

Corporal punishment of children in St Vincent and the Grenadines: Briefing for the Universal Periodic Review, 25th session, 2016



Global Initiative to
**End All Corporal Punishment
of Children**

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The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.

In St Vincent and the Grenadines, corporal punishment of children is lawful, despite recommendations to prohibit it by the Committee on the Rights of the Child and the Human Rights Committee and recommendations made during the 1st cycle UPR (rejected by the Government).

We hope the Working Group will note with concern the legality of corporal punishment of children in St Vincent and the Grenadines. We hope states will raise the issue during the review in 2016 and make a specific recommendation that St Vincent and the Grenadines clearly prohibit all corporal punishment of children in all settings including the home and as a sentence for crime and explicitly repeal the right “to administer reasonable punishment” in the Juveniles Act 1952.

1 Review of St Vincent and the Grenadines in the 1st cycle UPR (2011) and progress since

- 1.1 St Vincent and the Grenadines was reviewed in the first cycle of the Universal Periodic Review in 2011 (session 11). The issue of corporal punishment of children was raised in advance questions,¹ in the compilation of UN information² and the summary of stakeholders’ information.³ The Government rejected recommendations to prohibit all corporal punishment of children.⁴
- 1.2 St Vincent and the Grenadines ratified the Convention on the Rights of the Child in 1993. Prohibiting and eliminating all corporal punishment of children in all settings including the home – through law reform and other measures – is a key obligation under the Convention on the Rights of the Child and other human rights instruments, though it is one frequently evaded by Governments.
- 1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in St Vincent and the Grenadines. We hope states will raise the issue during the review in 2016 and make a specific recommendation that St Vincent and the Grenadines clearly prohibit all corporal punishment of children in all settings including the home and as**

¹ Questions by the Czech Republic and the UK

² 2 February 2011, A/HRC/WG.6/11/VCT/2, Compilation of UN information, paras. 31 and 32

³ 28 January 2011, A/HRC/WG.6/11/VCT/3, Summary of stakeholders' information, paras. 1 and 2

⁴ 11 July 2011, A/HRC/18/15, Report of the working group, paras. 79(9) and 79(10)

a sentence for crime and explicitly repeal the right “to administer reasonable punishment” in the Juveniles Act 1952.

2 Legality of corporal punishment in St Vincent and the Grenadines

Summary of current law and reforms needed in order to achieve prohibition

Corporal punishment of children in St Vincent and the Grenadines is lawful in all settings – the home, alternative care settings, day care, schools, penal institutions and as a sentence for crime. Achieving prohibition requires the enactment of legislation clearly prohibiting corporal punishment in all of these settings and explicitly repealing the right “to administer punishment” in the Juveniles Act 1952. The Juvenile Justice Bill currently under discussion provides an immediate opportunity to prohibit corporal punishment.

- 2.1 **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 and the Constitution 1979 do not include prohibition of corporal punishment in childrearing.
- 2.2 The Domestic Violence (Summary Proceedings) Act 1995 does not criminalise domestic violence but provides that if a protection order is breached then criminal sanctions apply. Article 4 provides for an order to be made if the court is satisfied that the respondent “has used or threatened to use, violence against, or caused physical or mental injury to a prescribed person and is likely to do so again”. This does not protect children from all violent punishment by parents.
- 2.3 **Alternative care settings (lawful):** Corporal punishment is lawful under the right to administer “reasonable” punishment in article 8 of the Juveniles Act 1952.
- 2.4 **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 1952.
- 2.5 **Schools (lawful):** Corporal punishment is lawful under article 8 of the Juveniles Act 1952 and article 53 of the Education Act 2005, which authorises corporal punishment “if no other punishment is considered suitable or effective”.
- 2.6 **Penal institutions (lawful):** The Juveniles Act 1952 states that a juvenile must not be sentenced to imprisonment (art. 19) but it 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). Article 25 of the Rules sets out how corporal punishment should be carried out: “... (a) it shall be inflicted only with a cane or tawse of a type to be approved by the managers; (b) if applied on the palm of the hand, the cane shall be used and the number of strokes shall not exceed three on each palm, but no boy over fifteen shall be so punished; (c) if applied on the posterior with a cane or tawse, it shall be applied over the boy’s ordinary cloth trousers, and the number of strokes shall not exceed six for boys under fifteen, or eight for boys of fifteen and over, provided that in exceptional cases, with the special approval of one of the managers, twelve strokes may be administered to boys of fifteen and over....”

2.7 **Sentence for crime (lawful):** The Corporal Punishment of Juveniles Act permits a boy (under 16) convicted of a crime to be caned up to 12 strokes on the buttocks using a light rod. It is reportedly inflicted on the bare buttocks, usually by a policeman at a police station.⁵ We have no information on judicial corporal punishment for 16-17 year olds. Corporal punishment may be carried out only after medical examination and under the supervision of a prison official.

2.8 A Juvenile Justice Bill is currently under discussion in the context of the OECS Juvenile Justice Reform Project. As originally drafted by the OECS, it did not include corporal punishment among permitted sentences but did not explicitly prohibit it. In 2014, the Bill was under discussion with a view to revising it before presentation to Parliament.⁶

3 Recommendations by human rights treaty bodies

3.1 **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.⁷

3.2 **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.⁸

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities.

⁵ 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

⁶ 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

⁷ 13 June 2002, CRC/C/15/Add.184, Concluding observations on initial report, paras. 28, 29, 52 and 53

⁸ 24 April 2008, CCPR/C/VCT/CO/2, Concluding observations in the absence of a report, para. 11