



**International covenant
on civil and
political rights**

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**HUMAN RIGHTS COMMITTEE
Ninety-sixth session
Geneva, 13-31 July 2009**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

**Concluding observations of the Human Rights Committee
GRENADA***

1. The Human Rights Committee considered the situation of civil and political rights under the International Covenant on Civil and Political Rights in Grenada in the absence of a report at its 2467th meeting(CCPR/C/SR.2467), held on 18 July 2007. At its 2478th meeting(CCPR/C/SR.2478), held on 25 July 2007, it adopted the following provisional concluding observations pursuant to rule 70, paragraph 1, of its rules of procedure.

A. Introduction

2. The Committee regrets that the State party, despite numerous reminders, has not submitted its initial report, which was due on 5 December 1992. The Committee considers that this amounts to a serious breach by the State party of its obligations under article 40 of the Covenant.

3. The Committee regrets that although notice was given of the consideration by the Committee of the situation in Grenada, no delegation attended the meeting. It welcomes however the submission of written responses to its list of issues, albeit brief and in many respects insufficient.

* Pursuant to article 70 of its rules of procedure, the Human Rights Committee has decided to publish the provisional concluding observations on Grenada that were adopted and transmitted to the State party at its ninetieth session (9-27 July 2007).

B. Positive aspects

4. The Committee welcomes the abolition of the mandatory death penalty in 2002.
5. The Committee welcomes the adoption of the Domestic Violence Act 2001 and the Domestic Violence Summary Procedure Rules, as well as of the Child Protection Act of 1998. The Committee would welcome information on the implementation of these Acts and their practical impact on the protection of the Covenant rights in question.

C. Principal subjects of concern and recommendations

6. The Committee notes that the Covenant is not directly applicable by the courts in domestic law and that many of the rights enunciated in the Covenant are contained in the Constitution. It is concerned by the conclusion drawn by the State party that the Covenant has persuasive rather than binding authority at the domestic level of the State party. While recalling that the dualist approach adopted by the State party does not of itself prevent the full observance and implementation of the Covenant, the Committee regrets that the State party has not embarked on a process aiming at assessing the extent to which the Covenant has been made applicable, in a full and appropriate manner, either in its Constitution or its other domestic laws (art. 2).

The State party should consider incorporating Covenant rights into domestic law, so as to give full effect to the obligations it has undertaken upon ratification of the Covenant. It should assess the extent to which its domestic law incorporates the rights protected under the Covenant, due consideration being given, in particular, to the requirement that limitations in the exercise of these rights do not go beyond what is permissible under the Covenant.

7. While appreciating that the State party has established various institutions aimed at guaranteeing human rights, the Committee notes that it has not yet created a national human rights institution. (art.2)

The State party should consider establishing an independent national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles, annexed to General Assembly resolution 48/134). Consultations with civil society should be organized to this end.

8. The Committee notes the assessment made by the State party that inconsistencies between Section 14 of the Constitution, allowing for derogations to the right not to be discriminated against on the basis of race, colour, sex, language, religion and social origin and article 4 of the Covenant, do not have any practical effect as emergency measures must in all cases be reasonably justifiable. The Committee notes with concern that the state of emergency proclaimed in 2004 in Grenada was not brought to the attention of the Secretary-General of the United Nations (art. 4).

The State party should provide the Committee with more detailed information on the way it ensures that measures derogating from its obligations under the Covenant do not involve discrimination solely on the ground of race, colour, sex, language, religion and social origin. It should also establish a mechanism by which it informs other States parties to the Covenant, through the intermediary of the Secretary-General , of the rights it has derogated from in time of public emergency, as required by article 4 (3) of the Covenant.

9. The Committee expresses concern about the potentially overbroad reach of the definition of terrorism under the Terrorism Act of 2003, which may extend to conduct, e.g. in the context of political dissent, which, although unlawful, should not be understood as constituting terrorism. The Committee is also concerned at the seemingly mandatory nature of life imprisonment sentences for those convicted of terrorist acts.

The State party should ensure that counter-terrorism measures are in full conformity with the Covenant and, in particular, that the legislation adopted in this context is limited to crimes that would justify being assimilated to terrorism and attracting the often grave consequences associated with it. It should allow for some degree of judicial discretion in sentencing to life imprisonment. The State party is also requested to inform the Committee on whether the Terrorism Act has ever been applied.

10. The Committee notes with satisfaction that a de facto moratorium on the death penalty is in force in Grenada. It remains concerned however that there are still at least ten persons on death row. The Committee recalls that all measures taken towards abolition of the death penalty are considered to be progress in the enjoyment of the right to life (art. 6).

The Committee invites the State party to consider formally abolishing the death penalty and ratifying the Second Optional Protocol to the Covenant. The State party should also consider the commutation of the death sentences of all those currently on death row.

11. The Committee is concerned that corporal punishment, including flogging and whipping, is still administered in Grenada in accordance with the Criminal Code, the Prisons Act, and the Education Act of 2002. Particularly worrisome is the whipping of boys as a criminal punishment, and the use of corporal punishment in schools. The Committee further expresses its concern that the law provides for the sentencing of women and girls to solitary confinement in lieu of corporal punishment (arts. 7, 10 and 24).

The State party should immediately eliminate corporal punishment from its law and prohibit its use in places of detention and in schools, as well as in any other institution. Judicial sentences of solitary confinement should not be resorted to.

12. The Committee remains concerned at the reported persistence of domestic violence in Grenada (arts. 3 and 7).

The State party should increase its efforts to reduce domestic violence. It should ensure that police and other officials dealing with situations of domestic violence are adequately trained, and adopt measures to sensitize the public on gender issues. The State party is also requested to provide the Committee with detailed information, including statistical data, on complaints, investigations, prosecutions, sentences and protection orders granted over the past few years.

13. The Committee is concerned about the lack of policy and legislation in the State party regarding trafficking in human beings. It notes in particular that, although the State party has acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, it has not yet incorporated the crime of trafficking in persons into its Criminal Code (art. and 8).

The State party should take concrete measures in order to assess the existence of trafficking of human beings on its territory, and adopt appropriate policy and legislation to tackle this issue. It should consider incorporating the crime of trafficking in persons into its Criminal Code.

14. The Committee notes with concern that, despite indications that the convictions of the “Grenada 17” rested on a trial not respecting all the guarantees of the Covenant, ten of the original “Grenada 17” remain detained, having recently been re-sentenced to 40- year terms, of which they have already served the majority. The Committee notes that, though the sentencing of the “Grenada 17” has been reviewed in court, the underlying convictions have yet to be subjected to a full, independent judicial review. It is concerned that the State party has failed to follow the recommendations issued by its own Truth and Reconciliation Commission (TRC), in 2006, to provide legal redress for the “Grenada 17” in the form of a “fair trial, regardless of the outcome” (arts. 7 and 14).

The State party should provide without further delay for an independent judicial review of the convictions of the ten members of the “Grenada 17” still in detention.

15. The Committee expresses its concern about the low six-month maximum sentences provided for in cases of police convicted of using “unnecessary violence” against prisoners. This is especially troubling in light of reports of police beatings of persons in custody. The Committee is also concerned that, according to information received, no appropriate and effective complaint mechanism has been set up to receive and hear allegations of abuse in detention (arts. 2(3) and 7).

The State party should take appropriate steps to ensure that any act of ill-treatment committed against a prisoner is duly investigated, prosecuted and punished. It should undertake legislative initiatives to ensure that officials found guilty of ill-treatment are sanctioned in an appropriate manner, in keeping with the seriousness of the offence.

16. The Committee is concerned about information received according to which overcrowding is a serious problem in places of detention in Grenada, and about reported poor conditions of detention. The Committee also expresses its concern that under domestic law, reduction of the diet of a detainee for up to three weeks without even the medical supervision contemplated by the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Rule 32.(1)) may be and has been imposed as a punishment for violation of prison regulations (art. 10).

The State party should alleviate overcrowding through, inter alia, encouraging alternative sentences to incarceration. It should also guarantee the right of detainees to be treated humanely and with dignity, particularly their right to live in healthy conditions. It should also review its prisons regulations to prohibit the reduction of diet as punishment or at least ensure that any reductions are consistent with the requirements of the Standard Minimum Rules for the Treatment of Prisoners.

17. The Committee is concerned that the State Party's domestic law exceptionally allows for the detention of juveniles together with adults, and that this is reported to have become a regular practice (arts. 10 and 24).

The State party should ensure that juveniles are detained separately from adults, without exception.

18. The Committee notes with concern that the minimum age of criminal responsibility is seven years. It notes the State party's intention to enact comprehensive legislation on juvenile justice through a Juvenile Justice Bill (art. 24).

The State party should take immediate action to raise the minimum age of criminal responsibility to an acceptable level under international standards. The State party is encouraged to fulfill its promise to enact comprehensive juvenile justice legislation in accordance with the Covenant and other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("the Beijing Rules"), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

19. The Committee notes with concern references in the Prisons Act to "civil prisoners". (art. 11)

The State party, giving due consideration to article 11 of the Covenant, according to which no one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation, should provide the Committee with information clarifying the meaning of this term. It should ensure the full implementation of article 11 of the Covenant.

20. The Committee is concerned that legal aid is provided by a non-governmental organization only, albeit subsidized by the State party, and that statistics provided by the State party on legal aid do not appear to include criminal matters (art. 14 (3) (d)).

The State party should ensure that legal aid is accessible for those charged with a serious criminal offence, and provide more detailed information on this matter as requested by the Committee.

21. The Committee notes with concern that the Criminal Code penalizes same-sex sexual activities between consenting adults (arts. 17 and 26).

The State party should repeal these provisions of its laws.

22. The Committee notes with concern that libel may be pursued in criminal courts (art. 19).

The State party should ensure that libel and other similar cases are handled in a civil rather than criminal manner so as to ensure compliance with article 19 of the Covenant.

23. The Committee encourages the State party to solicit technical cooperation from the appropriate United Nations organs, in particular the Office of the United Nations High Commissioner for Human Rights, to assist it in meeting its reporting obligations under the Covenant.

24. The Committee further requests the State party to submit its initial report in pursuance of article 40 of the Covenant, including responses to the concerns raised above, by 31 December 2008.
