurate with the gravity of the crime and that victims are provided with effective remedies.**

### Arbitrary arrest and detention

26. The Committee is concerned about allegations of arbitrary arrest and detention beyond 48 hours without charge and reported delays in obtaining psychiatric evaluations of persons deprived of their liberty (arts. 9, 10 and 14).

27. **The State party should take all necessary steps to ensure: (a) that those arrested or detained on a criminal charge are brought before a judge or other officer authorized by law to exercise judicial power within 48 hours in order to bring their detention under judicial control; (b) that all cases of arbitrary arrest are investigated and those responsible are subjected to disciplinary action and/or judicial proceedings; and (c) that psychiatric evaluations are provided in a timely manner.**

### Prison conditions

28. While noting that the State party has built a new prison facility, “the Belle Isle Correctional Facility”, the Committee remains concerned about the inadequate conditions in the old prison in Kingstown, including the failure to separate violent prisoners and reports about gang activities, drug smuggling and insufficient health standards (art.10).

29. **The State party should improve conditions in its prison facilities, in line with the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). The State party should consider ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

### The rights of the child

30. The Committee remains concerned that under the Corporal Punishment and Juvenile Act and the Education Act, corporal punishment of children remains permissible in all settings, including private homes, alternative care settings, schools and penal institutions (arts. 7 and 24).

31. **The State party should take all effective measures, including legislative reform and practical steps, to prohibit corporal punishment in all settings. It should encourage non-violent forms of discipline as alternatives to corporal punishment, and should conduct public information campaigns to raise awareness about its harmful effects.**

### Juvenile justice

32. The Committee is concerned about the low age of criminal responsibility (8 years), the lack of legal guarantees that the deprivation of liberty of children is used only as a measure of last resort and for the shortest period of time, the permissibility of caning as a criminal sanction for children, and reports that convicted juveniles are detained together with adults (arts. 7, 9, 10 and 24).

33. **The State party should reform its juvenile justice system in accordance with international standards including by taking steps to: (a) raise the age of criminal responsibility in accordance with international standards; (b) eliminate corporal punishment as a criminal sanction for children; (c) ensure that deprivation of liberty of children is used only as a measure of last resort and for the shortest possible period of time; and (d) ensure that juveniles are separated from adults in all places of detention and prisons.**

### Sexual exploitation and abuse of children

34. While noting the efforts made by the State party in combating the sexual exploitation and abuse of children, including the establishment of the Directorate of Family Services and a Sexual Offence Unit in the Royal Saint Vincent and the Grenadines Police Force, the Committee is concerned at remaining gaps. It is particularly concerned at (a) low prosecution and conviction rates for the offences of statutory rape and incest; (b) the availability of a legal defence argument against a charge of statutory rape based on the mistaken belief that the victim was over 15 years of age; (c) the underreporting of child sexual abuse, due in part to societal attitudes regarding reporting; and (d) the lack of guaranteed legal assistance or state-

appointed children's lawyer to be provided specifically to child complainants of abuse. (arts. 7 and 24).

**35. The State party should enhance its efforts to combat child sexual abuse by (a) improving mechanisms for early detection and intervention; (b) encouraging reporting of suspected and actual abuse of children, including through taking measures to address societal attitudes regarding reporting; (c) ensuring that cases of abuse are thoroughly investigated, perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and that victims are provided with an effective remedy, including rehabilitation; (d) providing child complainants with guaranteed legal assistance or a state-appointed children's lawyer; and (e) establishing a mechanism for the systematic collection and publication of comprehensive and disaggregated data on child exploitation and abuse in all settings.**

#### **Age of marriage**

36. While noting the intention of the State party to amend the Marriage Act, the Committee is concerned that the minimum age for marriage is low and set differently for females (15 years) and males (16 years) (arts. 2, 3, 24 and 26).

**37. The State party should ensure that the minimum age for marriage is set at 18 years for both females and males, in accordance with international standards.**

#### **Trafficking in human beings**

38. While noting the efforts made by the State party in combating trafficking in persons, the Committee remains concerned about insufficiency of the anti-trafficking legislation providing for penalties that are not commensurate with the gravity of the crime and the low number of convictions (arts. 8, 24 and 26).

**39. The State party should (a) strengthen the anti-trafficking legislation to provide for adequate penalties; (b) conduct prevention and sensitization campaigns to make the public aware of the negative effects of trafficking in persons; (c) continue training for law enforcement and government officials, medical personnel, teachers, judges and prosecutors, and civil society; and (d) provide victims with access to effective remedies, including rehabilitation.**

#### **The rights of refugees and stateless persons**

40. While noting that there have been very few refugees and asylum seekers in the State party, the Committee regrets that the State party has not adopted legislation on the determination of refugee status and asylum. The Committee is also concerned about a lack of legislation to provide effective protection to stateless persons present on the territory of the State party (arts. 6 and 7).

**41. The State party should enact refugee and asylum legislation in accordance with the 1951 Convention relating to Status of Refugees and its 1967 Protocol, and ensure that all persons applying for international protection have access to a fair and full asylum procedure. The State party should also take steps, including legislation, to ensure effective protection of stateless persons present on the territory of the State party.**

#### **Persons with disabilities**

42. While noting efforts of the State party in protecting persons with disabilities, the Committee is concerned about lack of integration of children with disabilities into regular schools, lack of teachers trained to work with children with disabilities and the limited access of persons with disabilities to employment, public buildings and transportation (arts. 2 and 26).

**43. The State party should intensify its efforts to protect persons with disabilities from discrimination of any kind and ensure their full access to education, employment, public transportation and public premises.**

### Freedom of expression

44. The Committee is concerned that the Cybercrime Act criminalizes defamation and about claims that these provisions can be used to silence public criticism of the Government (art. 19).

**45. The State party should consider the decriminalization of defamation and ensure that imprisonment is never a punishment for defamation, and that the Cybercrime Act is not used to stifle freedom of expression.**

### Participation in public life

46. While noting the implementation of some recommendations from the electoral observation mission on behalf of the Organization of American States present in the State party during its 2015 elections, the Committee regrets that some of the recommendations to improve the election process have not been acted upon yet. The Committee is also concerned about the lack of legislation to regulate campaign finance laws in the State party and reported delays in the legal proceedings of election petitions submitted with respect to the 2015 elections (arts. 14 and 25).

**47. The State party should expedite its legal proceedings concerning election petitions. It should consider adoption of legislation to regulate campaign finance laws and implementation of recommendations of the observation mission to improve its election process, in accordance with article 25 of the Covenant.**

## D. Dissemination and follow-up

**48. The State party should widely disseminate the Covenant, its first Optional Protocol, the written replies to the Committee's list of issues and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country and the general public.**

**49. In accordance with rule 75, paragraph 1, of the Committee's rules of procedure, the State party is requested to provide, by 21 March 2020, information on the implementation of the recommendations made by the Committee in paragraphs 19 (violence against women and domestic violence), 25 (torture and ill-treatment), and 35 (sexual exploitation and abuse of children) above.**

**50. The Committee requests the State party to submit its next periodic report by 29 March 2024 and to include in that report specific, up-to-date information on the implementation of the recommendations made in the present concluding observations and of the Covenant as a whole. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The Committee encourages all States to follow the simplified procedure when submitting their reports. Should the State party wish to follow the simplified reporting procedure for its next report, it is requested to inform the Committee accordingly, within one year after receipt of these concluding observations. The State party's replies to the list of issues prepared by the Committee under the simplified reporting procedure will constitute the next periodic report to be submitted under article 40 of the Covenant.**