

Corporal punishment of children in St Vincent and the Grenadines: Briefing for the Universal Periodic Review, 39th session, 2021

From the Global Partnership to End Violence Against Children, March 2021



This submission provides an update on the legality of corporal punishment of children in St Vincent and the Grenadines since its review in the second cycle UPR in 2016. Corporal punishment prohibition is still to be fully achieved in the home, alternative care settings, day care, schools, penal institutions and as a sentence for crime.

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 still lawful despite repeated recommendations to prohibit it by the Committee on the Rights of the Child, other Treaty Bodies and during the the 2nd cycle UPR of St Vincent and the Grenadines in 2016.

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 2021 and make a specific recommendation that St Vincent and the Grenadines enact a legislation to clearly prohibit all corporal punishment of children in every setting of their lives and repeal article 8 of the Juveniles Act 1952, as a matter of priority.

1 Review of St Vincent and the Grenadines in the 2nd cycle UPR (2016) and progress since

1.1 St Vincent and the Grenadines was reviewed in the second cycle of the Universal Periodic Review in 2016 (session 25). The issue of corporal punishment of children was raised in the compilation of UN information and the summary of stakeholders' information.

Recommendations to prohibit corporal punishment in all settings were made.¹ During the review, the Government “noted” the recommendations.²

- 1.2 Since the review, no law reform appeared to have been initiated with a view to explicitly prohibit corporal punishment of children in all settings. The Government did not support the UPR recommendations to prohibit corporal punishment of children.
- 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 2021 and make a specific recommendation that St Vincent and the Grenadines enact a legislation to clearly prohibit all corporal punishment of children, however light, in every setting of their lives, and repeal article 8 of the Juveniles Act 1952, as a matter of urgency.**

2 Legality of corporal punishment in St Vincent and the Grenadines

Summary of current law and opportunities for achieving prohibition

Corporal punishment of children in Papua New Guinea is lawful in the home, alternative care settings, day care, schools, penal institutions and as a sentence for crime. Article 8 of the Juveniles Act 1952 provides for parents, teachers and other adults to administer “reasonable” punishment to a child. The near universal acceptance of violence in childrearing necessitates clarity in law that no degree or kind of corporal punishment is acceptable or lawful. This provision should be repealed and prohibition enacted of all corporal punishment in all settings, including the family home and all settings where adults have authority over children.

- 2.1 **Home (lawful):** Corporal punishment is lawful in the home. 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 Act 2015 was promulgated in November 2016 and repeals the Domestic Violence (Summary Proceedings) Act 1995. Like the 1995 Act, it does not criminalise domestic violence but provides that if a protection order is breached then criminal sanctions apply. It does not protect children from all violent punishment by parents.

¹ 8 July 2016, A/HRC/33/5, Report of the working group, paras. 80(82), 80(83), 80(84)

² 9 September 2016, A/HRC/33/5/Add.1, Report of the working group: Addendum, para. 13

- 2.3 **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. 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 (see under “Home”).
- 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.
- 2.5 **Schools (lawful):** Corporal punishment is lawful in schools under article 8 of the Juveniles Act 1952 (see under “Home”) and article 52 of the Education Act 2005, which authorised a school principal to administer corporal punishment be administered as a last resort to a student under specific conditions. The Government reported in 2019 that the “Juvenile Justice Reform project” was aiming to remove corporal punishment in schools.³
- 2.6 **Penal institutions (lawful):** Corporal punishment is lawful as a disciplinary measure in penal institutions. 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. 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). 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
- 2.7 **Sentence for crime (unlawful):** Corporal punishment is lawful as a sentence for crime. 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 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 The Government reported in 2019 that “caning, though legislated, is not issued as a sentence”.⁷

³ 4 April 2019, CCPR/C/VCT/Q/2/Add.1, Reply to list of issues, para. 64

⁴ MacClure, E. (2013), *Register of Laws: Saint Vincent and the Grenadines*, USAID

⁵ MacClure, E. (2013), *Register of Laws: Saint Vincent and the Grenadines*, USAID

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

⁷ 4 April 2019, CCPR/C/VCT/Q/2/Add.1, Reply to list of issues, para. 61

3 Recommendations by human rights treaty bodies

- 3.1 **CRC:** The Committee on the Rights of the Child has twice expressed concern at corporal punishment of children in St Vincent and the Grenadines and recommended it be explicitly prohibited in all settings – in its concluding observations on the state party’s initial report in 2002⁸ and on the state party’s second and third report in 2017.⁹
- 3.2 **HRC:** The Human Rights Committee has twice expressed concern at corporal punishment of children in St Vincent and the Grenadines and recommended it be explicitly prohibited as a sentence for crime (caning) - in its concluding observations made in the absence of a report in 2008.¹⁰ The Committee recommended prohibition in all settings- in its concluding observations made in the absence of a report in 2019.¹¹

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

⁹ 13 March 2017, CRC/C/VCT/CO/2-3, Concluding observations on second-third report, paras. 32, 33, 64 and 65

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

¹¹ 9 May 2019, CCPR/C/VCT/CO/2, Concluding observations in the absence of a report, paras. 30, 31, 32 and 33