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SAINT VINCENT AND THE GRENADINES

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Introduction

1. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, and marriage and family before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, the Fundamental Rights Agency of the European Union, the Organization for Security and Co-operation in Europe, and the Organization of American States.
2. This report focuses on the right to life of the unborn, the right to education under international law, and Saint Vincent and the Grenadines’ efforts in promoting and defending these rights.

(a) Right to Life

Background

3. Article 2 of the 1979 Constitution of Saint Vincent and the Grenadines (hereinafter St. Vincent) protects the right to life, stating, “(1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence under any law of which he has been convicted.”
4. Abortion is generally prohibited under Section 149(1) of the Criminal Code Cap 171 of the Revised Edition of the Laws of St. Vincent and the Grenadines (2009):

Any person who, with intent to procure a miscarriage of a woman, whether she is with child or not, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatsoever, is guilty of an offence and liable to imprisonment for fourteen years.
5. Section 149(2) of the Criminal Code includes exceptions to the general prohibition on abortion, including for the life and health of the mother and the health of her born children, and in the event of severe handicap of the foetus.

Pressure to change abortion law

6. St. Vincent has come under pressure from the Committee on the Elimination of Discrimination against Women (CEDAW Committee) to liberalize its abortion laws.¹
7. The CEDAW Committee has expressed concern that in practice abortion is not available to victims of rape or incest, or to women whose life is threatened by pregnancy.² The Committee highlighted that abortion is expensive and as a result women resort to illegal abortion services. The Committee noted that the maternal mortality ratio was 48, allegedly partially due to “unsafe abortions.”

¹ See Committee on the Elimination of Discrimination against Women, Concluding observations on the combined fourth to eighth periodic reports of Saint Vincent and the Grenadines (24 July 2015) CEDAW/C/VCT/CO/4-8.

² *Id.*

8. The Committee recommended that St. Vincent

remove penalties imposed on women who undergo abortion and ensure that [women are guaranteed] access to legal and safe abortion in cases of rape, incest, risk to the life or health of the pregnant woman or severe foetal impairment [. . .] and ensure that women and girls have confidential access to adequate post-abortion care, including in case of *backstreet* abortions.

Right to life in international law

9. St. Vincent is not required by international law to liberalize its abortion law. On the contrary, international law emphasizes the importance of protecting the unborn.
10. Article 6(1) of the ICCPR states, “Every human being has the inherent right to life.” Furthermore, Article 6(5) of the ICCPR states, “Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and *shall not be carried out on pregnant women.*” The ICCPR’s prohibition of the death penalty for pregnant women implicitly recognizes the right to life of the unborn. As the *travaux préparatoires*³ of the ICCPR explicitly state, “The principal reason for providing in paragraph 4 [now Article 6(5)] of the original text that the death sentence should not be carried out on pregnant women was to *save the life of an innocent unborn child.*”⁴ Similarly, the Secretary General report of 1955 notes that the intention of the paragraph “was inspired by humanitarian considerations and by *consideration for the interests of the unborn child.*”⁵
11. The protection of unborn life is also found through an ordinary reading of the language in the preamble of the Convention on the Rights of the Child (CRC). The preamble states, “[T]he child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, *before as well as after birth.*” Article 1 of the CRC defines a child as “every human being below the age of eighteen years.” This provides an upper limit as to who is a child, but does not provide a lower limit on when the status of “child” attaches.

Legalizing abortion does not make it safe

12. The CEDAW Committee recommended that St. Vincent liberalize its abortion laws in order to end illegal abortions and to end harm to women. Whilst these aims are good, liberalization of abortion laws is misguided.
13. Legalizing abortion means exposing more women to harm, and does not solve the problem of abortion-induced death. Legalizing abortion does not guarantee that it becomes safe. A report by the Guttmacher Institute states, “Changing the law [...] is

³ In accordance with the Article 32 of the Vienna Convention, the *travaux préparatoires* are considered to be a “supplementary means of interpretation.”

⁴ A/3764 § 18. Report of the Third Committee to the 12th Session of the General Assembly, 5 December 1957.

⁵ A/2929, Chapter VI, §10. Report of the Secretary-General to the 10th Session of the General Assembly, 1 July 1955.

no guarantee that unsafe abortion will cease to exist.”⁶ Indeed, providing more access to abortion will mean more women will suffer from abortion complications. There are numerous maternal risks associated with abortion. A major study published in the *British Medical Journal* this year concluded that States with “less permissive” abortion laws “exhibited consistently lower maternal mortality rates.”⁷ Although the study explains these differences in terms of other independent factors rather than in terms of abortion legislation itself, it nevertheless concludes, “No statistically independent effect was observed for abortion legislation, constitutional amendment or other covariates.”⁸ Because abortion legislation has no effect on maternal mortality, abortion need not be legalized to protect women’s health. Abortion is further associated with a high risk of haemorrhaging, developing sepsis, and injuries to internal organs including intrauterine perforations.⁹

14. Moreover, abortion can never be safe because it takes the life of the unborn child, and harms the mother through the loss of her child. It has also been reported that women who have had abortions are more vulnerable to depression and other unhealthy tendencies aggravated by the abortion experience.¹⁰
15. Therefore, St. Vincent must continue to focus on protecting the right to life of the unborn and on helping women get through pregnancy and childbirth safely, rather than helping women end their pregnancies. It must continue to protect women, girls and children.

(b) Safeguarding Women, Girls and Children

16. Violence against women and girls remains a serious problem despite the active steps the government has taken to strengthen the position and safety of women and girls.
17. There are glaring cases of sexual exploitation of children (particularly girls), such as forced prostitution. Measures must be introduced to prevent and effectively respond to incidents of trafficking, focusing on introducing effective investigation, prosecution and punishment of offenders, providing victims with support and facilitating the reintegration into society of women and girls wishing to leave prostitution.

⁶ See Susan A. Cohen, *Facts and Consequences: Legality, Incidence and Safety of Abortion Worldwide*, GUTTMACHER POL’Y REV. (2009), available at <http://www.guttmacher.org/pubs/gpr/12/4/gpr120402.html>.

⁷ Elard Koch, Monique Chireau, and Fernando Pliego et. al., *Abortion Legislation, Maternal Healthcare, Fertility, Female Literacy, Sanitation, Violence Against Women and Maternal Deaths: A Natural Experiment in 32 Mexican States*, BMJ OPEN 2015:5 e006013, doi:10.1136/bmjopen-2014-006013, p. 1.

⁸ *Id.*

⁹ Gunnell Lindell, Folke Flam, *Management of Uterine Perforations in Connection with Legal Abortions*, ACTA OBSTET GYNECOL SCAND. (1995) May 74(5):373-5, available at <http://onlinelibrary.wiley.com/doi/10.3109/00016349509024431>.

¹⁰ David C. Reardon, Philip G. Ney, Fritz Scheuren, Jesse R Cogle, Priscilla K Coleman, Thomas W. Strahan, *Deaths Associated with Pregnancy Outcome: A Record Linkage Study of Low Income Women*, SOUTHERN MEDICAL JOURNAL, (2002) August, 95(8):834-841.

(c) Sexual Education and Freedom of Religion

Background

18. In the 1990s, St. Vincent introduced the Health and Family Life Education (HFLE) Program in primary and secondary schools in order to respond to the additional strains placed on children and young people “putting their life and health at risk.”¹¹
19. The HFLE thematic areas include sexuality and sexual health, self and interpersonal relationships, eating and fitness, managing the environment and self and interpersonal relationships.¹²
20. Despite the introduction of the HFLE program, nearly 50 per cent of women give birth for the first time between 15 and 19 years of age, resulting in high school dropout rates.¹³
21. St. Vincent also facilitated the creation of the ‘Teen Mothers Returning to School’ program, enabling pregnant girls to continue with their education in line with article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

International law

22. If the content of the HFLE program does not comport with the religious values of the parents, they must be able to opt their children out from the program. This right to opt out is protected in international law.
23. Article 26(3) of the Universal Declaration of Human Rights states, “Parents have a prior right to choose the kind of education that shall be given to their children.”
24. Article 13(3) of the International Covenant on Economic, Social and Cultural Rights is equally explicit in guaranteeing the rights of parents with respect to the education of their children:

The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State *and to ensure the religious and moral education of their children in conformity with their own convictions.*

25. ICCPR article 18(4), on the freedom of religion, likewise says that States must “undertake to have respect for the liberty of parents [. . .] to ensure the religious and moral education of their children in conformity with their own convictions.”

¹¹ Health and Family Life Education (HFLE), Resource Guide for Teachers Upper Division, Health and Family Life Education: Empowering Children and adolescents in Belize with the knowledge and skills for Health Living, July 2006 (Adapted from HFLE Draft Teacher Training Manual, June 2006).

¹² *Id.*

¹³ CEDAW concluding observations, para. 28(a).

26. Article 18(1) of the Convention on the Rights of the Child states, “Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child.” Article 14(2) requires States to “respect the rights and duties of the parents [. . .] to provide direction to the child in the exercise of his or her right [to freedom of religion] in a manner consistent with the evolving capacities of the child.
27. Accordingly, St. Vincent must afford parents the right to opt their children out of the HFLE Program if it violates their religious beliefs for their children to participate.

Impact of premature sexual activity

28. Premature sexual activity is a serious problem that leads to devastating health implications, and severely undermines the wellbeing of youth. The consequences of premature sexual activity have a disproportionate impact on young girls because their bodies are not developmentally prepared for pregnancy, in addition to the fact that they are more susceptible to HIV and other STIs due to biological factors.
29. St. Vincent’s HFLE Program must ensure cooperation with parents and community and religious leaders, and must respect the religious values of the community. Almost 90 percent of people in St. Vincent are Christian.¹⁴
30. Education on responsible sexual behaviour should focus on abstinence and fidelity and inform young people about the risks associated with premature sexual activity and multiple concurrent partners. It must also encourage healthy relationships and responsible decision-making.

(d) Recommendations

31. In view of the above, ADF International recommends the following:
 - Continue to honour the national and international obligations to protect the right to life from conception to natural death;
 - Work to end abortion in accordance with international obligations to protect the life of the unborn;
 - At a minimum, maintain the requirements for obtaining an abortion;
 - Work to end illegal abortions, through investigation and prosecution of providers;
 - Review the HFLE program to ensure that it is age-appropriate and supports traditional family values, in accordance with the values of the people;
 - Ensure that students and their parents are able to opt out of the HFLE program;
 - Introduce measures to prevent and effectively respond to incidents of violence, sexual abuse, exploitation and trafficking;
 - Introduce effective investigation, prosecution and punishment of the offenders.

¹⁴ PEW FORUM, THE FUTURE OF WORLD RELIGIONS: POPULATION GROWTH PROJECTIONS, 2010-2050 242 (2015), available at http://www.pewforum.org/files/2015/03/PF_15.04.02_ProjectionsFullReport.pdf.