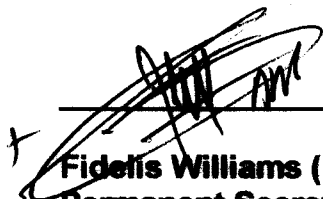


**MINISTRY OF HEALTH, HUMAN SERVICES, FAMILY
AFFAIRS & GENDER RELATIONS**

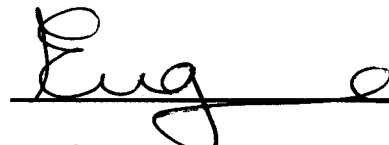
SAINT LUCIA

**UNITED NATIONS SECRETARY-GENERAL'S STUDY
ON
VIOLENCE AGAINST CHILDREN:
QUESTIONNAIRE TO GOVERNMENTS**

SUBMITTED BY:



**Fidelis Williams (Mr.)
Permanent Secretary
Ministry of Health, Human Services,
Family Affairs & Gender Relations**



**Clementia Eugene (Ms.)
Director
Division of Human Services &
Family Affairs**

OHCHR REGISTRY

13 SEP 2004

Recipients : JC
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QUESTIONNAIRE

1. LEGAL FRAMEWORK

International human rights instruments

1. Since Saint Lucia's ratification of the Convention on the Rights of the Child in July 1993, the Government has attempted to place greater priority on children's issues, especially in the areas of Child Protection, Health and Education, with some measure of success. Whilst there have been impressive developments in Child Health and Early Childhood and Primary Education, there is still much to be done with regards to Child Protection. Over the past years, the Division of Human Services and Family Affairs, which is the primary Government agency with responsibility for Child Protection, has seen an increase in the reported cases of violence against children. The high number of reported cases of child sexual abuse, followed by those of physical abuse, has been very concerning, and to this end a number of initiatives have been undertaken to address this concern and to improve the status of children in the country.

Legislatively, there was a review of local legislation with respect to the rights of the child conducted by Dr. Rosemary B. Antoine '*The Rights of the Child: A look at the local legislation in comparison with the UN Convention on the Rights of the Child*' (1992) which sought to identify gaps and deficiencies in the existing legislation. Coming out of this study, a number of recommendations were made including amendments to the Criminal Code to prevent the illicit transfer and non-return of children, issues relating to refugee children and the use of children in drug trafficking. Recommendations were also made for sexual offences to be gender neutral as the Criminal Code makes specific references to the female child and is silent on the male child. This would ensure equal protection to all children. However to date, there have not been any such amendments to the Criminal Code. In light of emerging trends of children being involved in drug activity and commercial sexual exploitation, which will be discussed later in this questionnaire, these recommendations need to be revisited (cited in Report by the Government of Saint Lucia on the Implementation of the Convention of the Rights of the Child: 1993-2003 by Mrs. Felicia Robinson).

There have however been some developments, which have positively impacted on children including the establishment of the Family Court in 1994 and supporting legislation such as the Domestic Violence Act 1995 and the Attachment of Earnings Act 1996. The Saint Lucia Criminal Code 1957, which was revised in 1992, has recently been reviewed (2003) and is expected to become law in the near future. There have been some amendments to the Code regarding sexual offences against children and these will be highlighted in the relevant sections of the questionnaire.

In addition, Saint Lucia participated in the study '*Social Services Delivery in the OECS and Turks & Caicos Islands*' which was itself a research component of the project: **FAMILY LAW & DOMESTIC VIOLENCE LEGAL AND JUDICIAL REFORM IN THE OECS & TURKS & CAICOS ISLANDS (2002)**, an NCH/UNICEF initiative. This research study which was a precursor to the larger study, was undertaken to examine to what extent these countries have complied with the provisions of the Convention especially for children in need of care and protection. The findings of the study indicated that many of the countries, including Saint Lucia, were still working with outdated laws and deficient social services to deal with children's issues. It also highlighted the paucity of preventative and curative programs to deal effectively with prevailing issues. The findings have been incorporated in the larger Family Law and Domestic Violence Reform Initiative, which has just recently been concluded and which is expected to be presented to participating Governments for endorsement and implementation.

The aim of this reform process was to address a number of social concerns against the background of relevant International norms and treaties to which Member States are parties such as The United Nations Convention on the Elimination of all forms of Discrimination Against Women; The Convention on the Rights of the Child; and The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women. In addition, it is meant to harmonize legislation in the OECS given the similarities in the various legislations, range of common institutions and services, a Unified Supreme Court and the thrust towards political unity. It was also undertaken to reflect the social and cultural mores of the people of the region, bearing in mind that many of the laws were imposed during colonial times.

When implemented, this reform initiative is expected to bring about significant changes in the area of Child Protection and generally improve the lives of children and their families in Saint Lucia.

Over the years, the Division of Human Services and Family Affairs has developed some programs and initiatives including:

- In-service training (1993-1997)
- Formalization of the Foster Care Program (1995)
- Para-professional Training (1996-1997)
- Institution of a Central Child Abuse Register (1996)
- Establishment of Case Management System & Procedures (1998)

These have in some measure enhanced the service delivery to child victims of violence.

Legal Provisions on Violence Against Children

2. Whereas the Saint Lucian Constitution Order 1978 does not make specific reference to violence against children it is assumed that children are included as citizens and therefore implicitly entitled to protection of right to life, and protection from inhuman treatment. The Children and Young Persons Act 1972 and the Criminal Code 1957, revised

in 1992 are the two main legislative instruments, which address violence against children. Cases of child physical abuse, neglect or abandonment are prosecuted by the Family Court under the Children and Young Persons Act and cases of sexual offenses against children are prosecuted by the police in the District Court under the Criminal Code. The Domestic Violence Act 1995 is also a supporting legislative instrument, which affords some protection to children. For the purpose of the Act, 'domestic violence' means any act of violence whether physical or verbal abuse perpetrated by a member of a household upon a member of the same household which causes or is likely to cause physical, mental or emotional injury or harm to the abused party or any other member of the household. The legislation also makes reference to a child, as any person under the age of eighteen years, which is significant because some of the existing legislation refers to a child as a person under the age of sixteen years. This age disparity therefore presents a challenge for professionals in the area of Child protection.

3. All cases of sexual abuse of minors are prosecuted under the Criminal Code, Chapter 150. Section 215 of the Code states:

Whoever unlawfully and carnally knows any female under thirteen years of age, whether with or without her consent, is liable indictably to imprisonment for life, and flogging.

Section 216 (1) follows:

Whoever unlawfully knows any female being of and above thirteen years and under sixteen years of age, is liable indictably to imprisonment for five years.

It should be noted that this legislation applies only to the female child. Cases of sexual abuse against a male child are prosecuted under the following sections of the Criminal Code:

Section 242 states:

Whoever is convicted of unnatural carnal knowledge of any person, with force or without the consent of such person, is liable indictably to imprisonment for life.

Section 112 A. states:

Any person who commits an act of indecency with or towards a child under the age of fourteen or who incites or encourages a child under that age to commit such an act with him or with another person is liable on conviction on indictment to imprisonment for two years or on summary conviction to imprisonment for six months or to a fine not exceeding one thousand dollars.

It should be noted that cases of indecency with the female child, that is, where there is no sexual intercourse, but another act of indecency has occurred, are also prosecuted under this preceding section.

NB. AMENDMENTS TO THE CRIMINAL CODE (2004)

Section 126 (1) of the revised Criminal Code states that:

Any person who has sexual intercourse with another person who is under the age of twelve years, whether or not the other person consented and whether or not the first-mentioned person has sexual intercourse with a person who he or she believes is twelve years of age or more, commits an offence and is liable on conviction on indictment to imprisonment for life.

Section 127 (1) (b) states further that:

Any person who has sexual intercourse with another person who is twelve years of age or more but has not attained the age of sixteen, commits an offence and is liable on conviction on indictment to imprisonment for fifteen years.

It should be noted that there has been a change in the minimum age from thirteen years to twelve years and that the penalty for sexual offences involving persons between the ages of twelve to sixteen has been changed from five years imprisonment to fifteen years.

Another significant amendment to the Code is the specific reference to Oral Sex. Section 124 (1) states that:

Any person commits the offence of unlawful sexual connection with another person if that person has sexual connection with that other person-

(a) without the consent of the other person

(b) without believing that the other person consents to that sexual connection

(c) with the consent of the other person if the consent is-

(1) obtained from a person under the age of sixteen years.....

Further in Subsection (1) "sexual connection" means-

(a) the introduction, to any extent, into the vagina or the anus of a person of-

- (i) any part of the body of any other person; or
 - (ii) any object held or manipulated by any other person otherwise than for bona fide medical purposes;
- (b) connection between the mouth or tongue of the person and any part of the genitalia of any other person.

Section 124 (3) follows that:

Any person who commits the offence of unlawful sexual connection is liable on conviction on indictment-

- (a) to imprisonment for fourteen years; or
- (b) to imprisonment for life where the sexual connection is as described in subsection (2) (a) (ii)

While these amendments are commendable, the legislation still falls short in not recognizing a child as a person under the age of eighteen years, thereby placing persons between the ages of sixteen to eighteen in a general category and a more vulnerable state. This situation must be addressed with urgency so as to be compliant with the provisions in the Convention on the Rights of the Child which recognizes a child as a person under eighteen years of age.

The Children and Young Persons Act 1972 governs cases of child physical abuse, mental or emotional abuse, neglect and abandonment.

Section 5 (1) of the Children and Young Persons Act states:

Every person who having the custody, charge or care of any juvenile willfully assaults, ill-treats, neglects, abandons or exposes such juvenile, or causes, or procures him to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause that 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 shall be guilty of an offence, and shall be liable:

- a) on conviction on indictment to a fine not exceeding five hundred dollars or to imprisonment with hard labour for any term not exceeding two years, or to both such fine and imprisonment;
- b) on summary conviction, to a fine not exceeding two hundred and fifty dollars or to imprisonment with hard labour for any term not exceeding one year, or to both such fine and imprisonment.

Section 2 of this act also makes specific reference to parents or guardians or any other person who has the custody or care of the child, who may have neglected such child in a manner likely to cause injury to his health through deprivation of adequate food, clothing, rest, medical aid and lodging.

The section is further extended to include caregivers, who have failed to sufficiently protect or guard against the risk of a child being burnt or scalded, if such child is under the age of seven years and has been left unsupervised in any room or yard containing a stove, coal pot or open fire-place.

Subsequent to investigations into alleged or actual cases of child abuse, if it is deemed necessary to remove the child from his / her living environment to a place of safety, a social worker makes an application to the Family Court for care and protection for the child. Section 18 (1) of the Act makes provision for a child to be placed in the care of a fit person if the court is satisfied that it is in the child's best interest to do so. There is no specific legislation which addresses the reintegration and rehabilitation of the child, neither is there any reference to compensation for child victims of violence.

4. The same legislation referred to in #3 above is applicable for all cases of child abuse.

5. Corporal Punishment is not prohibited under the law. It is practiced in the home and it is legislated under the Education Act 1999. The acceptance of corporal punishment within domestic situations seems to be implied under Section 5 (6) of the Children and Young Persons Act:

Nothing in this section shall be construed as affecting the right of any parent, teacher or other person having the lawful control or charge of a child to administer reasonable punishment to him.

This section is somewhat vague, but has often been construed as endorsing the use of corporal punishment by parents and other caregivers. The danger in that, is that there is a thin line between physical punishment and physical abuse, as what constitutes reasonable punishment is subjective and some persons may argue that the extent of the punishment inflicted upon the child is reasonable in his/ her opinion.

Corporal punishment is entrenched in the Education Act 1999.

Section 50 (1) States:

In the enforcement of discipline in public schools, assisted private schools and private educational institutions, degrading or injurious punishment shall not be administered.

However section 50 (2) states that:

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 by the principal for that purpose, in a manner, which is in conformity with the guidelines issued in writing by the Chief Education Officer.

Further, Section 50 (3) states:

Whenever corporal punishment is administered an entry must be made in a punishment book, which shall be kept in each school for such a purpose indicating the nature and extent of the punishment and the reasons for administering it.

Section 50 (4) follows:

A person other than those mentioned in subsection (2) who administers corporal punishment to a student on school premises commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

It should be noted that Section 51 of the Act states that the Minister of Education may abolish Corporal Punishment in public and assisted private schools, but there seems to be an opinion shared by many principals, teachers and executive members of the Teachers Union that Corporal Punishment should not be abolished as it is an effective manner in dealing with indiscipline within schools. This view is also supported now more than ever by members of the public because of the growing incidents of criminal activity and juvenile violence in the public schools.

Corporal Punishment is also permitted in residential care. The Saint Lucia Boys Training Centre in St. Lucia, which provides institutional care for male children in need of care and protection and young male offenders, carries out corporal punishment on the wards for acts of misbehavior. Section 13 (5) of the Statutory Rules and Orders No. 23 of 1976 speaks to the punishment of wards of the institution:

For Minor offences committed in the schoolroom, the principal teacher may recommend to the Director, the administration of not more than two strokes with the cane on each hand.

And further in subsection (6):

The Director shall be responsible for the immediate recording of all punishment in the Punishment Book, which is required to be kept under these rules.

A study conducted by UNICEF on Child Rights in Saint Lucia (2000) found that 59% of respondents indicated that corporal punishment was the mode of punishment most favored as a method of discipline.

Although there have been many public education campaigns, raising public awareness of the consequences of corporal punishment as one of the agents perpetuating violence in the society, it appears to be entrenched in the St. Lucian Culture and it may be sometime before there is any prohibition of corporal punishment by law.

6. As indicated in response to question # 5 above, corporal punishment of minors is permitted by law. Section 1312 (3) of the Criminal Code states that in the sentencing of young offenders:

A tamarind rod shall be used in the case of persons under eighteen years of age.

However, under Section 1313:

A person under eighteen years of age shall not be sentenced to flogging, but in lieu thereof, may be sentenced to be whipped once.

Regarding capital punishment as a sentence for crimes committed by persons under eighteen years of age, Section 179 of the Criminal Code directs that:

Sentence of death shall not be pronounced on or recorded against a person convicted of an offence if it appears to the court that at the time when the offence was committed, he was under the age of 18 years; but in lieu of death thereof the Court shall sentence him to be detained in such place and under such conditions as the Governor General may direct.

7. There is no specific Legislation which addresses bullying / hazing and sexual harassment.

8. Saint Lucia does not have a history of traditional/cultural practices which are considered harmful to children. However there have been isolated cases where it was alleged that young children were sexually assaulted, by persons infected with the HIV/ AIDS virus, in order to be cured by 'virgin blood'. In such cases, the perpetrators would be charged with sexual abuse of a minor and prosecuted as such.

NB. AMENDMENTS TO THE CRIMINAL CODE (2004)

Revisions to the Criminal Code allows in Section 140 (1) that:

Any person who, knowing that he or she suffers from Acquired Immune Deficiency Syndrome commonly known as AIDS, intentionally or recklessly

infects another person with the human-immuno deficiency virus known as HIV, whether through sexual intercourse or any other means by which the disease may be transmitted to another person commits an offence of aggravated assault and is liable on conviction on indictment to imprisonment for ten years.

And in Subsection (2):

It is no defence for a person charged with an offence under subsection (1) to prove that the act was committed with the consent of the other person.

9. There does not appear to be a problem of asylum seekers and displaced children in Saint Lucia. However, should any child who is a non-citizen be subjected to any form of violence, the same legal provisions for children who are citizens would apply.

10. As mentioned in the response to question # 3, sexual offences against minors are prosecuted under the Criminal Code. It was indicated also that the prosecution of such cases is gender biased; cases involving male children are prosecuted under a completely different section to that prescribed for female children.

According to the legislation, there is no distinction regarding the sex or sexual orientation of perpetrators in cases of child sexual abuse however the age of the victim and the offender is significant, especially as regards juvenile offenders.

In cases of sexual assault of children by juveniles under the age of sixteen, the juvenile is brought before the Family Court rather than the District Court where cases of child sexual abuse are prosecuted.

There are specific laws regarding incest.

11. The Social Services Delivery Research Project in the OECS & Turks and Caicos Islands previously referenced has been the most recent comprehensive review undertaken to address violence against children in the context of the legal framework. In Saint Lucia, there are still too many gaps and deficiencies in the legislation which result in operational weaknesses and challenges to offer children the level of protection that they need. Some of the recommendations made include:

1. That there be a comprehensive definition of child abuse recognizing the various forms that may exist.
2. That the age of a child should be consistent throughout the legislation and reflective of the provisions in the Convention on the Rights of the Child.
3. That the reformed legislation acknowledges the need for an independent person, i.e. a Guardian Ad Litem who the Court can appoint to safeguard and promote the child's best interest, thereby reducing potential conflicting interest and enhancing expedient management of cases.

4. To enable the use of video recording of a child's interview to be used as main evidence in criminal proceedings.
5. To make social services the lead agency to pursue through the courts cases of alleged abuse, thereby removing this responsibility from parents, who often choose not to pursue criminal proceedings.
6. To link the sentencing of perpetrators to counseling therapy and other rehabilitative intervention in order to further protect children.

12. As mentioned previously, there have been two important studies which assessed the impact of legal measures to address violence against children: The Rights of the Child – A look at the Local Legislation in Comparison with the UN Convention on the Rights of the Child (1992) and the OECS Social Services Research study, a component of the OECS Family Law and Domestic Violence Reform Initiative.

Courts Tasked With Addressing Violence Against Children

13. Cases of child sexual abuse, including indecent assault are prosecuted by the District Magistrate Court during the Preliminary Investigations and thereafter by the High Court at the Assizes. Cases of serious physical abuse are also dealt with by the District Court.

Cases of child sexual abuse and indecent assault perpetrated by juveniles on children are heard by Family Court.

The Family Court also hears related matters of child care and protection allowing for the removal of children from unsafe living conditions and for them to be placed in the care of a fit person.

Minimum Age for Sexual Activity

14. The age of legal consent to sexual activity is sixteen years. The legislation in the Children and Young Persons Act 1972 speaks to the age of consent in the context of the female child, but is silent regarding the male child. There is no different age in respect of heterosexual and homosexual activities.

15. The Saint Lucia Civil Code 1957 addresses the minimum age of marriage for women and men. Individuals between the ages of 16 – 18 years may be married with parental consent. One may be married independently from the age of 18.

Sexual Exploitation of Children

16. Over the past few years, there have been reports of young females under the age of sixteen who have been involved in unlawful sexual activities. The extent of the commercial sexual exploitation of children is not known as there have not been comprehensive studies into this phenomenon. There have been allegations of females being coerced into sexual activity, which officers within the Division and other personnel of social service agencies have discovered may be related to financial deprivation and self-sustenance. Some of these

young girls need to put themselves through school and provide for other needs especially if the family is economically challenged.

There have also been concerns by social service personnel about the high level of migration, especially by mothers, where children are left behind with inadequate care arrangements. Children are then left to fend for themselves and resort to whatever means for their day-to-day survival.

There is legislation which addresses commercial sexual exploitation, albeit not specifically directed at children. Section 225 (1) of the Criminal Code states:

Whoever –

- a) procures any female under twenty – one years of age to have unlawful carnal connection, either within or without the Commonwealth..... in or out of this state;
- b) procures any female to become a common prostitute;
- c) procures any female to leave this state, with intent that she may become an inmate of, or frequent, a brothel elsewhere, is liable indictably to imprisonment for two years.

And further in Subsection (2)

Whoever knowing that any of the offences mentioned in the preceding subsection has been committed in the case of any person, abets the unlawful detention of such person, or otherwise abets the execution of the intent with which that offence was committed, is guilty of that offence;

And in subsection (4)

A police constable may take into custody without a warrant any person whom he shall have good cause to suspect of having committed, or of attempting to commit, any offence against this section.

Section 226 (1) states further:

Whoever –

- a) by false pretences or false representations procures any male to have unlawful carnal connection, either within or without the Commonwealth with any person;
- b) by threats or intimidation procures any female to have any unlawful carnal connection, either within or without with any person;

- c) applies, administers to or causes to be taken by any female any drug, matter or thing with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connection with such female,

is liable indictably to imprisonment for two years.

NB. AMENDMENTS TO THE CRIMINAL CODE (2004)

There have been amendments to the Criminal Code regarding prostitution and commercial sexual exploitation. Worthy of note in Section 141 (1) are:

- (a) the reduction in age from twenty-one years to eighteen years;
- (b) the inclusion of both male and female;
- (c) the increased penalty of imprisonment for seven years up from two years.

Another note worthy amendment is in Section 142 which speaks to procuring defilement or abetment of defilement by guardian or parent. This is a significant development as one of the concerns of practitioners is the known fact that some parents and guardians condone and encourage their children to engage in sexual activity for financial gain from. In addition, some parents and guardians choose not to pursue criminal proceedings in matters of sexual offences, in lieu of a financial settlement and/or arrangement with the perpetrators of the offence. With this amendment, parents and guardians will no be able to aid and abet such actions with impunity.

Section 142 states:

Any person who, being the parent or guardian of any male or female-

- (a) procures such male or female to have sexual intercourse or sexual connection with another person;
- (b) orders, is party to, permits or knowingly receives the profits of, the defilement, seduction or prostitution of such male or female,

is liable on conviction on indictment to fifteen years, if such male or female is under the age of twelve, or to five years imprisonment, if such male or female is above the age of twelve years.

As evident in the legislation, now more so with the amendments, there is protection for children who may be sexually exploited for commercial reasons however it is a matter of law enforcement and the strengthening of policies to ensure that perpetrators of such crimes are prosecuted.

Victims of such crimes when apprehended are not criminalized, but may be taken before the Family Court for care and protection and may also placed under a Supervision order by the Probation Department.

These cases are challenging as often time, the children are disowned by their families, or have themselves broken family ties and have no fixed place of residence. This situation is further exacerbated by the fact that Saint Lucia does not at this time have any foster home, or residential facility for adolescent females and the private foster carers, who are already few in numbers, are usually reluctant to take in such children. Consequently, efforts to rehabilitate these children are very complicated.

The lone facility that offers some therapeutic interventions for adolescent girls is the Upton Gardens Girls Centre, which is a day facility, and is more geared towards girls with behavioral problems. This program is therefore inappropriate for those children who literally live on the streets. As with the laws regarding prostitution there is a need for policies which address the plight of young victims of violence and commercial sexual exploitation and which will allow for their rehabilitation and reintegration into society. The Government is presently exploring the possibility of extending the Girls Centre and expanding the program to include a component directed at such children.

With regards to the sale and trafficking of children, the only mention of this in the legislation is Section 18 (1) of the Adoption Ordinance 1954 which makes it a criminal offence for any person to make or give to an adopter parent or tutor any payment or reward in respect of the adoption of a child.

Pornography and Harmful Information

17. There is no specific legislation on child pornography, however the Customs Control and Management Act Section 84 – 1 (third schedule) prohibits the entry of all pornographic material into the country.

Persons guilty of child pornography may be prosecuted for acts of indecency with a child under the Criminal Code.

18. There is no legislation, nor guidelines to protect children from injurious information and material transmitted through the media, internet, etc.

Reporting Obligations Relating to Violence Against Children.

19. There is no legislation which addresses Mandatory reporting of all forms of violence against children, however the Division of Human Services & Family Affairs, which is the Government agency with responsibility for Child Protection has recently completed a Draft Protocol for the Prevention, Reporting, Investigation and Management of Child Abuse and Neglect. Once adopted as the Government Policy on Child Abuse, professionals working in the area of child protection and those indirectly charged with providing care for children will be mandated to report all suspected or actual cases of child abuse and neglect. Such persons will include medical personnel, police, social workers, day care workers, education personnel, guidance counselors and ministers of religion. The document recommends

further that legislation be put in place making liable any person or institution mandated to report, who has willfully failed to do so.

Complaints Procedures

20. The Division of Human Services and Family Affairs has instituted a Child Abuse Incident Report Form, which is used to document reported cases of Child Abuse and Neglect. The information obtained on the form includes the nature of abuse, history of abuse, perpetrator, source, and any action taken prior to, or after making the report. After the information is recorded by the Intake Officer, the case is assigned to a Family Case Worker who then conducts an investigation so as to substantiate the allegation of abuse.

If the occurrence of abuse is confirmed, the case may either be referred to the police as in matters of sexual abuse offences or serious physical abuse, or be pursued through the Family Court as a Care and Protection matter.

The Division has distributed the Child Abuse Incident Report Forms to other agencies involved with children, such as the Police, Family Court, hospitals and health centers and schools. Unfortunately, not all of these agencies comply in submitting those forms, which has implications for victim treatment and rehabilitation. An example of this is if the police investigates a report of alleged sexual abuse, but does not forward the Form to the Division. In such an instance, the Division may not be aware of the case, and will not be able to offer counseling and support to the victim. Further, the victim may not have the support of a Social Worker during the Preliminary Investigation and subsequent trial. The failure of the agencies to submit the Forms also has implications for adequate data collection, which is necessary to inform and guide social policy.

The Child Abuse Protocol Document, referred to previously contains specific complaints procedures for the various categories of persons working directly with children to ensure that each person knows the procedures to be followed in cases of child abuse and neglect.

21. After the adoption of the Child Abuse Protocol document, it is expected that information on complaints procedures will be widely disseminated, so that anyone, including children may have access to them.

At the moment there is no established legal aid in Saint Lucia.

22. The Division of Human Services and Family Affairs has had a number of media campaigns to sensitize members of the public to the ills of child abuse and has solicited their support in reporting suspected or actual cases of abuse.

23. All cases of sexual abuse of minors are heard in camera. The only persons allowed in the court are the police, social worker, lawyer, child's parent or guardian and the accused. In some cases the media is allowed in during the hearing but is specifically cautioned about confidentiality and the publishing of any identifying details of the case.

The Family Court has instituted a Child Witness program which prepares children to be witnesses in court. The children are assisted in understanding their role in the proceedings, the role of the prosecutors and defense attorneys, and generally what could happen during the hearings with a view of minimizing the potential trauma that the court attendance may have on them.

24. As stated in response to Question # 3, there are different forms of penalties for perpetrators of child abuse. Many successfully prosecuted cases of child sexual abuse have had incarceration as the outcome.

Perpetrators of child physical and other forms of abuse, who have been prosecuted, are sometimes fined in lieu of incarceration. Other perpetrators whose cases are not so serious so as to constitute a criminal offence receive counseling and other support, such as positive parenting practices, and financial support if deemed necessary.

The Division of Human Services and Family Affairs offers therapeutic support, counseling and family therapy to victims and their families.

The prison facility does not have an established rehabilitation program for inmates convicted for sexual abuse at this time, but there are plans to develop and implement one in the near future.

25. The treatment and management of children in conflict with the law is prescribed within the parameters of the Children and Young Persons Act 1972. The act defines a child as "a person under the age of twelve years"; a juvenile means "a person under the age of sixteen". It provides further that the age of criminal responsibility is twelve years. Consequently juveniles between twelve and sixteen are subject to trial for criminal matters. All juvenile matters are heard in the Family Court.

Section 16 of the Act outlines the methods of dealing with juvenile offenders. The Court may resort to one of the following:

- a) make an order under the Probation ordinance;
- b) place the offender for a specified period not exceeding three years under the supervision of a probation office;
- c) commit the offender to the care of any fit person, whether relative or not, who is willing to undertake the care of him;
- d) order the parent or guardian of the offender to enter into recognizance for the good behaviour of such offender, and in appropriate cases to pay a fine or compensation;
- e) commit the juvenile to be detained at the Boys Training Centre for a stated period.

Items (a) – (d) speak to both male and female offenders, however item (e) is problematic as at present there is no residential facility for girls who are conflict with the law. As a result of this, it is not unusual for juvenile girls to be housed at the female prisons. Dealing with young female offenders is therefore very challenging. This situation is further exacerbated by the fact that according to the legislation in Saint Lucia, a child is a person under sixteen years of age, leaving a rather grey area between 16years – 18years, not only for females, but also for males. Consequently, offenders below the age of eighteen may be committed to prison.

Young offenders receive individual and group therapy.

II. INSTITUTIONAL FRAMEWORK AND RESOURCES TO ADDRESS VIOLENCE AGAINST CHILDREN

26. The Division of Human Services and Family Affairs, Police and the Family Court work closely together in the area in child protection. While the primary responsibility for conducting criminal investigations and prosecutions of offences lies with the police it is the responsibility of the Division of Human Services and Family Affairs to initiate investigations into all reported suspected or actual cases of child abuse and neglect. The Division also has the responsibility to assess the need for protection for the victim as well as any other children to whom the alleged abuser may have access. Immediately that the allegations of abuse are confirmed, the police department has the responsibility to follow through with their investigation and prosecution, where necessary. Simultaneously, if it is found that the child is in need of Care and Protection, the Division makes an application to the Family Court to facilitate the child's placement with a fit person, who may be a relative.

This networking is important in contributing to positive outcomes for child victims of violence. The Division is in the process of developing a Data Base Networking System that will allow for greater collaboration amongst agencies and also facilitate the tracking and monitoring of children who are at risk, or who have already been through the system. Early detection of, and quick responses to, reports of child abuse, minimize the trauma and potential long term adverse impact that unresolved child abuse issues can have on children.

It is also envisaged that with the implementation of the Protocol guidelines, there will be even better collaboration given the clear delineation of roles. Further, the Division will continue to encourage and organize inter-sectoral training, thereby promoting a multidisciplinary approach to child protection, bringing together professionals with the common goal of safeguarding the wellbeing of children.

27. The Division of Human Services and Family Affairs which is a Department within the Ministry of Health is the primary agency with responsibility for Child Protection in Saint Lucia.

The Division is headed by the Director who oversees the functions and operations of eight Family Case Workers, four Welfare Officers and other support staff. The Family Case Workers are responsible for investigations into reports of suspected and actual cases of child abuse and abandonment. These officers work closely with the Police and the Family Court and provide counseling and support to children and families. They also arrange for psychological and / or psychiatric interventions where appropriate.

The Division is however inadequately staffed and this has some level of impact on the efficacy of programs and overall service delivery.

28. There are no specific financial and / or human resources allocated by the country to address violence generally.

29. The country has not as a matter of policy allocated specific financial and / or human resources to activities to address violence against children.

30. UNICEF has made significant contributions to promote child rights and wellness in Saint Lucia. They have provided financial assistance for workshops and seminars focusing on the prevention, treatment and management of violence against children, and have also assisted in providing technical expertise.

This organization has very recently made another substantial financial contribution to the Ministry of Health, Human Services and Family Affairs to be used for the development of a Data Base Networking System Registry which has as one of its objectives, a more effective manner of tracking children who have been abused or are at risk of being abused. This data networking system will also allow for better case management and improve the capacity of the Division to collect, collate and produce updated, disaggregated information when required.

UNICEF has also sponsored Child Protection personnel to attend overseas workshops, seminars and conferences, and also facilitated the attendance of policy makers at the Ministerial Meetings on Children and Social Policy in the Americas.

Saint Lucia has also benefited from the services of a United Nations Volunteer (UNV) Clinical Psychologist who provided technical expertise in the area of Child Abuse Management to the staff of the Division, other social service agencies and paraprofessionals.

PAHO and UNFPA have also provided technical assistance to develop social protection programs. UNFPA has just embarked on a three years project 'Youth at Risk' with much emphasis on HIV/AIDS.

31. The Division of Human Services and Family Affairs provides social support services to overseas agencies when requested.

32. There is an office of a Parliamentary Commissioner or Ombudsman, however this officer's mandate is to investigate allegations of injustice meted out to citizens by public servants. The Ombudsman does not deal with cases of violence against children, except if perpetrated by a public official.

There are privately run human rights organizations on the island but these have not been vibrant in matters of violence against child abuse.

33. The Prime Minister of Saint Lucia declared November 2003 – October 2004 as the Year of the Child in St. Lucia. Some of the planned activities have had as their focus violence against children and its prevention. There has been the establishment of a Legislative Review and Monitoring Committee to examine legislation pertaining to children, especially in the area of Child Protection and to monitor the functions of those agencies that provide services to children.

34. Same as above. Further, the Government is also pursuing plans to construct a Transit Home (foster care) for children in need of Care and Protection.

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

35. There have been a number of advocacy initiatives by members of Civil Society aimed at addressing violence against children, however for various reasons, these efforts are not very vibrant. In 1991, there was an active committee, which engaged in public awareness campaigns, dissemination of information on Child Rights and Child Protection via the print and electronic media. This committee has ceased to exist. Recently, in November 2002 the Saint Lucia Chapter of the Global Movement for Children was launched. This international Movement, which has been spearheaded by Mr. Nelson Mandela and his wife Graca Machel, to jointly engage the Government and Civil Society in mobilizing all resources towards improving the status of children. The Year of the Child Initiative was one of the outcomes of the local launching of the Chapter.

There is a National Youth Council which is responsible for promoting the interests of young persons however their efforts are not really focused on violence against children.

The Saint Lucia Crisis Centre and Saint Lucia Save the Children are two Non governmental organizations which provide support to children in difficult circumstances. They work closely with the Division of Human Services and Family Affairs. The Media has to some extent advocated on behalf of children, but has often gone overboard by sensationalizing cases of child abuse, consequently doing more harm than good. There have also been some marches for children organized by private citizens.

The Roman Catholic Church established a Foster Home for abused and abandoned children approximately seven years ago. The Home has a capacity for approximately 25 children, however its admission policy does not allow for entry to children over the age of twelve and children with severe behavioral problems. There are however plans to extend the facility to accommodate adolescents.

36. There needs to be more coordination between Civil Society and Government regarding efforts to address violence against children.

37. The media as an independent institution has to some extent advocated on behalf of children via interactive talk shows where the public can call to discuss issues of relevance. Some media personnel however are insensitive and irresponsible in reporting cases involving minors, which is in contravention to the provisions of privacy and confidentiality enshrined in the Convention on the Rights of the Child. Generally, they are very accommodating and prepared to facilitate programs organized by government and non-governmental agencies, to raise public awareness and promote the rights of children.

IV. CHILDREN AS ACTORS IN ADDRESSING VIOLENCE.

38. In 2002 there was a Children's Forum in preparation for the United Nations Special Assembly on Children. The children, whose ages ranged from 6-16 were invited to give their views on the Convention on the Rights of the Child and to what extent this Convention had improved their lives. Their opinions were included in the Report delivered to the Assembly by the island's Governor General.

Also in 2002, children were actively involved in the preparation for the Launching of the Saint Lucia Chapter of the Global Movement for Children and again in 2003 for the launching of the Year of the Child.

There is no information of children's involvement in monitoring of programs and policies to address violence against them.

39. There is no documentation of children being involved in designing special procedural or evidentiary rules applying in court proceedings with respect to hearings concerning violence against them.

40. There is no documentation on the amount and type of resources made available to support children's participation in activities to address violence against them.

V. POLICIES AND PROGRAMS TO ADDRESS VIOLENCE AGAINST CHILDREN.

41. The Government does not at this time have a comprehensive policy concerning violence against children however the Draft Protocol for the Prevention, Reporting, Investigation and Management of Child Abuse and Neglect prepared by the Division is an attempt at having a National Policy to guide Child Protection personnel and other persons providing services to children in the management of acts of violence against children. This protocol together with the OECS Family Law and Domestic Violence Reform Initiative should provide a comprehensive policy concerning violence against children, supported by legislation.

42. Not applicable

43. Not applicable

44. The Government has participated in many internationally coordinated activities concerning violence against children. There has been Government representation at Child Protection seminars, workshops and conferences, some of which have been organized by UNICEF Caribbean Area Office, as well as the participation of policy makers at the Ministerial Meetings on Children and Social Policy in the Americas.

VI. DATA COLLECTION ANALYSIS AND RESEARCH

45. There have not been any victimization, epidemiological or other population based surveys on any form of violence against children over the past five years.

46. There has not been any small scale or representative interview studies with parents and children on violent victimization of children.

47. The Government has not conducted nor commissioned any scientific research projects on the problem of violence against children over the past five years, but has participated in The Social Services Delivery Research Project in the OECS & Turks and Caicos Islands and the OECS Family Law and Domestic Violence Reform Initiative.

48. As Above.

49. There is no special system for formal inquiries into child deaths in which is known or suspected that violence may have played a part. All sudden deaths are dealt with in the same manner, which is firstly to conduct a post mortem, followed by investigations, by the police. If there is insufficient evidence to file formal charges against anyone, the file is forwarded to the office of the Director of Public Prosecutions and then an Inquest is ordered. If there is sufficient evidence of criminal liability, the case will be passed on to the Director of Public Prosecutions for further action.

50. There are no annual publications describing the statistical profile of the known or suspected violent deaths investigated by the system.

51. Although national profiles of known and suspected violent deaths are not published, the data is broken down as follows:

- Sex
- Age
- Ethnicity
- Manner of death(homicide, suicide, undetermined)
- External causes of death(firearm, strangulation, etc.)
- Geographical location of incident (address)

- Time and date of incident
- Victim-Perpetrator relationship

It should be noted that although this information is recorded by the Police, the disaggregated statistics are not readily available because of a poor crime intelligence system.

52. Total number of cases of violence against children is as follows:

2000 –	158
2001 –	174
2002 –	226
2003 –	190

It should be noted that these statistics represent only cases reported to the Division of Human Services and Family Affairs and may be a true reflection of the magnitude of the problem in Saint Lucia.

53. The total number of convictions and reported cases for the various categories of crimes against children in 2002-3 is not available at this time. The Office of the Director of Public Prosecutions is now in the process of compiling statistics on cases of unlawful carnal knowledge.

VII. AWARENESS, ADVOCACY AND TRAINING

54. There have not been any campaigns for raising awareness of and preventing violence against children conducted or commissioned by the Government. However the Division of Human Services and Family Affairs, which is the agency responsible for Child Protection has had workshops for professionals, para-professionals and foster careers on the prevention of child abuse as well as exhibitions to sensitize the public to the impact of child abuse. There have also been public education programs via electronic and print media.

55. Campaign messages and information were disseminated through the print and electronic, media, schools and community groups.

56. The Division of Human Services and Family Affairs has organized a number of training workshops and seminars focusing on the prevention, treatment and Management of Child Abuse. There has been extensive in-service training for the staff within the Division and training for personnel in other social service agencies. Some of these training workshops/ seminars were sponsored by UNICEF Caribbean Area Office. Given new evidences of commercial exploitation of children and potentials for trafficking, training must necessarily be ongoing. Networking and sharing of information and expertise is important in realizing positive outcomes for child victims of violence. Agencies must therefore continue to work together in embracing and adhering to Child Abuse Management Protocol guidelines and the enforcement of laws to guarantee adequate protection to all children.

The table below indicates the groups who have received training on violence against children:

	Prevention	Protection	Redress	Rehabilitation	Penalties
Medical Professionals (including pediatricians, 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 (foster carers)	✓	✓		✓	

PREPARED BY:



VICTORIA FRANCIS-NATHANIEL (MRS.)
 FAMILY CASE WORKER
 DIVISION OF HUMAN SERVICES AND FAMILY AFFAIRS