



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION**

Tenth periodic reports of States parties due in 2000

Addendum

SAINT VINCENT AND THE GRENADINES*

[23 September 2002]

* This document contains the second, third, fourth, fifth, sixth, seventh, eighth, ninth and tenth periodic reports of Saint Vincent and the Grenadines, due on 9 December 1984, 1986, 1988, 1990, 1992, 1994, 1996, 1998 and 2000 respectively, submitted in one document. For the initial report of Saint Vincent and the Grenadines and the summary records of the meeting at which the Committee considered that report, see documents CERD/C/85/Add.1 and CERD/C/SR.652.

I. GENERAL INFORMATION

1. The Government of Saint Vincent and the Grenadines expresses regret with respect to the failure of Saint Vincent and the Grenadines to submit the second, third, fourth, fifth, sixth, seventh, eighth, ninth and tenth reports due respectively as of 9 December 1984, 1986, 1988, 1990, 1992, 1994, 1996, 1998, 2000.

. The Government of this State party wishes to notify the Committee on the Elimination of Racial Discrimination that on 14 March 2001 there was a change of Government in Saint Vincent and the Grenadines and the new administration (the Unity Labour Party) has decided to address the issue with respect to the above-mentioned outstanding reports.

3. The Committee has indicated that considering the number of outstanding reports, Saint Vincent and the Grenadines should combine the nine outstanding reports into one report for the purpose of submission to the Committee. The Government is grateful for this opportunity and accordingly the second, third, fourth, fifth, sixth, seventh, eighth, ninth and tenth reports are hereby consolidated.

4. The Constitution of Saint Vincent and the Grenadines, chapter 2 of the Revised Laws of Saint Vincent and the Grenadines, provides the legal framework in which protection from discrimination on the grounds of race, sex, place of origin, political opinions, colour or creed is afforded. This is by virtue of section 13. The Constitution, by virtue of section 101, is the self-declared supreme law of the land. Section 101 reads thus:

“101 The Constitution is the supreme law of Saint Vincent and the Grenadines and subject to the provisions of this constitution, if any other law is inconsistent with this constitution, this constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.”

II. INFORMATION AND MEASURES TAKEN IN RELATION TO ARTICLES 2 TO 7

Article 2

5. By virtue of section 13 the Constitution of Saint Vincent and the Grenadines expressly prohibits and outlaws racial discrimination. The Constitution of Saint Vincent and the Grenadines came into effect on 27 October 1979, the date on which the State obtained its independence from the United Kingdom. Section 13 of the Constitution provides as follows:

“13 (1) Subject to the provisions of subsection (4), (5) and (7) of this section, no law shall make any provision that is discriminatory either of itself or in its effect.

“(2) Subject to the provisions of subsection (6), (7) and (8) of this section, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

“(3) In this section, the expression ‘discriminatory’ means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by sex, race, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

“(4) Subsection (1) of this section shall not apply to any law so far as that law makes provision.

“(a) for the appropriation of public revenues or other public funds;

“(b) with respect to persons who are not citizens;

“(c) for the application, in the case of persons of any such description as is mentioned in subsection (3) of this section (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other life matters that is the personal law of persons of that description.

“(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes provisions for standards or qualifications (not being standards or qualification specifically relating to sex, race, place of origin, political opinion, colour or creed) to be required of any person who is appointed to or to act in any office or employment.

“(6) Subsection (2) of this section shall not apply to anything which is expressly or by necessary implication authorized to be done by any such provision of law as is referred to in subsection (4) or subsection (5) of this section.

“(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 7, 9, 10, 11 and 12 of this Constitution being such a restriction as is authorized by section 7 (2), section 9 (5), section 10 (2), section 11 (2) or paragraph (a), (b) or (h) of section 12 (3) as the case may be.

“(8) Nothing in subsection (2) of this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this constitution or any other law.”

6. It is notable that despite the specificity of section 13 of the Constitution with respect to discrimination, section 1 of the Constitution, which is the general fundamental rights provision, recognizes that protection from discrimination lies at the basis of all rights and freedom. Section 1 provides as follows:

“1 Whereas every person in Saint Vincent and the Grenadines is entitled to the fundamental rights and freedoms, that is to say, the right whatever his race, place of origin, political opinions, colour, creed or sex but subject to respect for the rights and freedoms of others and for the public interest to each and all of the following namely:

(a) Life, liberty, security of the person and the protection of the law;

(b) Freedom of conscience, of expression and of assembly and association;
and

(c) Protection for the privacy of his home and other property and from deprivation of property without compensation, the provisions of this chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any persons does not prejudice the rights and freedoms of others and the public interest.”

7. Not only private individuals and institutions but also the Government of the State are subject to the provisions of the Constitution. With respect to the fundamental rights provisions contained in Part I of the Constitution, section 16 contains the relevant enforcement provisions by virtue of which an individual can present a motion before the High Court, which has original jurisdiction in such matters, seeking redress with respect to any alleged contravention. Section 16 of the Constitution provides as follows:

“16 (1) If any person alleges that any of the provisions of sections 2 to 15 inclusive of this Constitution has been, is being or is likely to be contravened in relation to him (or in the case of a person who is detained, if any person alleges such a contravention in relation to the detained person), then without prejudice to any other action with respect to the same matter that is lawfully available, that person (or that other person) may apply to the High Court for Redress.

“(2) The High Court shall have original jurisdiction:

“(a) To hear and determine any application made by any person in pursuance of subsection (1) of this section; and

“(b) To determine any question arising in the case of any person which is referred to it in pursuance of subsection (3) of this section;

and make such declarations and orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or serving the enforcement of any of the provisions of sections 2-15 (inclusive) of this Constitution, provided that the High Court [has] declined to exercise its powers under the subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

“(3) If in any proceedings in any court (other than the Court of Appeal or the High Court, or Court-martial) any question arises as to the contravention of any of the provisions of sections 2 to 15 (inclusive) of this Constitution, the person presiding in the court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.

“(4) Where any question is referred to the High Court in pursuance of subsection (3) of this section, the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with the decision or, if that decision is the subject of an appeal to the Court of Appeal or to her Majesty in Council, in accordance with the decision of the Court of Appeal or, as the case may be, of her Majesty in Council.

“(5) The High Court shall have such powers in addition to those conferred by this section as may be conferred upon it by Parliament for the purpose of enabling it more effectively to exercise the jurisdiction conferred upon it by this section.

“(6) The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on it by or under this section (including rules with respect to the time within which applications may be brought and references shall be made to the High Court).”

8. In accordance with subsection (6) of the above-mentioned section 16 of the Constitution, the Honourable Chief Justice of the Eastern Caribbean Supreme Court has issued the High Court Constitution Redress Rules effective 17 October 1980 and contained in Booklet 3 of the Constitution. These rules embody the procedures for seeking redress pursuant upon breaches of any provision of the Constitution including section 13. These rules provide as follows:

“High Court Constitution Redress Rules:

“Arrangement of Rules

“(1) Citation

“(2) Single judge

“(3) Procedure for enforcement of protection provisions

“(4) Notice of motion

“(5) Copy of application to Attorney-General

“(6) Constitutional question may be determined

“(7) Reference under section 16 (3)

“(8) Application under section 96

“(9) Practice and procedure

Commencement: 17 October 1980

“(1) Citation. These Rules may be cited as the High Court Constitution Redress Rules.

“(2) Single judge. The jurisdiction of the High Court:

“(a) To hear and determine any application made by any person in pursuance of section 16 (1) or 96 (1) of the Constitution; and

“(b) To determine any question arising in the case of any person which is referred to it in pursuance of section 16 (3) of the Constitution, shall be exercisable by a single judge.

“(3) Procedure for enforcement of protection provisions.

“(1) An application to the High Court pursuant to section 16 of the Constitution for redress by any person who alleges that any of the provisions of sections 2 to 15 (inclusive) of the Constitution has been or is being contravened in relation to him (or, in the case of a person who is detained, by any other person who alleges such a contravention in relation to the detained person), may be made by motion to the High Court supported by affidavit.

“(2) An application to the High Court pursuant to section 16 of the Constitution for redress by any person who alleges that any of the provisions of sections 2 to 15 (inclusive) of the Constitution has been, is being, or is likely to be contravened in relation to him (or, in the case of a person who is detained, by any other person who alleges such a contravention in relation to the detained person), may be made by filing a writ of summons claiming a declaration of right and/or praying for an injunction or other appropriate order.

“(4) Notice of motion.

“(1) No motion shall be made without previous notice to the parties affected thereby; but the High Court, if satisfied that the delay caused by the proceeding in the ordinary way would or might entail irreparable or serious mischief may make an order ex parte on such terms as to costs or otherwise, and subject to such undertaking, if any, as it thinks just; and any party affected by such order may apply to the High Court within seven days of the making of the order to set it aside.

- “(2) Unless the High Court gives leave to the contrary, there must be at least three clear days between the service of notice of a motion and the day named in the notice for hearing the motion.
- “(3) The notice of a motion must include a concise statement of the nature of the claim made or the relief or remedy required.
- “(5) Copy of application to Attorney-General. Where any application is made to the High Court pursuant to section 16 of the Constitution by motion or by filing a writ of summons and the Attorney-General is not a party to the proceedings, the applicant or plaintiff shall file an extra copy of the motion and affidavit or affidavits in support thereof or of the writ of summons, as the case may be, and the Registrar shall within three days thereafter forward such extra copy or copies to the Attorney-General for his information.
- “(6) Constitutional question may be determined. Where in the course of any action or proceedings (civil or criminal) before the High Court any question arises under the provisions of sections 2 to 15 (inclusive) of the Constitution, the High Court may determine such question and give effect to such determination, so far as applicable, in its judgement in such action or proceeding.
- “(7) Reference under section 16 (3).
- “(1) Any question referred to the High Court in pursuance of section 16 (3) of the Constitution by a person presiding in any court shall be referred by way of case stated.
- “(2) The case must be stated within six weeks of the decision of the person presiding in that court to refer the question, or of the request by a party that the question be referred.
- “(3) The case shall be signed by the person who presided in the court in which the question arose and transmitted by him to the Registrar of the High Court. It shall set forth the facts which have been proved or admitted and the question which is referred to the High Court for its decision. The person presiding shall cause copies thereof to be served upon the party (if any) at whose request the case was stated and upon such other parties to the proceedings as are affected by the question, and, where the Attorney-General, or in a criminal matter, the Director of Public Prosecutions, is not a party, upon the Attorney-General or the Director of Public Prosecutions respectively.
- “(4) Within fourteen days of the service upon him of a copy of the case stated, each party affected shall file with the Registrar a notice stating his contentions upon the question which has been referred to the High Court.

- “(5) The Registrar shall duly set down the case for hearing and notify the parties of the date fixed for the hearing.
 - “(6) The High Court, hearing a case stated in respect of a question referred to it, may amend the case or order it to be returned to the court by which it was stated for amendment, and may draw inferences of fact from the facts stated in the case.
 - “(7) The Attorney-General, and in the case of a criminal matter, the Director of Public Prosecution shall be entitled to appear and be heard in proceedings for the determination of a question referred to the High Court.
 - “(8) The Registrar shall notify the court by which the question was referred of the decisions of the High Court upon the question.
- “(8) Application under section 96.
- “(1) An application to the High Court pursuant to section 96 of the Constitution, by any person who alleges that any provision of the Constitution (other than a provision of Chapter I) has been or is being contravened, may be made either by motion to the High Court supported by affidavit or by filing a writ of summons claiming a declaration and praying for such relief as he may deem appropriate.
 - “(2) The provisions of rules 4 and 5 of these Rules shall apply to applications made pursuant to section 96 of the Constitution as they apply to applications made pursuant to section 16 thereof.
 - “(3) No application pursuant to section 96 of the Constitution shall be brought after the expiration of six months from the date of the contravention of, or in the case of an alleged continuing contravention, from the date when it ceased.
- “(9) Practice and procedure. Save as otherwise provided in these Rules, the jurisdiction and powers conferred to the High Court in respect of applications made by any person in pursuance of sections 16 (1) and 96 (1) of the Constitution shall be exercised in accordance with the practice and procedure (including any rules of court) for the time being in force in relation to civil proceedings in the High Court, with such variations as circumstances may require.”

9. The Constitution by virtue of section 13 and the above-mentioned rules provide an important avenue to the ordinary citizen in the instance of any form of racial discrimination. It is important to note that a person not only has locus standi under section 16 with respect to himself, but also with respect to a detained person.

10. Section 16 has frequently been invoked with respect to a number of constitutional provisions, but there has been no instance in which it has been invoked with respect to section 13. This is particularly because the Government in the conduct of its affairs has to be mindful of section 13 for any legislation passed in contravention of section 13 could be held by the High Court to be unconstitutional. There has been no record of any governmental legislation or policy being found to be unconstitutional on the ground of racial discrimination.
