

**BRIEFING ON ST VINCENT AND THE GRENADINES FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 121st session (October - November 2017)**

*From the Global Initiative to End All Corporal Punishment of Children, July 2017*

**This briefing describes the legality of corporal punishment of children in St Vincent and the Grenadines. In light of the obligation under international human rights treaties to prohibit all corporal punishment of children, the global commitment to ending violence against children – including corporal punishment – in the context of the 2030 Agenda for Sustainable Development, the recommendations of the UN Secretary General’s Study on Violence against Children, the recommendations made to St Vincent and the Grenadines by the Human Rights Committee in 2008, the Committee on the Rights of the Child (in 2002 and 2017) and during the UPR in 2011 and 2016, we hope the Human Rights Committee will:**

* **raise the issue of corporal punishment of children in its List of Issues for St Vincent and the Grenadines, in particular asking what progress has been made to prohibit corporal punishment of children, however light, in all settings, and**
* **in its concluding observations on St Vincent and the Grenadines’ second report, recommend that legislation explicitly prohibiting corporal punishment of children in all settings, including in the home and as a sentence for a crime, is drafted and enacted as a matter of priority.**

**1 The legality of corporal punishment of children in St Vincent and the Grenadines**

1.1 ***Summary:*** Corporal punishment of children in St Vincent and the Grenadines is not fully prohibited in any settings. The Child Justice Bill under discussion provides an opportunity for law reform.

1.2 ***Home (lawful):***Article 8 of the Juveniles Act 1952 punishes cruelty to juveniles – defined as persons under 16 (art. 2) – but also states: “(7) Nothing in this section shall be construed as affecting the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer reasonable punishment to him.” Provisions against violence and abuse in the Criminal Code 1988, the Domestic Violence Act 2015 and the Constitution 1979 do not include prohibition of corporal punishment in childrearing.

1.3 As part of an initiative to reform child laws in the region, the Organisation of Eastern Caribbean States (OECS) circulated a number of draft laws for consideration by member states, including St Vincent and the Grenadines. As originally drafted, the Children (Care and Adoption) Bill 2007 would protect children from “abuse” but not prohibit corporal punishment. It would define parental responsibility with reference to the duties, authority, rights and obligations “which by any law in force in [Saint Vincent and the Grenadines], the parent of a child has in relation to that child” (art. 2). In 2014, UNICEF reported that St Vincent and the Grenadines had “enacted the model Child Care and Protection Bill without amendment”;[[1]](#footnote-1) the Child Care and Protection Act entered into force in 2015. We have not been able to locate the text, but there is no indication that prohibition of corporal punishment was included. The Government reported to the Committee on the Rights of the Child in 2017 that corporal punishment was allowed “within residential spaces” and that the Child Care and Protection Act punishes “child abuse”.[[2]](#footnote-2)

1.4 The Government reported at the same time that a National Child Protection Policy Framework (2015 – 2020) was launched in 2016.[[3]](#footnote-3) The Policy Framework uses the Convention on the Rights of the Child’s definition of a child. Although it refers to the promotion of non-abusive, positive forms of discipline, there is no mention of prohibition of all corporal punishment of children. The National Child Care and Protection Procedural Manual, published in October 2015, refers to “excessive” and “severe/unusual” physical punishment as child abuse.

1.5 ***Alternative care settings (lawful)***: Corporal punishment is lawful in alternative care settings under the right to administer “reasonable” punishment in article 8 of the Juveniles Act. The Adoption of Children Act 1959 and Rules 1959 are silent on the issue.

1.6 The Child Care and Protection Act 2010 does not appear to explicitly prohibit corporal punishment as it seems to have been adopted without amendments from the OECS draft Children (Care and Adoption) Bill. Corporal punishment would have not been explicitly prohibited by the OECS draft Children (Care and Adoption) Bill, which in its original form stated that a person authorised to provide care for a child shall “correct and manage the behaviour of the child” (art. 29(c)) and authorises the Minister to make regulations for “the management and discipline of an approved child care service” (art. 140(2)(m)).

1.7 ***Day care (lawful)***: Corporal punishment is lawful in early childhood care and in day care for older children under the right to administer “reasonable” punishment in article 8 of the Juveniles Act. The Child Care and Protection Act 2010 does not appear to explicitly prohibit corporal punishment as it seems to have been adopted without amendments from the OECS draft Children (Care and Adoption) Bill.

1.8 ***Schools (lawful):***Corporal punishment is lawful in schools under article 8 of the Juveniles Act 1952 and article 53 of the Education Act 2005, which states: “(1) Subject to subsections (7) and (8), corporal punishment may be administered to a student at a school but only – (a) in accordance with section (2); and (b) if no other punishment is considered suitable or effective in the particular case. (2) Corporal punishment shall only be administered – (a) by the principal or deputy principal or a teacher specifically designated by the principal for the purpose; (b) in the principal’s office or other private room in the school; (c) using an instrument prescribed by the regulations; and (d) in conformity with any written guidelines issued by the Chief Education Officer. (3) Where corporal punishment is administered an entry shall be made in a punishment book which is to be kept in each school for the purpose of indicated the nature and extent of the punishment and the reasons for administering it….” Sections (4) to (7) punish the administration of corporal punishment contrary to the rules, including its infliction on a girl by a male and its infliction on a student whose parent has objected in writing to such punishment. Sections (8) and (9) make provision for the Minister to suspend or abolish corporal punishment in schools.

 1.9 ***Penal institutions (lawful):***The Juveniles Act 1952 states that a juvenile (under 16) must not be sentenced to imprisonment (art. 19) but is silent on the issue of corporal punishment. However, it provides for a juvenile to be committed to an approved school (art. 18). The Juveniles (Approved Schools) Rules 1952 pursuant to the Act authorise corporal punishment as a disciplinary measure – “provided that every effort shall be made to secure proper training without resort to corporal punishment” (art. 24). Articles 25 and 26 of the Rules sets out how corporal punishment should be carried out. Corporal punishment is also authorised for males in the Prisons Act (art. 34), up to 10 strokes for a young prisoner, 18 for older prisoners, inflicted according to the Prison Rules and attended by the medical officer (art. 36).[[4]](#footnote-4)

1.10 A Child Justice Bill drafted in 2007 by the OECS has been under discussion in the context of the OECS Juvenile Justice Reform Project. As originally drafted it would not prohibit corporal punishment in penal institutions (see below).

1.11 ***Sentence for crime (lawful):*** The Criminal Code provides for corporal punishment of males, stating in section 23 that it must be administered in accordance with the provisions in the Corporal Punishment of Juveniles Act.[[5]](#footnote-5) The Corporal Punishment of Juveniles Act provides for caning of a male juvenile offender (under 16), up to 12 strokes, to be “administered privately, on the buttocks, with a light rod or cane of birch or tamarind or other twig” (arts. 5, 6 and 7). The punishment may be ordered by any court before which a juvenile offender is convicted of certain offences, “in lieu of, or in addition to, dealing with him in any other manner in which the court has power to deal with him” (art. 3). It is reportedly inflicted on the bare buttocks, usually by a policeman at a police station.[[6]](#footnote-6)

1.12 As originally drafted by the OECS, the Child Justice Bill would not include corporal punishment among permitted sentences but would not explicitly prohibit it. In April 2014, the Bill was under discussion in the context of the OECS Juvenile Justice Reform Project, with a view to revising it before presentation to Parliament.[[7]](#footnote-7) In 2016, during the Universal Periodic Review of St Vincent and the Grenadines, the Government reported that an amendment proposed in the drafted Child Justice Bill “addressed alternative forms of punishment and rewards using restorative practices and diversion for juveniles in conflict with the law”, but it did not address the status or progress of the Bill.[[8]](#footnote-8) Reporting to the Committee on the Rights of the Child in January 2017, the Government stated that the Child Justice Bill would be tabled in Parliament “soon”.[[9]](#footnote-9)

**2 Recommendations by human rights treaty bodies and during the UPR**

2.1 ***HRC:*** In 2008, the Human Rights Committee recommended to St Vincent and the Grenadines that the Corporal Punishment of Juveniles Act be repealed or amended so as to prohibit caning.[[10]](#footnote-10)

2.2 ***CRC:*** In 2002, following examination of the state party’s initial report, the Committee on the Rights of the Child recommended prohibition of corporal punishment in all settings, including the home, in St Vincent and the Grenadines.[[11]](#footnote-11) This was reiterated in 2017.[[12]](#footnote-12)

2.3 ***UPR:*** St Vincent and the Grenadines was examined in the first cycle of the Universal Periodic Review in 2011. The Government rejected recommendations to prohibit corporal punishment in all settings.[[13]](#footnote-13) Similar recommendations were extended to St Vincent and the Grenadines in 2016 but were again rejected.[[14]](#footnote-14)

*Briefing* *prepared by the Global Initiative to End All Corporal Punishment of Children*

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1. UNICEF (2014), *Terms of Reference: Consultancy to Facilitate the adoption of the Juvenile Justice Bill for the Commonwealth of Dominica, Saint Lucia and St Vincent and the Grenadines*, OECS Juvenile Justice Reform Project [↑](#footnote-ref-1)
2. 25 January 2017, CRC/C/VCT/Q/2-3/Add.1, Reply to the list of issues, paras. 9 and 26 [↑](#footnote-ref-2)
3. 25 January 2017, CRC/C/VCT/Q/2-3/Add.1, Reply to the list of issues, paras. 1-4 [↑](#footnote-ref-3)
4. MacClure, E. (2013), *Register of Laws: Saint Vincent and the Grenadines*, USAID [↑](#footnote-ref-4)
5. MacClure, E. (2013), *Register of Laws: Saint Vincent and the Grenadines*, USAID [↑](#footnote-ref-5)
6. Human Rights Association (2002), *NGO Initial Report on Saint Vincent and the Grenadines submitted to the United National Committee on the Rights of the Child*, p. 27 [↑](#footnote-ref-6)
7. UNICEF (2014), *Terms of Reference: Consultancy to Facilitate the adoption of the Juvenile Justice Bill for the Commonwealth of Dominica, Saint Lucia and St Vincent and the Grenadines*, OECS Juvenile Justice Reform Project [↑](#footnote-ref-7)
8. 8 July 2016, A/HRC/33/5, Report of the working group, para. 48 [↑](#footnote-ref-8)
9. 25 January 2017, CRC/C/VCT/Q/2-3/Add.1, Reply to the list of issues, para. 33 [↑](#footnote-ref-9)
10. 24 April 2008, CCPR/C/VCT/CO/2, Concluding observations in the absence of a report, para. 11 [↑](#footnote-ref-10)
11. 13 June 2002, CRC/C/15/Add.184, Concluding observations on initial report, paras. 28, 29, 52 and 53 [↑](#footnote-ref-11)
12. 3 February 2017, CRC/C/VCT/CO/2-3, Concluding observations on second-third report, Advance unedited version, paras. 32, 33, 64 and 65 [↑](#footnote-ref-12)
13. 11 July 2011, A/HRC/18/15, Report of the working group, paras. 79(9) and 79(10) [↑](#footnote-ref-13)
14. 8 July 2016, A/HRC/33/5, Report of the working group, paras. 80(82), 80(83), 80(84); 9 September 2016, A/HRC/33/5/Add.1, Report of the working group: Addendum, para. 13 [↑](#footnote-ref-14)