

Corporal punishment of children in St Vincent and the Grenadines

LAST UPDATED December 2019

Also available online at

www.endcorporalpunishment.org

Child population 33,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal
Punishment of Children**

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved 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 This provision should be repealed and prohibition enacted of all corporal punishment in all settings, including the family home and all settings where adults have authority over children.

Alternative care settings – Corporal punishment should be prohibited in all alternative care settings (foster care, institutions, children’s homes, places of safety, emergency care, etc).

Day care – Legislation should prohibit corporal punishment in early childhood care (nurseries, preschools, crèches, family centres, etc) and day care for older children (day centres, after-school childcare, childminding, etc).

Schools – Provisions in the Education Act and Regulations and other relevant subsidiary legislation authorising corporal punishment in schools should be repealed, and prohibition enacted in relation to all schools, public and private.

Penal institutions – Provisions for “disciplinary” corporal punishment in the Juveniles Act and the Juveniles (Approved Schools) Rules should be repealed and prohibition of corporal punishment enacted in relation to all institutions accommodating children in conflict with the law.

Sentence for crime – Provisions authorising judicial corporal punishment in the Corporal Punishment of Juveniles Act and any other legislation should be repealed and all judicial corporal punishment prohibited.

Current legality of corporal punishment

Home

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.

The Domestic Violence Act 2015 was promulgated in November 2016 and repeals the Domestic Violence (Summary Proceedings) Act 1995. Children are defined as a “person under eighteen years of age” (art. 2). Article 2 of the Act also defines domestic violence as “any controlling or abusive behavior that harms the health, safety or well-being of a person or any child and includes but is not limited to the following: (a) physical abuse or threats of physical abuse; (b) sexual abuse or threats of sexual abuse; (c) emotional, verbal or psychological abuse...” and physical abuse as “any act of assault”. 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.

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 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 which is reportedly defined as “any form of physical, sexual, verbal, emotional, psychological and financial abuse”.³

The Government reported at the same time that a National Child Protection Policy Framework (2015 – 2020) was launched in 2016.⁴ 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 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

² 25 January 2017, CRC/C/VCT/Q/2-3/Add.1, Reply to the list of issues, paras. 9 and 26

³ 4 April 2019, CCPR/C/VCT/Q/2/Add.1, Reply to list of issues, para. 69

⁴ 25 January 2017, CRC/C/VCT/Q/2-3/Add.1, Reply to the list of issues, paras. 1-4

Alternative care settings

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”). 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)).

Day care

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 (see under “Alternative care settings”).

Schools

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 states: “(1) Subject to subsections (6) and (7), a principal may direct that corporal punishment be administered as a last resort to a student— (a) in accordance with subsection (2); and (b) if no other punishment is considered suitable or effective in the particular case. (2) Corporal punishment may be administered— (a) by the principal, 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 in the presence of another teacher; (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 the school for the purpose of indicating the nature and extent of the punishment and the reasons for administering it” Sections (4) and (5) punish the administration of corporal punishment contrary to the rules. Sections (6) and (7) make provision for the Minister to suspend or abolish corporal punishment in all schools.

The Government reported in 2019 that the “Juvenile Justice Reform project” was aiming to remove corporal punishment in schools.⁵

Penal institutions

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. However, it provides for a juvenile to be committed to an approved school (art. 18). The Juveniles (Approved Schools) Rules 1952 pursuant to

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

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: “Corporal punishment in a school shall be subject to the following conditions: (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; (d) no boy with any physical or mental disability shall be so punished without the sanction of a medical officer; (e) it shall, subject to the provisions of paragraph (g), be inflicted by the matron (or, during her absence, by the officer appointed under rule 14 to exercise the duties of the matron) or by an officer of the school in the presence and under the direction of the matron; (f) subject to the provisions of paragraph (g), it shall not be inflicted in the presence of other boys; (g) for minor offences committed in the schoolroom by boys under fifteen, the principal teacher may be authorised by the managers to administer with the cane not more than two strokes on each hand. Where the principal teacher is so authorised by the managers to administer corporal punishment, he shall keep a book, to be known as the schoolroom punishment book, and he shall at once enter therein any corporal punishment inflicted by him under this paragraph.” Article 26 provides for the matron to be responsible for records of corporal punishment.

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).⁶

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 under “Sentence for crime”).

Sentence for crime

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.⁷ 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

⁶ MacClure, E. (2013), *Register of Laws: Saint Vincent and the Grenadines*, USAID

⁷ MacClure, E. (2013), *Register of Laws: Saint Vincent and the Grenadines*, USAID

the bare buttocks, usually by a policeman at a police station.⁸ The Government reported in 2019 that “caning, though legislated, is not issued as a sentence”.⁹

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.¹⁰ 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.¹¹ 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”.¹² The Government reported in 2019 that the Bill had gone before the Select Committee for discussion and was not being revised before being reintroduced to Parliament.¹³

Universal Periodic Review of St Vincent and the Grenadines’ human rights record

St Vincent and the Grenadines was examined in the first cycle of the Universal Periodic Review in 2011 (session 11). The following recommendations were made:¹⁴

“Prohibit corporal punishment at school, at home and in public institutions for children and in the context of the administration of justice (France);

“Adopt pertinent legislative measures to prohibit all forms of corporal punishment against children and adolescents in any situation (Uruguay)”

The Government rejected the recommendations.

St Vincent and the Grenadines was examined in the second cycle of the Universal Periodic Review in 2016 (session 25). During the dialogue, Uruguay expressed concern that corporal punishment of children remained legal in all environments and asked about planned steps to align legislation with the recommendations made by the Committee on the Rights of the Child.¹⁵ The following recommendations were made:¹⁶

“Consider prohibiting corporal punishment of children in all settings (South Africa);

“Prohibit all corporal punishment of children, including at home, at schools, and as a sentence in courts and work towards a general understanding that corporal punishment of children is not beneficial but rather detrimental to their development (Germany);

⁸ 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

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

¹⁰ 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

¹¹ 8 July 2016, A/HRC/33/5, Report of the working group, para. 48

¹² 25 January 2017, CRC/C/VCT/Q/2-3/Add.1, Reply to the list of issues, para. 33

¹³ 4 April 2019, CCPR/C/VCT/Q/2/Add.1, Reply to list of issues, para. 56

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

¹⁵ 8 July 2016, A/HRC/33/5, Report of the working group, para. 71

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

“Introduce the legislative measures and policies necessary to ensure the protection and promotion of the rights of boys and girls, including explicit prohibition of corporal punishment both in public and private spheres, as previously recommended (Mexico)”

The Government “noted” the recommendations.¹⁷

Examination in the third cycle is scheduled for 2021.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

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

“The Committee remains deeply concerned that corporal punishment is legally permitted and widely practised in all settings.

“With reference to its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee urges the State party to:

(a) Explicitly prohibit, through legislative and administrative provisions, the use of corporal punishment in all settings, namely in schools, childcare institutions, including early childhood care institutions, alternative care settings, in the home and in the administration of justice;

(b) Raise the awareness of parents, professionals working with children and the public in general to the harm caused by corporal punishment and promote positive, non-violent and participatory forms of child-rearing and discipline;

(c) Seek technical assistance from UNICEF in that regard, including on the child-friendly school programme.”

“The Committee notes that laws on the administration of juvenile justice are currently being revised and that such revision is expected to be completed in 2018. The Committee is nonetheless concerned that:

(c)The Corporal Punishment of Juveniles Act has not been amended and allows the caning of children who have been found guilty of a crime”

“In the light of its general comment No. 10 (2007) on children’s rights in juvenile justice, the Committee urges the State party to bring its juvenile justice system fully into line with the Convention and other relevant standards through the ongoing harmonization process. In particular, the Committee urges the State party to:

(a) Facilitate the adoption by Parliament of the Child Justice Bill (a model bill of the Organization of Eastern Caribbean States), which defines children as persons under 18 years of age and sets the minimum age for criminal responsibility at 12 years;

(b) Enact legislation explicitly prohibiting life imprisonment without release or parole and corporal punishment as a sentence for any offence committed while the offender was under 18 years of age and regularly review the sentences imposed on children under 18 years of age for early release”

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

Committee on the Rights of the Child

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

“The Committee is deeply concerned that corporal punishment is widely practised in schools, in the administration of justice, in other institutions and within the family, and that it is regulated by law and used against children from an early age.

“The Committee recommends that the State party urgently:

a) prohibit through legislative and administrative provisions the use of corporal punishment in all contexts, including in schools, in the administration of justice, in other institutions and within the family;

b) make use of information and education campaigns to sensitize parents, professionals working with children and the public in general to the harm caused by corporal punishment and to the importance of alternative, non-violent, forms of discipline, as provided for in article 28.2 of the Convention.

“While recognizing the State party’s efforts in this domain the Committee remains concerned that:

h) the Corporal Punishment of Juveniles Act allows for the caning of juveniles who have been found guilty of crime.

“The Committee recommends that the State party:

f) urgently prohibit the corporal punishment of children in the context of the juvenile justice system....”

Human Rights Committee

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

“The Committee remains concerned that under the Corporal Punishment of Juveniles Act and the Education Act, corporal punishment of children remains permissible in all settings, including private homes, alternative care settings, schools and penal institutions (arts. 7 and 24).

“The State party should take all necessary measures, including legislative reform and practical steps, to prohibit corporal punishment in all settings. It should encourage non-violent forms of discipline as alternatives to corporal punishment and should conduct public information campaigns to raise awareness about its harmful effects.

“The Committee is concerned about the low age of criminal responsibility (8 years old), the lack of legal guarantees that the deprivation of liberty of children is used only as a measure of last resort and for the shortest possible period of time, the fact that children can be caned as a criminal sanction and reports that convicted juveniles are detained together with adults (arts. 7, 9, 10 and 24).

“The State party should reform its juvenile justice system in accordance with international standards, including by taking steps to:

... (b) Eliminate corporal punishment as a criminal sanction for children...”

Human Rights Committee

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

“While noting the delegation’s statement that judicial corporal punishment is not resorted to in practice, the Committee is concerned that the Corporal Punishment of Juveniles Act still permits

caning, in violation of the prohibition of cruel, inhuman and degrading punishment contained in article 7.

The State party should immediately amend or repeal the Corporal Punishment of Juveniles Act so as to prohibit caning. It should also consider whether it is any longer necessary, or consistent with its obligations under the Covenant, to maintain in force the relevant savings clause of section 10 of the Second Schedule to the Constitution of the State Party.”

Prevalence/attitudinal research in the last ten years

None identified.