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MINISTRY OF COMMUNITY DEVELOPMENT
GENDER AFFAIRS AND INFORMATION

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OHCHR REGISTRY

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Mr Paulo Sergio Pinheiro
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Recipients : *T. Fenner*
M. Antonin
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Dear Sir,

Please find attached Dominica's response to the questionnaire from the United Nations Secretary General which addresses violence against children.

The tardy submission is deeply regretted.

Yours sincerely,

Permanent Secretary
MINISTRY OF COMMUNITY DEVELOPMENT
GENDER AFFAIRS AND INFORMATION

Cc. Jean Gough
Representative
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COMMONWEALTH OF DOMINICA'S RESPONSE TO QUESTIONNAIRE ON VIOLENCE AGAINST CHILDREN

LEGAL FRAMEWORK

International Human Rights Instruments

Dominica has now established Child Abuse Reporting Procedures. The aim is to provide protection to abused children and also to enhance collaboration among child protection agencies. The reporting procedures also reinforce accountability on the part of personnel working in Child Protection Agencies.

Legal Provisions on Violence Against Children

RESPONSE #2

- Children and Young Persons Act, Chap. 37:50 – Prevention of Cruelty to and Protection of Juveniles.
- Sexual Offences Act, No. 1 of 1990 – Protection Against Sexual Offences
- Protection Against Domestic Violence Act No. 22 of 2001 – To provide protection in cases involving violence within the family.

RESPONSE #3

(A) CHILDREN AND YOUNG PERSONS ACT, CHAP. 37:50 –

Any person who, having attained the age of eighteen years and having the custody, charge or care of any juvenile, wilfully assaults, ill-treats, neglects, abandons or exposes the juvenile or causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause the juvenile unnecessary suffering or injury to health (including injury to or loss of sight or hearing or limb or organ of the body, and any mental derangement) is liable -

- (i) On conviction or indictment, to a fine of three thousand dollars and to imprisonment for two years;
- (ii) On summary conviction, to a fine of seven hundred and fifty dollars and to imprisonment for three months [Section 5(1)].

- (B) **Section 7(1)** - If it appears to a Magistrate on information on oath laid by any person who, in the opinion of the Magistrate is acting in the interest of a juvenile that there is reasonable cause to suspect that a juvenile has been or is being assaulted, ill-treated or neglected in a manner likely to cause the juvenile unnecessary suffering.

The Magistrate may issue a warrant authorising any police officer -

- (i) To search for the juvenile and, if it is found that the juvenile has been or is being assaulted, ill-treated or neglected in any such manner, or that any such offence has been or is being committed in respect to him, to take him to and detain him in a Place of Safety; or
- (ii) To remove the juvenile with or without search to a Place of Safety and to detain him there, until in either such case, the juvenile can be brought before a Juvenile Court.

“Juvenile” means a person under the age of eighteen years.

(C) **SEXUAL OFFENCES ACT, NO. 1 OF 1998**

Section 7(1) - Any person who has sexual intercourse with another person who -

- (a) is not the spouse of the person; and
- (b) is under the age of fourteen years, whether or not the other person consented and whether or not the person believes that the other person is fourteen years of age or more;

is guilty of an offence and liable on conviction to imprisonment for twenty-five years.

Section 8(1) - Any person who has sexual intercourse with another person who -

- (a) is not the spouse of the person; and
- (b) is fourteen years of age or more but has not attained the age of sixteen years,

is guilty of an offence and liable on conviction to imprisonment for fourteen years.

Section 9(1) - An adult person is guilty of an offence if the adult has sexual intercourse with a minor who -

- (a) is the adult's adopted child, stepchild, foster child, ward or dependant; or
- (b) not being the adult's adopted child, stepchild, foster child, ward or dependant is at the time of the intercourse living with the adult as a member of the family or is under the adult's care or protection.

Section 9(2) - It is immaterial that the sexual intercourse referred to under subsection (1) occurred with the consent of the minor.

Section 9(3) - A person who is guilty of an offence under subsection (1) is liable on conviction -

- (a) if the minor is under the age of fourteen years to imprisonment for twenty-five years; or
- (b) if the minor is fourteen years of age or more to imprisonment for ten years.

Section 10(1) - Any adult who has sexual intercourse with a minor who -

- (a) is employed by the adult
 - (b) is in a common but not necessarily similar employment or work, under or in any way subject to the adult's control or direction, or
 - (c) receives wages or salary directly or indirectly from the adult,
- is guilty of an offence and liable on conviction to imprisonment for twenty-five years.

"Minor" means a person under the age of eighteen years.

Section 13(1) - Any person who indecently assaults another is guilty of an offence and liable on conviction to imprisonment -

- (a) for ten years, if committed on a person under the age of fourteen;
- (b) for seven years, if committed on a person of fourteen years of age or more but who has not yet attained the age of sixteen years.
- (c) for five years, if committed on a person who is sixteen years of age or more.

Section 13(2) - A person under the age of sixteen years cannot in law give any consent which would prevent an act being an assault for the purposes of this section.

Section 13(3) - In this section “indecent assault” means an assault or battery accompanied by words or circumstances indicating an indecent intention.

REDRESS - mainly prosecution of perpetrators with prison penalties.
No compensation for child victims.

REINTEGRATION AND REHABILITATION OF CHILD VICTIMS OF VIOLENCE -

- Housed in Place of Safety
- Foster care placement
- Counselling services
- Family contact maintained if deemed safe.

RESPONSE #4

Legislative provisions which address violence in:

- *The Family/ Home* - As outlined in Responses #2 and #3. Situations of incest are covered under Section 6(1) of Sexual Offences Act, No. 1 of 1998.
- *Schools and Preschool Care and Education* - The Education Act 11 of 1997 (Section 49) addresses corporal punishment in public schools, assisted private schools and private schools. It states that degrading or injurious punishment shall not be administered. However, corporal punishment may be administered where no other punishment is considered suitable or effective, and only by the Principal, Deputy Principal or any teacher appointed in writing by the principal for that purpose.
- *Military Schools* - Such schools do not exist.
- *Institutions including Care, Residential, Health and Mental Health* - no legal provisions.

- *The context of law and public order enforcement including in detention facilities or prisons* – The Offences Against the Person Act, Chap. 10:31, Section 3 states that a person convicted of murder when he was under the age of eighteen (18) years shall not have the sentence of death pronounced or recorded against him.
- *The neighbourhood, street and the community, including in rural areas*– Shall Charges Act, Chap. 10:39 addresses the following:
 - Abuse and bad language
 - Assault
 - Wilful neglect
 - Family, neglect or desertion of
 - Threats
 - Violence
 - Wounding
- *The Workplace (informal and formal)* – The Sexual Offences Act, No. I of 1998 has provisions for sexual intercourse with a minor (under 18 years) employee.
- *Sports and Sporting Facilities* – no legal provisions.

RESPONSE #5

There are legal provisions which allow corporal punishment. (See Response #6 for details) Corporal punishment is culturally acceptable and is therefore allowed in the family. Legislation does not address who should administer Court-ordered corporal punishment. Therefore the question of legal defences is not applicable.

Only selected persons (Principal, Deputy Principal or teacher appointed for that purpose) are allowed to administer corporal punishment at schools. Any other person who so administers is guilty of an offence and liable on summary conviction to a fine of one thousand dollars.

While there are no legislative provisions which prohibit corporal punishment in the family, the law makes it an offence if one wilfully assaults, ill-treats, exposes or causes or procures a child to be assaulted or ill-treated in the process of administering corporal punishment. [Children and Young Persons Act, Chap. 37:50, Section 5]

RESPONSE #6

The Penal Code does permit corporal punishment as a sentence for crimes committed by under eighteen-year-olds.

- Corporal Punishment Act, Chap. 12:73, Section 7(1) - twelve (12) strokes
- Corporal punishment shall not be inflicted on any person who is under sentence of death [Section 5(2)]
- Capital Punishment - A person convicted of murder when he was under the age of eighteen (18) years shall not have the sentence of death pronounced or recorded against him. The individual would instead be detained in such a place and under such conditions as the President may direct. [Offences Against the Persons Act, Chap. 10:31, Section 3(1)(b)]

RESPONSE #7

Bullying/ Hazing not addressed in Legislation. However, under the Small Charges Act, Chap. 10:39, provisions are made for Threats (Section 46) and Violence (Section 52).

Sexual Harassment - Sexual Offences Act, No. 1 of 1998; Protection Against
- Domestic Violence Act, No. 22 of 2001.

RESPONSE #8

Dominica is not faced with any major harmful or violent traditional practices on the question of child marriage but the provisions of Marriage Act, Chap. 35:01 governs that area. It states, "any marriage solemnised or celebrated between persons of whom is under the age of sixteen years shall be null and void. However, where the parties to a marriage, not being a widow or widower is under the age of eighteen years, no marriage shall take place between them without the consent of their father.

Inter-marriage is prohibited between persons related by blood.

RESPONSE #9

There are no specific provisions in law to address all forms of violence against children to non-citizen and stateless children including asylum seekers and displaced children.

The following laws seek to protect the groups mentioned above:

- Children and Young Persons Act, Chap. 37:50
- Protection Against Domestic Violence Act, No. 22 of 2001
- Sexual Offences Act, No. 1 of 1998
- Offences Against the Person Act, Chap. 10:31
- Small Charges Act, Chap. 10:39

The above pieces of legislation address the question of violence in the home as well as physical and sexual abuse. They also provide protection in cases of harming of human life and also the endangerment of and threat to human life.

RESPONSE #10

There is no difference in the definition of violence and the applicable legal framework for the mentioned categories.

RESPONSE #11

No recent review has taken place on the various legal framework which addresses violence against children. However, recommended changes to the Sexual Offences Act, No. 1 of 1998 have been put forward. This is being addressed.

RESPONSE #12

No studies or surveys have been undertaken to assess the impact of legal measures to address violence against children.

COURTS TASKED WITH ADDRESSING VIOLENCE AGAINST CHILDREN

RESPONSE #13

Dominica does not have a Family Court. However, attempts are being made to establish such a Court. Neither the Juvenile Court nor Magistrate Court has specific structures for addressing violence against children. Certain structures however exist in separate Departments with responsibility in the mentioned areas. For example, Welfare and Probation Officers are posted at the Welfare Division. Police Officers perform specialist roles and they serve within the Police Force. Attorneys-at-law are also posted at the Legal Aid Office and the Ministry of Legal Affairs.

MINIMUM AGE FOR SEXUAL ACTIVITY

RESPONSE #14

The minimum age for valid consent to sexual activity is sixteen (16) years. [Sexual Offences Act, No. I of 1998, Section 13(2)]. The said age is the same for girls and boys. The age is also the same for heterosexual and homosexual activities.

RESPONSE #15

See Response #8

SEXUAL EXPLOITATION OF CHILDREN

RESPONSE #16

The Sexual Offences Act, No. I of 1998 contains measures to prevent the commercial sexual exploitation of children: - Procuration (procures or induces to have sexual intercourse; conspires to effect the procurement of a minor; procures for prostitution, procures to become an inmate of a brothel]. The penalty is a maximum of twenty-five (25) years. The Court could also divest a minor's parents or guardians of authority over the minor.

- Abduction – on conviction to imprisonment for ten years;
- Householder permitting defilement of minor under sixteen (16) years – on conviction to imprisonment for ten (10) years;
- Aiding in Prostitution – on conviction to imprisonment for five (5) years;

Legislation does not at present address the question of sale or trafficking in children.

PORNOGRAPHY AND HARMFUL INFORMATION

RESPONSE #17

No legislative or other measures are in place to prohibit the production, possession and dissemination of child pornography. The Cinematograph (Censorship) Act, Chap. 20:06 deals with the censorship of films for public exhibition.

There are no controls on pornography produced and/or disseminated via the Internet.

RESPONSE #18

Legislation is in place to protect children from injurious information and material transmitted through the media and also those related to videos.

- Cinematograph (Censorship) Act, Chap. 20:06 – deals with the censorship of films;
- Dominica Broadcasting Corporation Act, Chap. 45:06 – nothing which offends good taste or decency should be included in programmes;
- Seditious and Undesirable Publications Act, Chap. 10:03 – prohibits the circulation of seditious or undesirable publications;

Legislation at the moment does not address injurious information via the Internet and electronic games.

REPORTING OBLIGATIONS TO VIOLENCE AGAINST CHILDREN

RESPONSE #19

Child Abuse reporting Procedures are in place. This is Government's approved policy which directs practitioners on steps to be taken in reporting cases of child abuse. The Procedures place an onus particularly on personnel in Child Protection Agencies, that is Welfare Services, Health, Education and the Police to report cases of child abuse which come to their attention.

As stated, administrative directives exist; however all citizens have a civic responsibility to report although there are no mandatory laws in place.

COMPLAINTS PROCEDURES

RESPONSE #20

Dominica has no complaints procedures relating to all forms of violence against children.

RESPONSE #21

Legal aid is available, but the clinic's services are not related to the submission of complaints. Legal aid serves in Court-related matters with an emphasis on Juveniles and women.

RESPONSE #22

There is ongoing awareness on the matter of child abuse and related matters. Members of the public are aware that complaints should be lodged at the Welfare Division or the Police. These two main Child Protection Agencies frequently receive reports. Complaints are also received at educational and health care facilities.

RESPONSE #23

The Sexual Offences Act #1 of 1990 provides special procedural or evidentiary rules which may apply in proceedings with respect to violence against children. The Act contains the following:

- (i) **Corroboration:** - When an accused is charged with an offence under this Act, corroboration is not required for a conviction and the Judge shall not instruct the jury that it is unsafe to find the accused guilty in the absence of corroboration.
- (ii) **Compellable witness:** - The parent or guardian of a minor may be called as a witness for the prosecution or defence.
- (iii) **Evidence concerning sexual activity and reputation:** - In proceedings in respect of an offence, evidence shall not be adduced by or on behalf of the accused concerning the sexual activity of the Complainant with any person other than the accused, unless the Court thinks such evidence is necessary for a fair trial of the accused. Evidence of sexual reputation is not admissible for the purpose of challenging or supporting the credibility of the Complainant.
- (iv) **Oath by a minor:** - When upon the hearing of a complaint under the Act, a minor in respect of whom the offence is alleged to have been committed or any minor of tender years who is tendered as a witness does not in the opinion of the Court understand the nature of an oath, the evidence of the minor may be received though not given upon oath, if in the opinion of the Court -
 - (a) the minor is possessed of sufficient intelligence to justify the reception of the evidence; and
 - (b) the minor understands the duty of speaking the truth.

RESPONSE #24

Outcome of complaints of violence against children: -

- (i) Compensation - seldom considered
- (ii) Punishment of Perpetrators - see Response #3

- (iii) Perpetrator Rehabilitation - no co-ordinated system in place, although counselling services are provided upon prisoner request or the request of prison personnel.
- (iv) Family Therapy - the services of Psychologists and Counsellors are provided to child victims and family members.

RESPONSE #25

Outcome of legal proceedings in which children and juveniles are found guilty of perpetrating violence: -

- (i) *Imprisonment*: - Juveniles (14 years upwards) - maximum of 3 months
 - Murder - detention in a place and under such conditions as the President may direct.
 - Manslaughter - fine and imprisonment (period at Judge's discretion)
- (ii) *Corporal Punishment* - male of or over the age of 16 years - 24 strokes
 - male of 16 years - 12 strokes

No sentence of corporal punishment shall be passed on a female of any age.

- (iii) *Community Service* - prescribed only for persons over eighteen years of age.
- (iv) *Perpetrator Rehabilitation* - counselling and therapy through the Probation Service for both perpetrator and family members.

II. INSTITUTIONAL FRAMEWORK AND RESOURCES TO ADDRESS VIOLENCE AGAINST CHILDREN

RESPONSE #26

Government authorities, structures and mechanisms which are responsible for addressing violence against children:

➤ *Welfare Division:*

- Prevention – public sensitisation; empowerment
- Protection – intervention; protection Court proceedings, family support
- Rehabilitation – therapy, counselling
- Reintegration – foster care, family integration

➤ *Police Force:* - Protection – intervention; joint protection proceedings

➤ *Courts:* - Protection – Court Orders
- Redress – sentences (fines, custodial, etc.)

Co-ordination is ensured through Case Conferences, ongoing dialogue, Court requested reports and policy directives.

RESPONSE #27

The Social Welfare Division is the lead Government authority tasked with responsibility for addressing violence against children.

Most reports of child related violence are lodged at the Welfare Division which keeps a Register of all reported cases of child abuse. The Division has linkages with other Child Protection Agencies and co-ordinates the reporting procedures and other action for the protection of children.

Training of personnel in child protection and public education is handled by the Division. Family support also comes from the Division which also is charged with policy formulation.

RESPONSE #28

The Government of Dominica budgets an estimated EC\$256,100.00 annually to Child Care Services. Part of that allocation goes towards supportive and rehabilitative care of child victims of violence. Personnel within both Government and non-Government organisations attend to violence related matters, among other assignments. For example, the Child Abuse Prevention Unit and the Women's Bureau deal with referrals of child abuse but are also involved in other family related issues.

RESPONSE #29

The Child Abuse Prevention Unit has an annual budgetary allocation of EC\$70,000.00 with a staff compliment of two. The Unit is involved in public education on child abuse, training of professionals and counselling services to victims of violence.

RESPONSE #30

The United Nations Children Fund (UNICEF) is the main donor Agency which contributes to programmes related to violence against children. Assistance is often in the form of technical and financial. The annual aid package is estimated at US\$50,000.00. That amount is mainly related to activities to address violence against children like training personnel and public education. Technical assistance is in the form of utilising the services of persons as consultants.

RESPONSE #31

No assistance provided to other countries' efforts to respond to the problem of violence against children.

RESPONSE #32

Dominica has no human rights institution or child-specific human rights institution. Various Government and non-Government institutions do have a role or competence in the area of violence against children, including receiving complaints. These institutions are engaged in advocacy on behalf of children and do collaborate with child protection agencies whenever complaints are received. Complaints received at the Welfare Division, the main child protection agency are processed accordingly. Children are sometimes taken into protective care, family support provided and persons prosecuted if necessary.

RESPONSE #33

No Parliamentary structures to address violence against children.

RESPONSE #34

No recent Parliamentary initiatives to address violence against children. However, in 1998, Parliament enacted the Sexual Offences Act, which attempts to protect children against sexual exploitation and abuse. See Response #3(c) for certain details of the Act.

III. ROLE OF THE CIVIL SOCIETY IN ADDRESSING VIOLENCE AGAINST CHILDREN

RESPONSE #35

Civil society initiatives in addressing violence against children: -

- *Operation Youth Quake* - community-based rehabilitation programme for disadvantaged children, many of whom are victims of abuse. For example, meals and educational programmes. The institution also provides temporary foster care service to children in difficult circumstances.
- *National Children Home (NCH)* - construction is underway of a facility to temporarily house abused and neglected children. The institution is also engaged in providing training opportunities to child care professionals.
- *Christian Children Fund (C.C.F)* - financial assistance to families and educational opportunities to children, many of whom suffer abuse and neglect. Also involved in advocacy.
- *Alpha Centre* - rehabilitation of mentally and physically challenged children who at one time or the other suffered abuse and neglect.
- *Church Groups* - awareness raising among membership geared at prevention.
- *Community based organisations* - awareness raising.

RESPONSE #36

Government support: - The Government provides an annual subvention to most of the above institutions. There is no systematic co-ordination of civil society and Government initiatives. However, there is ongoing collaboration, for example in the area of child protection.

RESPONSE #37

The media is playing its role in addressing violence against children, although there is need for a more active role. The following can be cited:

- Coverage of related events
- Feature presentations
- Attendance at training sessions
- Radio and TV Talk Shows

The media however needs to be more sensitive to children as it strives to disseminate information. This is being addressed through periodic training of media practitioners.

IV. CHILDREN AS ACTORS IN ADDRESSING VIOLENCE

RESPONSE #38

The Government in collaboration with the Committee on the Convention on the Rights of the Child has consulted children on certain issues, for example the present age of consent. However, children are not often engaged in the design of activities, implementation and monitoring of programmes and policies to address violence against them.

RESPONSE #39

Children are not involved in designing special procedural or evidentiary rules which apply to Court proceedings with respect to hearings concerning violence against them.

RESPONSE #40

No budgetary allocation is set aside to support children's participation in activities to address violence against children. Financial support is obtained from UNICEF in the sum of approximately US\$50,000.00 annually. Part of this goes directly to activities pertaining to violence against children. In terms of human resource, one person co-ordinates activities related to the Convention on the Rights of the Child. Assignments include activities connected to violence against children.

RESPONSE #41

Government does not have a comprehensive policy concerning violence against children.

RESPONSE #42

The Government of Dominica provides an annual subvention to non-Government organisations. Law enforcement receives budgetary support.

RESPONSE #43

There is no established monitoring system for assessing the impact of policies and programmes on violence against children.

RESPONSE #44

Dominica is party to the undermentioned Conventions/Commission and therefore participates in activities concerning violence against children.

- Convention on the Rights of the Child - The Regional Office of UNICEF periodically convenes regional forums comprising both adults and children to address issues related to violence against children. UNICEF also with the approval of local counterparts initiates programmes and activities related to violence against children.
- Commission on the Sale of Children, Child Prostitution and Child Pornography - Dissemination of information.

VI. DATA COLLECTION, ANALYSIS AND RESEARCH

RESPONSE #45

No surveys on victimisation, epidemiological or other population-based surveys of violence against children have for the past five years been conducted in Dominica.

RESPONSE #46

No small-scale representative interview studies with parents and children have been conducted.

RESPONSE #47

Government has not commissioned any scientific research projects on the problem of violence against children.

RESPONSE #48

No studies or surveys have been undertaken into the impact of legal measures to address violence against children.

RESPONSE #49

There is no system in place for formal inquiries in all child deaths in which it is known or suspected that violence may have played a part. Enquiries are part of the duties of the Police Force.

RESPONSE #50

No annual or other periodic reports are published describing statistical profile of known or suspected violent deaths.

RESPONSE #51

Reports on national profile of known and suspected violent deaths not published, therefore data unavailable.

RESPONSE #52

Reported cases of violence against children are as follows: -

2001 - 184 cases

2002 - 155 cases

2003 - 224 cases

RESPONSE #53

The following is a breakdown of reported cases of child abuse for years 2000 to 2003.

REPORTED CASES OF CHILD ABUSE

CHILD ABUSE TYPE	YEAR			
	2000	2001	2002	2003
Sexual Abuse	96	85	60	105
Sexual/Physical	-	4	3	-
Sexual/ Emotional	-	4	3	-
Sexual/ Neglect	-	3	2	-
Physical Abuse	36	18	31	60
Physical/ Emotional	-	11	9	-
Emotional	37	15	16	35
Neglect	15	11	10	24
Neglect/ Physical	-	1	1	-
Unidentified	-	3	4	-
TOTAL	184	155	139	224

VII. AWARENESS, ADVOCACY AND TRAINING

RESPONSE #54

The Government of Dominica in collaboration with the Committee on the Convention on the Rights of the Child has undertaken awareness raising campaign on the Convention on the Rights of the Child. This has to a great part focused on violence against children. Target audiences: -

- Professionals (Teachers, Nurses, Doctors) - understanding child abuse/ identifying the abused child.
- Children - how to protect themselves against abuse
- General public - understanding child abuse; pointers in protecting the child
- Policy makers (Government Ministries; Senior Policy makers) - understanding the United Nations Convention with focus on child abuse. Formulating and implementing policies.
- Media Personnel - writing and reporting on child related matters.

RESPONSE #55

Campaign messages and information were disseminated in the undermentioned ways: -

Print Media	√
Radio	√
Television	√
Theatre	√
Schools	√
Others	Workshops

RESPONSE #56

Government has for sometime been undertaking and sponsoring training programmes in the area of violence against children.

	<i>Prevention</i>	<i>Protection</i>	<i>Redress</i>	<i>Rehabilitation</i>	<i>Penalties</i>
Medical Professionals (including paediatricians, nurses, psychiatrists and dentists)	√	√			
Public health practitioners	√	√			
Social workers and psychologists	√	√			
Teachers and other educators	√	√			
Court officials (including judges)	√	√			
Police	√	√			
Prison Officers					
Juvenile Offenders Personnel Institution Personnel Parents/ Guardians	√	√		√	
Other (please specify)					

