

Inhuman sentencing of children in Saint Vincent and the Grenadines

Briefing for the 25th session of the Human Rights Council Universal Periodic Review in April 2016, submitted by the Child Rights International Network (www.crin.org), September 2015.

Inhuman sentencing of child offenders in Saint Vincent and the Grenadines

1. Life imprisonment and corporal punishment are lawful penalties for offences committed while under the age of 18.

2. The main laws governing juvenile justice are the Juveniles Act, the Probation of Offenders Act, the Corporal Punishment of Juveniles Act, the Criminal Code and the Criminal Procedure Code.¹

3. The Juveniles Act and the Criminal Code set the minimum age of criminal responsibility at 8.² The Juveniles Act defines a juvenile as under 16 and a young person as 14 to 15. Persons aged 16-17 are tried as adults.³

Legality of inhuman sentencing

Death penalty

4. We have been unable to confirm whether capital punishment is formally abolished for child offenders. The prohibition of the death penalty for persons under 16 at the time of the offence, in section 24 of the Criminal Code, was reportedly extended to persons under 18 by Act 27 of 1993.⁴ In 2001, however, the Government reported that 16 and 17 year-olds could still be executed, leaving the prohibition of capital punishment for older children in doubt.⁵

Life imprisonment

5. The law provides for life imprisonment of juvenile offenders.⁶ The Government has stated that in lieu of the death penalty, a person under 16 at the time of the offence may be detained for life.⁷ Persons aged 16 or 17 are tried as adults, and are therefore liable to life imprisonment for a number of offences.

¹ We have been unable to obtain full texts of all these laws; this report therefore relies heavily on secondary sources.

² Juveniles Act 1952, Section 3 and 12 respectively, Available at: <http://www.cavehill.uwi.edu/lawlibrary/getattachment/7f801c7e-1d7c-48e6-b3b4-1dbecb5ef54e/JUVENILE-ES-ACT.aspx>; Cipriani, D. (2009), *Children's Rights and the Minimum Age of Criminal Responsibility: A Global Perspective*, Farnham: Ashgate Publishing Limited

³ *Initial state party report by Saint Vincent and the Grenadines to the Committee on the Rights of the Child*, CRC/C/28/Add.18, 10 October 2001, para. 355

⁴ 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. 6

⁵ *Initial state party report by Saint Vincent and the Grenadines to the Committee on the Rights of the Child*, CRC/C/28/Add.18, 10 October 2001, paras. 128 and 373; see also *List of issues prepared in the absence of the second periodic report of Saint Vincent and the Grenadines*, due on 31 October 1991, CCPR/C/VCT/Q/3, 6 December 2005, Q5

⁶ Hood, R. & Hoyle, C. (2008), *The Death Penalty: A Worldwide Perspective*, Oxford: Oxford University Press, p. 399

⁷ *Initial state party report by Saint Vincent and the Grenadines to the Committee on the Rights of the Child*, CRC/C/28/Add.18, 10 October 2001, para. 128

6. CRIN has not been able to find information on how life imprisonment is defined in the law of Saint Vincent and the Grenadines. Several commentators have reported that life imprisonment for child offenders may amount to life without parole,⁸ as the only release mechanism is the prerogative of mercy.

7. The Governor-General may exercise the prerogative of mercy to pardon a person serving a criminal sentence, to offer respite, substitute a less severe form of punishment or remit the whole or part of the sentence.⁹ The prerogative of mercy could be used as a release mechanism for people serving life imprisonment, but CRIN has been unable to locate information on whether the prerogative is used this way in practice in life imprisonment cases.

Corporal punishment

8. Corporal punishment is lawful as a sentence. The Corporal Punishment of Juveniles Act permits a male under 16 to be caned up to 12 strokes on the buttocks using a light rod. It is reportedly inflicted on the bare buttocks, usually by a policeman at a police station.¹⁰ We have no information on judicial corporal punishment for 16 to 17 year olds. Corporal punishment may be carried out only after medical examination and under the supervision of a prison official.¹¹

Inhuman sentencing in practice

9. CRIN has been unable to obtain statistical information relating to sentencing of children to life imprisonment or corporal punishment.

Law reform under way

10. A model Child Justice Bill was drafted in 2007 by the Organisation of Eastern Caribbean States and sent to the Attorney General. The Bill defines a child as under 18 and sets the minimum age of criminal responsibility at 12. It does not include corporal or capital punishment among permitted sentences, though nor does it explicitly prohibit such sentences. The Bill would explicitly prohibit life imprisonment.

Saint Vincent and the Grenadines' review by the Committee on the Rights of the Child

11. In light of the clear international human rights consensus against the imposition of life imprisonment and corporal punishment of children and the recent report of the UN Special Rapporteur on torture recognising that life imprisonment and lengthy sentences of children

⁸ See Human Rights Watch, *The Reset of Their Lives: Life Without Parole for Child Offenders in the United States*, 2005. Available at: <http://www.hrw.org/print/reports/2005/10/11/reset-their-lives>. De La Vega, C. and Leighton, M, *Sentencing Our Children to Die in Prison: Global Law and Practice*, 11 August 2008. Available at: http://www.usfca.edu/law/jlwop/other_nations/ University of San Francisco School of Law, Center for Law and Global Justice. *Cruel and Unusual Punishment: US Sentencing Practices in a Global Context*, May 2012, p. 61.

⁹ Constitution of Saint Vincent and the Grenadines, Section 65. Available at: https://www.constituteproject.org/constitution/St_Vincent_and_the_Grenadines_1979.pdf.

¹⁰ 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; see also *List of issues prepared in the absence of the second periodic report of Saint Vincent and the Grenadines*, due on 31 October 1991, CCPR/C/VCT/Q/3, 6 December 2005, Q9

¹¹ Seetahal, D. S. (2010), *Commonwealth Caribbean Criminal Practice and Procedure*, Third edition, London: Routledge-Cavendish

are grossly disproportionate and amount to a form of cruel and inhuman punishment,¹² we urge States to recommend that Saint Vincent and the Grenadines:

- Enact and enforce legislation explicitly prohibiting corporal punishment and life imprisonment, as a penalty for any offence committed while under the age of 18;
- Immediately review the sentence of any person sentenced to life imprisonment for an offence committed while under the age of 18 to ensure that no one serves a life sentence for an offence committed while a child;
- Raise the minimum age of criminal responsibility;

To read CRIN's detailed report on the inhuman sentencing of children in Saint Vincent and the Grenadines, visit: www.crin.org/node/30441.

¹² Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 5 March 2015, A/HRC/28/68, para. 74. Available at: www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A_HRC_28_68_E.doc.