

# **BRIEFING ON ST VINCENT AND THE GRENADINES FOR THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, PRESESSIONAL WORKING GROUP – Nov 2014**

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## **Prohibiting corporal punishment of children – a key element in combating domestic and other violence against women and girls**

The legality and practice of corporal punishment of girls breaches their fundamental rights to respect for their human dignity and physical integrity, to equality under the law and to protection from all forms of violence – rights guaranteed in the Convention on the Elimination of All Forms of Discrimination Against Women and other international human rights instruments. There are strong links between corporal punishment of children – girls and boys – and all other forms of violence, including gender-based violence. As the Committee on the Rights of the Child has emphasised, addressing corporal punishment is “a key strategy for reducing and preventing all form of violence in societies”.<sup>1</sup>

The near universal acceptance of a degree of violent punishment in childhood and deeply held views that parents and other adults have a “right” to physically punish children can challenge efforts to achieve prohibition. This situation also means that corporal punishment – at least to some degree – is typically not readily perceived as a violent act in the same way as, for example, sexual and other socially unacceptable forms of violence. Physical violence against girls and boys in their own home is typically assumed not to be domestic violence because it is inflicted under the guise of “discipline” or “correction” – a rationale totally unacceptable when the victim is an adult woman. **It is for these reasons that we respectfully urge the Committee on the Elimination of Discrimination Against Women to specifically recommend that corporal punishment be prohibited in the home and all settings.**

“In almost all countries, parents and other caregivers are the most commonly cited perpetrators of physical violence against adolescent girls.”

UNICEF (2014), *Hidden in Plain Sight: A statistical analysis of violence against children*, p. 51

**This briefing describes the legality of corporal punishment of children in St Vincent and the Grenadines, where laws on domestic violence fail to protect all persons from violence at the hands of those closest to them. In light of General Recommendation No. 19 on Violence against women (1992), the links between corporal punishment of children and all other forms of violence including gender-based violence, and the recommendations made by the Committee on the Rights of the Child and during the UPR (rejected by the Government), we hope the Committee on the Elimination of Discrimination Against Women will:**

- **raise the issue of corporal punishment of girls in its List of Issues for St Vincent and the Grenadines, asking what progress has been made towards prohibiting and eliminating corporal punishment in all settings, including the home, and**
- **recommend to St Vincent and the Grenadines, in the concluding observations on the fourth/fifth state party report, that legislation prohibiting corporal punishment in the home, schools and all other settings be adopted as a matter of priority, and that all legal provisions authorising corporal punishment – including the right to administer “reasonable punishment”, be repealed.**

<sup>1</sup> Committee on the Rights of the Child, General Comment No. 8 (2006) on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2, and 37, inter alia), para. 31

## 1 The state party's report to CEDAW

- 1.1 St Vincent and the Grenadines is to be examined on its fourth to eighth state party report. We note that prior to submission of this report, the Committee adopted a list of issues, anticipating examination of the state party in the absence of a report. While that list of issues did not specifically ask about corporal punishment of children, it did ask about the adoption of legislation on “all forms of violence against women”.<sup>2</sup> The obligation to prohibit corporal punishment of children is one frequently ignored or evaded by Governments. For this reason, we respectfully submit this second briefing to the Committee and hope that the issue will be specifically addressed in the examination of the state party.
- 1.2 In its report, the Government of St Vincent and the Grenadines refers to the Domestic Violence (Summary Proceedings) Act adopted in 1995, mentioning its strengths and shortcomings.<sup>3</sup> However, it does not address the fact that neither this Act nor other legislation protects girls and boys from corporal punishment in the domestic sphere. The report refers to the Education Act and its impact on women,<sup>4</sup> but fails to reveal that this includes authorisation of corporal punishment of girls.
- 1.3 The report notes that the Organisation of Eastern Caribbean States (OECS) has developed a model bill to address domestic violence, which has been discussed at national level in St Vincent and the Grenadines.<sup>5</sup> The adoption of new legislation on domestic violence provides a key opportunity to prohibit all corporal punishment and other humiliating punishment of children. **We hope the Committee will recommend that legislation prohibiting corporal punishment in the home, schools and all other settings be adopted as a matter of priority, and that all legal provisions authorising corporal punishment – including the right to administer “reasonable punishment”, be repealed.**

## 2 Laws on violence against women and corporal punishment of children in St Vincent and the Grenadines

### *Summary*

- 2.1 The near universal and longstanding acceptance of physical punishment in childrearing and education necessitates clarity in law that all corporal punishment is prohibited. This has not been achieved in St Vincent and the Grenadines. On the contrary, the administration of “reasonable punishment” on a child is specifically excluded from provisions against cruelty to children and legislation explicitly authorises corporal punishment of girls and boys in schools.
- 2.2 Legal protection for girls from physical and other humiliating punishment in St Vincent and the Grenadines requires law reform to prohibit corporal punishment in the home, alternative care settings, day care and schools, together with the repeal of all laws authorising and regulating its infliction.

### *Laws protecting women and children from violence*

- 2.3 As the report to CEDAW explains, 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.<sup>6</sup> Article 4 of the Act 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

<sup>2</sup> 28 March 2013, CEDAW/C/VCT/Q/4-8, List of issues, para. 9

<sup>3</sup> 13 December 2013, CEDAW/C/VCT/4-8, Fourth-eighth state party report, pages 18 and 19

<sup>4</sup> *ibid.*, pages 36 and 59

<sup>5</sup> *ibid.*, page 19

<sup>6</sup> *ibid.*, page 18

violent punishment by parents.

2.4 The Juveniles Act 1952 punishes “any person who, having attained the age of seventeen and having the custody, charge or care of any juvenile, willfully assaults, ill-treats, neglects, abandons or exposes such juvenile, or causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause that juvenile unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement)” (article 8). But this does not protect children from all corporal punishment: on the contrary, the article specifically states that it does not affect the right to punish children (see para. 2.5, below).

### ***The legality of corporal punishment of children***

2.5 Article 8 of the Juveniles Act 1952 punishes cruelty to children, but also states: “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.” This provision means that adults can physically punish girls and boys in the home, care settings and schools with impunity. Achieving legal protection from all corporal punishment for girls and boys requires the repeal of all such defences for physical punishment in childrearing.<sup>7</sup>

2.6 In schools, corporal punishment is explicitly authorised in the Education Act 2005. Article 53 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 indicating 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.

2.6 In the penal system, corporal punishment may be inflicted on males only.

## **3 Recommendations by human right treaty monitoring bodies and during the UPR**

3.1 **CRC:** In 2002, the Committee on the Rights of the Child expressed concern at corporal punishment of children in St Vincent and the Grenadines and recommended that it be prohibited in all settings, including the home and schools.<sup>8</sup>

3.2 **UPR:** St Vincent and the Grenadines was reviewed in the first cycle of the Universal Periodic Review in 2011. The Government rejected recommendations to prohibit all corporal punishment of children.<sup>9</sup>

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<sup>7</sup> See Committee on the Rights of the Child, General Comment No. 8 (2006) on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2, and 37, inter alia), para. 31

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

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