

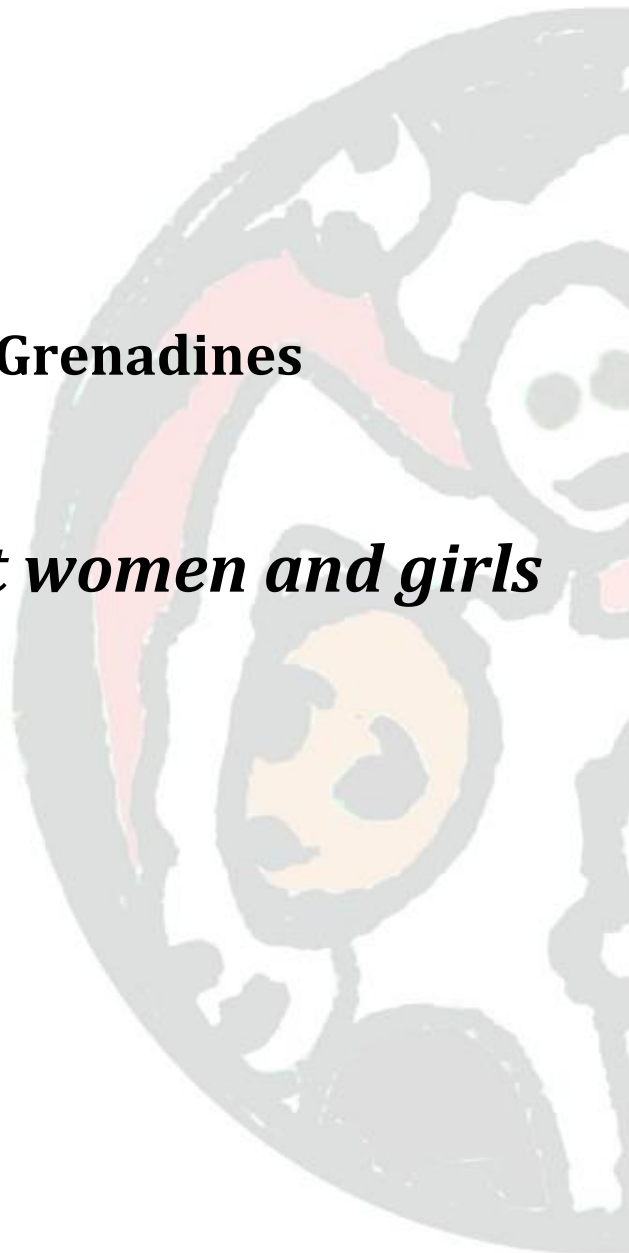
UQAM's International Clinic for the Defense of Human Rights
in collaboration with St Vincent and the Grenadines Human Rights Association

Shadow report
on the State Party

St Vincent and the Grenadines

Violence against women and girls

Presented to the United Nations Committee
on the Elimination of Discrimination against Women
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EXECUTIVE SUMMARY

Researching and drafting of this report was undertaken in an effort to shed light on the violence suffered by women in St. Vincent and the Grenadines (hereinafter: SVG). It responds to the State Party's fourth to eighth combined periodic report by documenting the flagrant case of discrimination, in the form of violence against women (hereinafter: VAW). This specific issue was selected because it is of grave concern to Vincentian women. This is illustrated by the ratio of rape per inhabitants in SVG – one of the highest in the world. As will be shown, cultural prejudices against women and the trivialization of violence within relationships have a devastating effect on women's rights, particularly their right to be free from violence.

In response to this cultural epidemic, the State of SVG does not provide adequate protection to women. The Domestic Violence Act (hereinafter DVA), passed in Parliament in 1995, only provides for civil action against the perpetrator. The provisions of the Criminal Code define the crimes of rape and incest in an extremely narrow manner, thereby failing to protect all women and girls. What is even more appalling, is that when the Family Court issues a protection order or an occupation order, enforcement of that order is inadequate, thereby creating a climate of impunity for perpetrators of violence. In addition, police officers receive little or no training on VAW, hence their reactions to victims are often insensitive. To make matters worse, there is only one shelter for abused women, accessible only after a protection order has been made at the Family Court. Women are thus prevented from seeking immediate protection.

The most flagrant problem faced when trying to document the systemic problem of VAW in SVG is access to information provided by the State. While information is gathered by various Ministries, the Family Court, police, hospital and health centres, there is no pooling of the information, neither is there sex or age disaggregation. Based on information provided, it is evident that the State of SVG does not fulfill its fundamental obligation to collect data on the issue at hand as prescribed by International treaties, or its obligation to take all appropriate measures to fight the problem.

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INTRODUCTION

This Shadow Report focuses on the issue of gender-based violence in St. Vincent and the Grenadines, recognized as a form of discrimination by the Committee on the Elimination of All Forms of Discrimination Against Women (hereinafter: the Committee).¹ There are two main objectives in submitting this Report to the Committee. First, this report aims to respond to the most recent Periodic Report submitted by the State of SVG in August 2013, which covers the state of women's rights during the period from 1995 to 2010.² Secondly, the Shadow Report seeks to document what appears to be a systemic problem of violence against women in SVG and to demonstrate that the State's response to this problem falls short of its obligations under the Convention on the Elimination of All Forms of Discrimination against Women, as detailed in General Recommendation No. 19 (Violence against Women). To this end, the Vincentian Statutes on gender-based violence in the country and their effectiveness as well as the actions that have been undertaken by different levels of government in order to eliminate all forms of discrimination against women will be analyzed.

In doing so, it will become evident that a climate of impunity prevails in SVG. The State does not provide effective access to justice for gender-based crimes, and, except for one organism (Marion House), no social services specialized in VAW are

¹ UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendations Nos. 19 and 20, adopted at the Eleventh Session, 1992 (contained in Document A/47/38)*, 1992, A/47/38, available at: <http://www.refworld.org/docid/453882a422.html>.

² CEDAW Committee, *Consideration of reports submitted by States parties under article 18 of the Convention, Saint Vincent and the Grenadines combined fourth to eighth periodic reports of States parties due in 2010*, UNCEDAWOR, 2013, UN Doc CEDAW/VCT/4-8, online: OHCHR http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/VCT/CEDAW_C_VCT_4-8_5835_E.pdf, consulted on 05/12/13 [hereinafter: *Saint Vincent and the Grenadines combined fourth to eighth periodic reports*].

available to the victims. More importantly, VAW appears to be a major factor that contributes to Vincentians leaving their country. In a 2011 newspaper article published in the Canadian newspaper *The Star*, a journalist asserts that many women who emigrate actually flee the context of violence reigning in the country.³

General information about the country

SVG is an island country of 390 km² with a population of approximately 109,400 inhabitants. The population density is 280.5 inhabitants per km², which is one of the highest ratios in the world.⁴ Due to the high density of population and the country's specific geographical characteristics, it is fair to say that the Vincentian society is rather close-knit. As a consequence, information spreads rapidly and confidentiality and privacy, which are crucial in combating VAW, are difficult to preserve.

Furthermore, the State territory is an archipelago of thirty-two islets and quays. The main island St. Vincent is connected by five smaller inhabited islands, the Grenadines. The country is accessible by various seaports, which any violent perpetrator can capitalise on, as a means of “running” from the law. Moreover, this situation presents difficulties for women who, in order to ensure their own security or that of their children, seek to establish a physical distance to the aggressor. In addition, the “smallness” of the islands and the fact that “everyone knows each other, or is related to each other, or is a friend of a friend”, poses a major challenge for guaranteeing physical access to justice or social services to all victims of VAW.

From an economical point of view, SVG is considered a small economy. The Gross Domestic Product (GDP) of the country amounts to 712.6\$ million US\$, and its Gross National Income (GNI) per inhabitant was valued at 6 380 US\$ in 2013.⁵ The economy of SVG relies on three principle sectors: tourism (principally in the Grenadines

³ Jennifer Yang, “*Is this Caribbean idyll the worst place in the world to be a woman?*“, *The Star* (12 November 2011) online: http://www.thestar.com/news/world/2011/11/12/video_is_this_caribbean_idyll_the_worst_place_in_the_world_to_be_a_woman.html.

⁴ Data - St. Vincent and the Grenadines, online: The World Bank, <http://data.worldbank.org/>.

⁵ World Bank *supra* note 4.

Islands), agriculture (the cultivation of bananas accounts for 50% of exportations and 60% of the work force in SVG⁶) and construction.

SVG, though politically stable,⁷ is party to several international agreements on Human Rights. Since 2001, a culture of fear has developed, as political discrimination, victimisation and polarisation are a reality. However, there is no situation of political crisis that would prevent the authorities from functioning and from respecting its obligations toward the elimination of discrimination against women.

Socio-cultural context

On a socio-cultural level, the most widespread forms of gender-based violence are rape, incest and domestic violence. These kinds of discrimination are rooted in the patriarchal structure of Vincentian society. Moreover, the vulnerability of women in the lower socio-economic layers is accentuated by their economic dependence on their partners due to the high rate of unemployment amongst women.⁸

Methodology

The authors would like to stress that information concerning SVG, and more particularly on the topic of VAW in the country, is hard to come by. This report is based on different types of documentation, including information made available by international and local organizations. Additionally, testimonies have been taken from Vincentian women who attempted coming to Canada as a means of fleeing the violence they were subjected to by their partners. They have been assured anonymity.

As for its structure, the report does not deal with all articles contained in the Convention on the Elimination of all Forms of Discrimination against Women. It is a

⁶ CountryWatch - Business Source Complete, "*Saint Vincent and the Grenadines. Background Notes on Countries of the World: St. Vincent & Grenadines*" (2012).

⁷ CountryWatch - Business Source Complete, "*Saint Vincent & the Grenadines Country Review*" (2013) at 10-17.

⁸ International Women's Rights Action Watch (IWRAP), *St. Vincent and the Grenadines* (Minnesota: University of Minnesota, 2009) online: University of Minnesota, http://www1.umn.edu/humanrts/iwraw/stvincent_grenadines.html, consulted on 01/12/13, [hereinafter: IWRAP, *St. Vincent and the Grenadines*].

thematic report focusing on VAW in order to highlight the pervasiveness of the problem in SVG and the urgent need to bring it to the attention of the international community.

1. ARTICLE 1

Direct and indirect discrimination against women in SVG

The State of SVG does not fulfill its obligation to take all appropriate measures to eliminate all forms of discrimination against women. In its concluding comments on the State Party's Initial Report of 1997, the Committee raised concern about the fact that the Constitution of SVG did not specifically refer to equality of women and men. As a matter of fact, the Government agency for addressing gender equality does not work with an official policy on gender equality, but instead addresses these issues on an *ad hoc* basis. Seventeen years after the presentation by the State of its Status of Women Report, a specific provision on gender equality is still absent from the country's Constitution. Although Section 13 generally prohibits discrimination of all kinds, the social and cultural situation of the country expressly demands a specific provision asserting equality of women and men before the law.

Another important concern raised by the Committee at the time remains a challenge: the sizeable gap between *de jure* and *de facto* equality between men and women. Still today, the prejudices and traditional roles attributed to women in SVG translate into insurmountable obstacles to achieve gender equality in practice.

Moreover, the presence of limited social services and legal aid provided to women, as we will see, undermine their access to justice. It is practically impossible for women to seek redress for a violation of Section 13 of the Constitution of SVG because, as stated in Section 16 (1), cases of discrimination are to be presented before the High Court. The high financial cost, the long duration of procedure, along with the absence of continued therapeutic and financial support, discourage many women from filing

complaints. To date, no legal proceedings pleading gender discrimination under Section 13 have been initiated.

2. GENERAL RECOMMENDATION NO. 19

The State of SVG fails to fulfill its obligation to take all appropriate measures to protect women against gender-based violence as a form of discrimination under the Convention.⁹ This section aims to highlight the shortcomings of the State in revising existing legislation in order to make it more gender sensitive and responsive to present day concerns, as well as in ensuring that the existing provisions of the Vincentian statute are rigorously enforced, specifically those dealing with the issue of gender-based violence.

2.1 The prevalence of gender-based violence

Gender-based violence is a persistent problem in SVG, with domestic violence, rape and incest being the most common types of violence against girls and women.

Between 2006 and 2009, 205 cases of rape, 200 cases of sex with a minor under the age of 15, and 29 cases of incest were reported in SVG.¹⁰ These numbers have to be interpreted in light of the fact that the population of SVG only counts for 109 400 inhabitants. Statistics indicate that sexual violence against women has risen alarmingly over the last decade. According to International Women’s Rights Action Watch (IWRAP), incest is one of the worst problems women and girls face in SVG.¹¹ While there were 193 cases of rape reported in 2004, the number rose to 426 cases in

⁹ CEDAW Committee, *General Recommendation No. 19: Violence against women*, United Nations, 1992 [hereinafter: *General Recommendation No. 19*].

¹⁰ Pan American Health Organization (PAHO), “Vincent and the Grenadines” (2012), *Health in the Americas*, Edition: Country Volume, 577 at 580, online: http://www.paho.org/saludenlasamericas/index.php?option=com_docman&task=doc_view&gid=147&Itemid=, consulted on 01/12/13.

¹¹ IWRAP, *St. Vincent and the Grenadines*, *supra* note 8.

2011. Between 2004 and 2011, the rate of rape per population of 100 000 has thus doubled, increasing from 177.8 per 100 000 to 389.5 per 100 000.¹² As a result, SVG is ranked 3rd in the world for the highest rate of rape.¹³

Domestic violence is another major threat to women's security in SVG. In 2004, the U.S. Department of State documented that over 1000 reports had been filed for domestic violence including conjugal rape, physical and emotional abuse.¹⁴ What is more, between 2000 and 2011, 43 women died as a result of gender-based violence and 17 from intimate partner violence.¹⁵ However, these few statistics do not necessarily reflect the entire problem as many cases go unreported.¹⁶

2.2 The State does not collect data on VAW

State parties have the obligation to gather information and to produce statistics on VAW, as they are critical for determining measures required to address them. While the State of SVG, through its various Ministries, collects data on the occurrence of violence, it does not specifically disaggregate it by gender, age or locality. In addition, there is no specific Ministry which further documents or analyses this data. The Family Court collects information on cases it deals with and the police may do likewise. However, no one seems responsible for pooling or analysing relevant information. The State therefore does not produce such information, as illustrated by the absence of such data in the State's report submitted to the CEDAW Committee.

¹² UNODC, "Statistics on crime: sexual violence", online: UNODC <<http://www.unodc.org/unodc/en/data-and-analysis/statistics/data.html>>, consulted on 01/12/13.

¹³ UNODC, *Crime, Violence, and Development: Trends, Costs, and Policy Options in the Caribbean*, UNODC, 2007, Report No 37820, at 12, online: UNODC <http://www.unodc.org/pdf/research/Cr_and_Vio_Car_E.pdf>, consulted on 01/12/13 [hereinafter: UNODC, "Crime, Violence, and Development"].

¹⁴ U.S. Department of State - Bureau of Democracy, Human Rights, and Labor of US, Saint Vincent the Grenadines - Country Reports on Human Rights Practices, (Bureau of Democracy, Human Rights, and Labor, 2004), online: U.S. Department of State, <http://www.state.gov/j/drl/rls/hrrpt/2003/27919.htm>, consulted on 01/12/13 [hereinafter: U.S. Department of State].

¹⁵ Yasmin Solitahe Odlum, "Gender Citizen Security and the Anglophone Caribbean 2000-2011" (Powerpoint, delivered at the Regional Colloquium on Women Leaders as Agents of Change, Trinidad and Tobago, June 2011) [unpublished].

¹⁶ U.S. Department of State - Bureau of Democracy, Human Rights, and Labor of US, *supra* note 14.

In 2001, the Economic Commission for Latin America and the Caribbean in relation to SVG specifically pointed out the following:

“There are no protocols in place to guide the data collection/compilation exercise of either the police or the courts. As a result, it is next to impossible at the present time to get any accurate information on the number of reports made to the police of domestic violence cases. Where reports have ended in the laying of criminal charges, even these are difficult to identify as such cases merge with all other cases of assault and battery or other physical offences and these statistics are not disaggregated according to the relationship between abuser and victim.”¹⁷

In drafting this shadow report, documentation on VAW produced by NGOs or external institutions was the only available source. Therefore, it seems that access to information has not improved since ECLAC published its report in 2001. Although a Freedom of Information Act was passed in 2003, the Vincentian public was unaware of its existence until, in 2010, the SVG Human Rights Association educated the public about it via radio, television and community town hall meetings.

The absence of official documentation from the State is a major problem. VAW is a public issue and, as such, the State needs to have a comprehensive understanding of its extent, its causes and the measures needed to reduce and ultimately eliminate it. The State cannot develop adequate policies aimed at reducing VAW without first obtaining pertinent information and statistics on the nature of the problem. As a consequence, the effectiveness of measures taken to address VAW is difficult, if not impossible, to evaluate. In the end, this calls into question the State’s commitment to reducing VAW.¹⁸ In the Inter-American context, the MESECVI Committee, in 2012, called out the State of SVG for its failure to produce information on VAW.¹⁹

¹⁷ United Nations Economic Commission for Latin America and the Caribbean (ECLAC), “An Evaluative Study of the Implementation of Domestic Violence Legislation: Antigua and Barbuda, St Kitts / Nevis, Saint Lucia and Saint Vincent and the Grenadines”, 23 November 2001 at 26 [hereinafter: ECLAC, “Evaluative Study of the Implementation of Domestic Violence Legislation”].

¹⁸ *Ibid* at 26.

¹⁹ Mechanism of the Follow Up Convention Belém do Pará (MESECVI), Fourth Conference of States Parties, OEA/Ser.L/II.7.10, MESECVI-IV/doc.90/12, 26 March 2012, Saint Vincent and the Grenadines Country Report, Final Report on Saint Vincent and the Grenadines, at 13, online: Organization of American States, <http://www.oas.org/en/mesecvi/nationalreports.asp>, consulted on 05/12/13 [hereinafter: MESECVI, “Final Report”].

As a result, no reliable statistics are available concerning the number of cases of domestic violence and sexual violence. The State has an obligation to provide information concerning the number of cases that are reported to the police and that led to criminal prosecution. Also, statistics related to the number of convictions and repeat offenders are required in order to have a better understanding of the criminal patterns, so that policies aimed at protecting women can be developed and implemented. In addition, information on the financial accessibility of criminal proceedings should be provided. The State of SVG must also provide the number of proceedings and protection orders granted under the DVA.

The State of SVG provides little to no information on the services offered by the Crisis Center for victims of violence or on the work of the Gender Affairs Division.

Finally, while some training on how to deal with VAW seems to have been offered to police officers, the extent and the effectiveness of this training remains unclear. Specific training offered to police officers needs to be documented, including such information as the level of the officers, the Department represented, how and where this unit of officers is utilised and what impact, if any, they and their training had on processing victims of violence.

2.3 The Domestic Violence Act is not inclusive of all forms of violence

SVG's Domestic Violence Act²⁰ (DVA), enacted in 1995, is not sufficient to respond to the problem of domestic violence, neither does it comply with international standards on combating domestic violence. Based on the framework model legislation of the *UN Special Rapporteur on violence against women, its causes and consequences*,

²⁰ Government of Saint Vincent and the Grenadines, Domestic Violence (Summary Proceedings) Act, 1995 (Act No. 13 of 1995), 17 October 1995, online: Harvard School of Public Health, Harvard University, <http://www.hsph.harvard.edu/population/domesticviolence/SAINTVINCENTANDTHEGRENADINES.htm>, consulted on 05/12/13 .

recognized as the UN Model Code²¹, the DVA has important shortcomings in several respects.

The Act does not provide a comprehensive and multidisciplinary definition of domestic violence. In its 2013 country report to the CEDAW Committee, the State of SVG stated that the Act cannot be used to protect against psychological abuse and sexual violence.²² Moreover, as pointed out by the Economic Commission for Latin America and the Caribbean (hereinafter: ECLAC), the definition of domestic violence in the DVA does not include financial abuse and threats to cause damage to property which is used by aggressors to ensure financial dependence and control of the victim.²³

The DVA does not ensure equal application of its provisions to all women. Whereas women can file a complaint under the DVA whether they are married or living in a common law union, women in a visiting relationship are not protected by the Act as it is limited to “members of the household” (section 3b). As a result, a woman who is the victim of domestic violence by her partner cannot have recourse to the DVA if she does not (or no longer) share a house with the abuser.

The DVA does not criminalize domestic violence. Through this Act, victims of conjugal violence may apply for protection or restraining orders against the perpetrator. However, all proceedings provided for under this law are of a civil and not a criminal nature, which means that, even if it is found that the woman was abused, the abuser does not face punishment. Rather, such a finding would lead to protective measures, such as banning the perpetrator from the conjugal home.²⁴ Through non-criminalization of conjugal violence, the State perpetuates the popular belief that domestic violence is a private matter that should be settled between the partners, thereby leading to a culture of acceptance of violence.

²¹ UN Women, Domestic Violence Legislation and its Implementation: An Analysis for ASEAN Countries Based on International Standards and Good Practices. 2009 VIII online: <http://cedaw-seasia.org>, consulted on 01/03/14 at VIII.

²² *Saint Vincent and the Grenadines combined fourth to eighth periodic reports*, *supra* note 2, at 25.

²³ ECLAC, “Evaluative Study of the Implementation of Domestic Violence Legislation”, *supra* note 17 at 26.

²⁴ IWRAW, *St. Vincent and the Grenadines*, *supra* note 8.

2.4 The Criminal Code does not offer sufficient protection

SVG's Criminal Code criminalises incest and rape, but the threshold for conviction is so high that these provisions remain ineffective. As a result, the State of SVG does not fulfill its obligation to ensure that laws against family violence, abuse, rape and sexual assault offer adequate protection to all women.

The relevant legislation in cases of sexual offences is Chapter VIII of the Criminal Code, providing in sections 123 and 142 that rape and incest are against the law. The provision concerning rape states that “a man commits rape if he has unlawful intercourse with a girl or a women who, at the time of the intercourse, did not consent to it; and at that time he knew that she did not consent to the intercourse or he was reckless as to whether she consented or not”²⁵. The Court has to determine whether or not the accused knew that the woman did not consent and, in order to do so, has to consider “the presence or absence of reasonable grounds for such belief”²⁶. This can be extremely problematic in cases where there are no other witnesses and the woman's word stands against the man's. As a consequence, a woman's testimony may not be considered convincing enough for the Court to find the aggressor guilty.

The Criminal Code does not provide a specific section concerning domestic violence or conjugal rape. Therefore, sexual violence occurring within the family is not distinguished from sexual violence occurring outside the family. This means, for example, that conjugal rape is subject to the same provisions of the Criminal Code as an assault by an unknown attacker in the street. The fact that it is not recognized as a separate offence may render such complaints easier to dismiss as being a private matter between a man and a woman.

It is also problematic that the crime of rape requires complete penetration. Section 122 of the Criminal Code states that: “intercourse shall be deemed to be complete upon the proof of penetration only”. The Criminal Code does not qualify sexual harassment or unwanted sexual contact as rape, nor does it provide for specific

²⁵ Government of Saint Vincent and the Grenadines, Criminal Code (Act No.23 of 1988), 6 October 1988, section 123.

²⁶ *Ibid.*, section123 (3).

provisions in this regard. As a result, victims of sexual abuse without complete penetration may be discouraged from reporting the abuse. While other sections of the Criminal Code may apply, such as assault (art. 193) or wounding causing bodily harm (art. 173), they do not take into account the specificity of sexual crimes. According to General Recommendation No. 19, the definition of sexual harassment includes “such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions”²⁷. Therefore, the State of SVG has the obligation to criminalise these forms of sexual violence and recognize them as a criminal offence.

Moreover, the State of SVG does not fulfill its obligation to protect all women and girls from incest. The Criminal Code provides an incomplete definition of the possible perpetrators of this crime. In the section on incest, it is stated that it is illegal for a man to have sexual intercourse with a woman he “knows to be his grand-daughter, daughter, sister or mother”, whether those relationships can be traced “through lawful wedlock” or not.²⁸ This provision thus excludes other members of the family who may have authority over a girl or a woman, such as an uncle or a cousin. As a consequence, the family members’ categories are incomplete. The section on incest in the Criminal code fails to provide protection for many victims of incest, who in most cases are children under the age of sixteen.²⁹

Furthermore, the State of SVG does not fulfill its obligation to protect women victims of sexual violence. The provisions of the Criminal Code contain caveats with potentially devastating consequences for women. One of them is that a woman can potentially be charged with an offence if she permits “a man she knows to be her grandfather, father, brother or son to have sexual intercourse with her”³⁰. This means that, in incest cases as in rape cases, the woman’s consent has to be examined, which requires the Court to evaluate the veracity of her testimony. If a woman reports incest and the Court does not believe that she did not consent to it, she may be charged with an offence

²⁷ *General Recommendation No. 19, supra* note 9 at 18.

²⁸ *Ibid.*, section 142.

²⁹ According to judicial interpretation, section 142 on incest only applies to victims that are under the age of sixteen. For older victims, section 123 on rape applies.

³⁰ *Ibid.*, section 144.

and go to jail for as long as seven years.³¹ Such a major consequence can deter women from reporting cases of rape or incest.

Finally, the State of SVG does not fulfill its obligation to grant access to abortion for women victims of rape or incest.³² Under General Recommendation No. 24, the State should review the laws that criminalize abortion with a view to eliminating punitive measures for women and girls.³³ Section 149 of the Criminal Code states that abortion is illegal, except in cases of rape or incest. A woman can legally have an abortion whether or not the aggressor has been charged with the offence of rape or incest which resulted in the pregnancy in question. Even though the Criminal Code grants this exception, the State's report to the Committee clearly affirms that abortion is not available. Abortion is a service that is not offered for victims of rape or incest, neither for women whose life is threatened by the pregnancy. As a result, women may undergo dangerous and highly painful procedures to have an abortion without medical assistance.

2.5 Complaints of gender-based violence are not taken seriously

The State does not provide victims of domestic violence with proper assistance and protection because complaints of gender-based violence are not taken sufficiently serious by its agencies, particularly the police. In cases of domestic violence as in cases of sexual violence, women are afraid, reluctant, disempowered, confused and generally not encouraged to speak out.

The first barrier women encounter when they want to press charges against their abuser is the police. Under the DVA, the police are not legally obliged to file a report or to investigate when a woman reports domestic abuse.³⁴ The police are thus free to decide whether to file a report or not and whether to investigate or not when the complaint is limited to the DVA.

³¹ *Ibid.*

³² Safe abortion guidance, *supra* note 2, at 91-93; L.C. v. Peru, CEDAW Committee, No. 22/2009, 12(b)(i), U.N. Doc. CEDAW/C/50/D/22/2009 (2011) [hereinafter L.C. v. Peru]; CEDAW Committee, Concluding Observations: Sri Lanka, 283, U.N. Doc. A/57/38, Part I (2002).

³³ CEDAW Committee, General Recommendation No. 24, Article 12: Women and Health, United Nations, 1999, at 31.

³⁴ *Saint Vincent and the Grenadines combined fourth to eighth periodic reports*, *supra* note 2.

In addition, the authorities' attitude when a victim submits a complaint is rarely helping to make her feel comfortable. The Canadian Immigration and Refugee Board reported that "when female victims submit a complaint, they are served by gross, disrespectful, chauvinistic, young male officers who feel that the victim asked for what she received"³⁵. As stated by a victim, when women report domestic violence, police officers frequently go so far as to tell the victims to "listen to their husband"³⁶. According to the same report, the pressure put on women, whether by their abusive spouse or sometimes by police officers, or even the Church, often leads them to withdraw the complaint before they proceed.³⁷ Additionally, it is reported that police officers sometimes lose their temper when a woman is uncertain or does not answer questions quickly enough during her statement. The situation becomes even more difficult for women who previously filed complaints but subsequently dropped charges. When they return to the police in order to press charges, their cases are not taken seriously.³⁸ Besides, the fact that SVG is a small society where everyone knows the other potentially affects police officer's neutrality. When the police know the abuser, and even more so when the abuser is a police officer himself, they are reluctant to file a report.³⁹ Therefore, the police's attitude compromises the effectiveness of the DVA.

The second barrier women encounter when they seek to denounce abuse is that the State does not sufficiently protect the confidentiality of the woman's testimony. At the police station, women have to explain their situation in an open area, where

³⁵ Canada: Immigration and Refugee Board, *Saint Vincent and the Grenadines: The application and effectiveness of the domestic violence act, especially with regard to protection orders for victims of domestic violence; statistics on the number of cases being brought to court; police effectiveness with regard to domestic violence, including procedures followed by the police and victim when filing a complaint (whether victim can obtain a copy of the complaint); number of female officers on the police force; whether medical personnel are required to report abuse to the authorities; if so, whether doctors provide medical certificates/documents to the police; availability of shelters for victims of domestic violence (2003-2005)*, 2005, online : Refworld.org

<http://www.refworld.org/country,,IRBC,,VCT,,440ed75f37,0.html>, consulted on 05/12/13 [hereinafter: IRBC, "Application and effectiveness of the Domestic Violence Act"].

³⁶ Testimony.

³⁷ IRBC, "Application and effectiveness of the domestic violence act", *supra* note 35.

³⁸ *Ibid.*

³⁹ *Ibid.*

conversations are easily overheard.⁴⁰ As a result, women may be reluctant to file a complaint to the police.

The third barrier women face is the absence of support services provided by the State after they filed a complaint and during the investigation. Since the sole shelter for women victims of violence is only accessible after application for a court order, a woman living with her aggressor is not protected from further violent assaults. She may therefore be afraid to file a complaint and be left with no protection as she is even more likely to become the victim of violent reprisals from her aggressor after speaking out.⁴¹

2.6 Access to justice is not affordable

Access to justice is very difficult to obtain for women victims of domestic and sexual violence. The State does not grant access to free legal aid for these women pursuing civil proceedings. Considering that women are often financially dependent on their abusers, women may not have the necessary resources to pursue legal action. The State of SVG itself has recognized that the high cost of legal proceedings is a problem and constitutes a form of discrimination against women.⁴² It is problematic that the State recognizes this issue but has no plan in order to improve the situation. The barriers to access justice contribute to impunity for abusers and to systemic discrimination against women.

2.7 Civil proceedings under the DVA do not offer adequate protection of the victims' interests

The civil proceedings provided for under the DVA do not favour access to justice for victims. The State does not offer legal aid to poor women which would enable them

⁴⁰ ECLAC, "Evaluative Study of the Implementation of Domestic Violence Legislation" *supra* note 17 at 30.

⁴¹ *Ibid.*, at 35.

⁴² Mechanism of the Follow Up Convention Belém do Pará (MESECVI), Fourth Conference of States Parties, OEA/Ser.L/II.7.10, MESECVI-IV/doc.90/12, 26 March 2012 Saint Vincent and the Grenadines Response to the Questionnaire, at 11, online: Organization of American States, <http://www.oas.org/en/mesecvi/nationalreports.asp>, consulted on 05/12/13 [hereinafter: MESECVI, "Response to the Questionnaire"].

to take their complaints before the courts.⁴³ Lawyers are generally absent from the Family Court – except when representing the perpetrator –, because victims cannot afford to pay for the services of a lawyer due to their own limited financial status and the absence of financial support from the State.⁴⁴ The legal aid provided by the SVG Human Rights Association cannot make up for the lack of State-funded legal aid.

A victim seeking a protection order under the DVA is required to go directly to the Family Court to meet with a counsellor. The delays for obtaining a protection order will vary between one to six months. During that period, there is no protection for the victim. On the date of the hearing, the victim and the perpetrator have to wait in the same tiny room for their case to be called, giving the aggressor an opportunity to put pressure on the victim or even threaten her. Furthermore, the DVA does not prohibit the presence of media in the court room.

Many women drop their complaints because of the fear of the abuser, of the procedure or of the community's pressure.⁴⁵ As reported by the Canadian Immigration and Refugee Board, the frequent withdrawal of complaints is partly responsible for the small number of granted protection orders.⁴⁶ SVG does not provide recent statistics on the number of protection orders that have been granted. However, during the period between January 2004 and October 2005, only 34% of the 481 protection orders requested were granted.⁴⁷

The State does not efficiently protect victims of domestic violence from further violence because of a number of problems relating to the enforcement of protection orders granted under the DVA. As a consequence, following the court proceedings, women remain vulnerable to violence.

⁴³ Canada: Immigration and Refugee Board, *Saint Vincent and the Grenadines: Domestic violence; police response to complaints of domestic violence (May 2004-August 2005)*. Online: <http://www.refworld.org/topic,50ffbce4c9,50ffbce4de,440ed76119,0,,,VCT.html>, consulted on 30/03/2014.

⁴⁴ ECLAC, “Evaluative Study of the Implementation of Domestic Violence Legislation”, *supra* note 17 at 33.

⁴⁵ *Ibid.*, at 46.

⁴⁶ IRBC, “Application and effectiveness of the domestic violence act”, *supra* note 34.

⁴⁷ IRBC, “Application and effectiveness of the Domestic Violence Act”, *supra* note 35.

First, the DVA does not provide guidelines requesting, for example, that the victim must not be present when a protection order is delivered to the perpetrator. Women are therefore more at risk of being assaulted by the respondents. Thus, the loophole in the act threatens the security of the victims. Besides, there are no specific provisions in the DVA on who is competent to deliver orders of protection, hence this role is generally assumed by bailiffs attached to the Family Court. However, they are not authorized to intervene or arrest the respondent in case of a violent reaction threatening the physical security of the applicant.⁴⁸

Second, the police's unwillingness to intervene in cases of breach of an injunction encourages impunity and illustrates the ineffectiveness of the DVA to ensure the security of the victims. Victims have a responsibility to provide a copy of their protection order to the police station within their individual community to ensure that it is enforced. However, not many victims do this, so the police does not voluntarily follow-up on protection orders. When a protection order is violated, the DVA provides a sanction corresponding to a fine of up to five thousand dollars or six months of imprisonment.⁴⁹ However, in small societies like SVG, acquaintanceship adversely affects the legal process and especially the execution of protection orders. When police officers know the abuser, which is frequently the case, they are less likely to file a report against the person. Even though police officers may arrest the person suspected of breaching the order without a warrant,⁵⁰ they rarely use such powers to enforce orders.⁵¹ In fact, the aggressor is more likely to pay a fine than to go to jail.⁵² In sum, given that the police are not ensuring "back-up protection", women feel that the DVA provides a "false sense of security"⁵³.

⁴⁸ *Ibid.*, at 35.

⁴⁹ Section 5(1).

⁵⁰ Section 5(2).

⁵¹ Canada: Immigration and Refugee Board, *Saint Vincent and the Grenadines: Domestic violence, including legislation, availability of state protection and services (2010-2013)*, 2013 online: <http://www.refworld.org/docid/52a842f94.html>, consulted on 30/03/2014 [hereinafter: IRBC, *Domestic Violence* (2013)].

⁵² ECLAC, "Evaluative Study of the Implementation of Domestic Violence Legislation", supra note 17 at 57.

⁵³ *Ibid.*

3. ARTICLE 2

The aim of this section is to demonstrate that the non-legal measures taken by the State of SVG fail to eliminate discrimination against women as required by the Convention.

3.1 Failure of the State to inform about VAW

Four years after the ratification of the CEDAW (1981) by the State of SVG, a Women's Affairs Desk was instituted which, two years later, was upgraded to a Department. This Department drafted a Gender Equality Plan, established a National Commission on Gender Equality constituting representatives from all the State's line Ministries, NGO and private sector stakeholders and developed a Draft Domestic Violence Policy and Plan, all aimed at building capacities nationally, locally and within organisations to address the problem of VAW. Radio and television programs, community activities and ongoing training on VAW were held and new legislation was drafted. Police Officers were also trained regionally with a view to becoming more gender-sensitive and pro-active in the execution of their duties. They subsequently assisted with the ECLAC research in 1989/91. The Belém do Pará Convention⁵⁴ was then signed in 1996.

More recently, interventions intended to reduce gender based violence and poverty, to address HIV/AIDS, sexual and reproductive health, and to strengthen

⁵⁴ *Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará)*, 9 June 1994, (entered in force in march 1995), OEA, online: <http://www.oas.org/juridico/english/treaties/a-61.html>, consulted on 4/12/13.

legislative reform and gender responsive social policies⁵⁵ have been carried out. In addition, a gender sensitisation training has been offered to police officers by the Gender Affairs Division and the National Council of Women.⁵⁶

However, the effectiveness of these government measures in reducing the problem of VAW and their impact on society are difficult to measure or even estimate because of the lack of official information from the government. As a result, no official data on SVG was released that could serve to assess the outcome of those programs.

3.2 Failure of the State to facilitate access to social services

The government has created a Crisis Center for victims of domestic violence which should have opened its doors in April 2012⁵⁷, but did not open until 2013, with limited trained personnel. The location of the Center is unknown to the public and it operates as a temporary shelter for women victims of violence and their children. It can host 10 persons for a maximum period of 3 months. As mentioned above, the Crisis Center does not offer immediate assistance to women who are in danger. In order to be eligible for the Crisis Center, a woman has to request a protection order at the Family Court. Upon filing such a request, she will be referred to the National Mobilization or the Gender Affairs Division in order to explain her situation. If she cannot live at a relative's place and if she is in danger with her partner, she may be granted access to the Crisis Center. Very few places are available and there is a significant delay between a request for access and access being granted. Also, the legal procedures in order to obtain a protection order may take more than 3 months, so a woman may have to leave the Crisis Center before the proceedings have concluded. To date, there is no available data

⁵⁵ MESECVI, "Response to the questionnaire", *supra* note 42 at 25.

⁵⁶ IRBC, *Domestic Violence* (2013), *supra* note 51.

⁵⁷ US Department of State, *2013 Trafficking in Persons Report: St. Vincent and the Grenadines*, (Office to Monitor and Combat Trafficking in Persons, 2013), online: U.S. Department of State <http://www.state.gov/j/tip/rls/tiprpt/countries/2013/215555.htm>, [U.S. Department of State], consulted on 20/04/14.

on the number of victims who benefited of the shelter and the effectiveness and impact on the protection of the victims.⁵⁸

Secondly, no specific services dedicated to victims of gender-based violence are available in emergency situations. Telephone hotlines which would enable victims to seek immediate help do not exist.⁵⁹ The State itself has not put into place any specific support system for victims. The only governmental resources are the Family Court and the Family Affairs Division.

Only two non-profit organizations in the country, the “Marion House” and the St Vincent Human Rights Association, offer ongoing support to victims of domestic and sexual violence. Marion House is a Catholic Non-Governmental Organisation and the only professional “walk in” counselling center. Marion House also provides services to the Guadeloupe Home, which deals mainly with girls, female prisoners and other victims seeking help. The St Vincent Human Rights Association is the sole Pro Bono Legal Aid provider.

⁵⁸ IRBC, *Domestic Violence* (2013), *supra* note 51.

⁵⁹ Canada: Immigration and Refugee Board, *Saint Vincent and the Grenadines: Domestic violence, including legislation, availability of state protection and services (2010-2013)*, 15 November 2013, VCT104607.E , available at: <http://www.refworld.org/docid/52a842f94.html> [accessed 4 November 2014].

4. ARTICLE 5

SVG failed to fulfill its obligation to take all appropriate measures to modify social and cultural patterns of conduct of women and men. Those patterns of conduct, rooted in the patriarchal structure of society, are amongst the main factors that cause discrimination and VAW in SVG.

First, Vincentian women have to live with the burden of their assigned stereotypical gendered role. Although an increasing number of women are now income earners, earning at times more than their partners, there is an assumption that it is mainly the woman's responsibility to parent children and take care of the household and of their partners.⁶⁰ This stereotype puts women who are under- or unemployed in a situation where they depend on their partners financially, socially and emotionally, exhibiting low self-esteem and thus making them particularly vulnerable to domestic violence. The assigned gender roles result in a trivialization of violence within the relationship.

Moreover, there are flagrant prejudices and discrimination against women in non-marital unions in SVG. The State has made no specific effort to protect these women or to change mentalities regarding their marital status. According to a 2001 census, the majority of unions in SVG are non-married couples⁶¹, couples who either live together or visit on a regular basis. However, unmarried women with a lower socio-economic/educational status are frequently subject to negative stereotyping leading to

⁶⁰ Testimony.

⁶¹ According to a 2001 census in Saint Vincent and the Grenadines, there are three forms of family unions, with 24.6% of legally married, 14.7% of common-Law and 10.7% visiting Unions. The other forms of unions are classified as "Not in a union". See *Saint Vincent and the Grenadines combined fourth to eighth periodic reports of States parties due in 2010*, *supra* note 23 at 27.

discrimination. As pointed out by the Committee in 2001, the inferior status of these women in non-marital unions makes them vulnerable to financial insecurity and, therefore, to acts of violence.⁶² A study conducted on VAW by International Women's Rights Action Watch has revealed that women in common law unions are more likely to be victims of violence by their male partners.⁶³

Even though the Government of SVG acknowledges the problem of gender role stereotypes in its report, it does little to change the mentalities of the population and the everyday discrimination lived by women because of prevalent stereotypes. Training sessions to educate men with respect to gender equality and to increase their awareness about common stereotyped roles, which were conducted in 1995 by what was then the Women's Affairs Department and in 2006 by the Gender Affairs Division were welcomed initiatives. The Women's Affairs Department Community discussions/programmes (1985-2001) also facilitated interactive discussions on gender role stereotyping and how this could be addressed. However, in the absence of a Gender Equality Policy and a Policy for addressing the issue of VAW, the Gender Affairs Department can act on a "one-time/ad hoc" basis only. There seems to be no long-term strategy, even though challenging social and cultural patterns require particularly sustained efforts.

⁶² Concluding comments of the Committee on the Elimination of Discrimination against Women: Saint Vincent and the Grenadines, UNCEDAWOR, 16th Sess (31th January 1997), Supp No 38, Un DocA/52/38/Rev.1, at para 139, online: UN http://www.un.org/womenwatch/daw/cedaw/cedaw25years/content/english/CONCLUDING_COMMENTS/Saint_Vincent_and_the_Grenadines/Saint_Vincent_and_the_Grenadines-CO-1-3.pdf, consulted on 01/12/13.

⁶³ IWRAW, *St. Vincent and the Grenadines*, *supra* note 8.

RECOMMENDATIONS

Based on the information contained in this report, the following recommendations are made in order to ensure that the State of SVG respects its obligations under CEDAW:

Article 1

The State of SVG should:

- Include a specific provision asserting equality of men and women before the law;
- Develop a national policy on gender equality with corresponding action plans for attaining de facto equality across all Government Ministries, Sectors and agencies, as well as NGO and private sectors;
- Make reporting and record keeping on VAW mandatory so that all agencies; Government and NGO are obligated to report and record data;
- Facilitate access to the constitutional remedy under section 16 (1) of the Constitution.

General Recommendation no 19

With regard to the issue of gender-based violence, the State of SVG should

- In its Criminal Code, recognize domestic violence as a serious crime which cannot be excused or tolerated.

With respect to the obligation to collect data on violence against women, the State of SVG should

- Mandate that all agencies, Government, NGO and private sectors collect and make available statistics and data concerning VAW in order to assist with the development of proper planning and decision making on the issue;
- Publish and render publicly accessible the 2014-2017 National Action Plan on gender-based violence;

- Render effective the objectives set out in the 2014-2017 National Action Plan on gender-based violence with the assistance of all stakeholders;
- Collect, discuss and make publicly accessible accurate data on:
 - The number of complaints filed for domestic violence, incest and rape that are reported to the police;
 - The number of complaints received that have led to criminal proceedings;
 - The number of convictions after criminal proceedings and the number of repeat offenders;
 - The number of proceedings initiated under the DVA as well as the number of protection orders delivered;
- Make the justice system more accessible and transparent by facilitating easier access to the Court and judgments, through the provision of legal aid services;
- Support existing services for victims of VAW, such as provided by Marion House and the SVG Human Rights Association;
- Develop a directory of service agencies and the services they provide, including contact information and responsible personnel (with the exclusion of the Crisis Center);
- Make available specific information through ongoing reporting via print and electronic media on programs and activities undertaken by the Gender Affairs Division, and other State agencies, as well as their effectiveness;
- Ensure that the police officers trained in domestic violence are integrated throughout the police force and functioning;
- Conduct quarterly, half-yearly or yearly workshops where feedback on the use of training, the methodology applied and the effectiveness or impact of such trainings will be addressed.

Pertaining to the Domestic Violence Act, the State of SVG should

- Conduct public education programs, including print and electronic media, on the existence of the DVA, its use, effectiveness and access;
- Develop brochures/pamphlets on the DVA for dissemination at varying levels within the local and national context, particularly after community/group/media discussions;
- Pay particular attention to the possibility of simplifying the DVA, making it more reader friendly, and also using pictorial representation to explain it further;
- Provide a comprehensive and multidisciplinary definition of domestic violence in the Domestic Violence Act, which includes not only physical but also psychological, sexual and economic violence;
- Ensure equal application of the DVA to all women including women in visiting relationships.

In order to ensure sufficient protection to victims of gender-based violence, the State of SVG should

- Modify the Criminal Code to include the specific crimes of domestic violence and conjugal rape;
- Widen the scope of the definition of rape in the Criminal Code to include sexual harassment and unwanted sexual contacts;
- Improve the definition of incest in order to include all family members that may have authority or responsibility over girls;
- Change the burden of proof concerning consent in cases of incest and rape;
- Upon request, provide effective access to abortion services for women victims of rape or incest;
- Make it mandatory for all Government agencies to file and follow a report conscientiously when a woman reports domestic abuse;
- Provide specific rooms within police stations to guarantee protection of confidentiality when a woman reports and testifies acts of VAW at the police station;
- Ensure the presence of a female police officer for receiving and filing complaints concerning violence against women;
- Strengthen complaint mechanisms for domestic violence and all types of violence against women through specialised training.

Concerning access to justice, the State of SVG should

- Provide legal aid and access to a lawyer for civil and criminal proceedings concerning violence against women;
- Support existing services for victims of VAW, such as provided by the SVG Human Rights Association;
- Provide a continued and transparent gender-sensitive and a comprehensive approach to domestic violence in continuing to apply the “*in camera* rule”, thus denying the media access to the courtroom.

With regard to specific needs of victims of VAW, the State of SVG should

- Ensure that copies of the Family Court protection or restraining orders that are granted are known by police officers in the district in which the victims/perpetrators live for knowledge and application;
- Ensure that breaches of Court orders are executed expeditiously, so that victims are protected from the threat of their aggressor.

Article 2

The State of SVG should

- Develop and implement appropriate programs in order to sensitize the population of SVG to the issue and causes of VAW and how it can be addressed;
- Provide adequate health services for women victims of violence including access to abortion services for victims;
- Ensure free access to the Crisis Center for all women victims of violence and their children, without having to file for a court order;
- Ensure adequate social services to the victims of VAW;
- Support and finance social service agencies that provide services to the victims of VAW.

Article 5

With regard to prejudices against women, the State of SVG should

- Take appropriate measures such as educational programs for parents, students, groups and the wider community at large in order to modify the stereotypical gender roles and change mentalities;
- Provide specific protection for female-headed households as well as for women engaged in common law or visiting unions.