Each child is an adventure into a better life - an opportunity to change the old pattern and make it new.’

Hubert H. Humphrey
DRAFT
NATIONAL CHILDREN’S POLICY

Proud of our childhood
The Working Group on the National Children’s Policy would like to acknowledge and thank all children who participated through various initiatives in the drafting of this document. The Working Group would also like to thank teachers, educators and all other persons who contributed towards this end.
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Childhood is a crucial time for the development of the individual and therefore it is important that we recognise that adults have a fundamental role in ensuring that our children’s quality of life is not impaired.

The aim of this Policy is to encompass a comprehensive document that brings together the various dimensions that represent the world of children. These include well-being, rights and obligations, protection, active participation, inclusion, creativity and leisure. I wish to highlight that this document is addressed both to adults as well as children, and it was drafted after a number of exercises that were carried out with children themselves where they expressed their views on the various subjects related to childhood. This Policy is now launched for public consultation so that everyone, old and young is given the opportunity to voice their opinion on this subject, which is central for our society.

We recognise that societies around the world are experiencing changes that are affecting the way people relate to those around them, as well as the way they choose to spend their time and even the way they think. While we have to be conscious of these transitions, we have to do our best so that each and every child, like every adult, is capable of adapting to the new needs of society. A commitment to promote solidarity between generations is imperative. We therefore need to minimise the differences so that adults and children learn to appreciate better each others’ realities and translate their differences into opportunities.

FOREWORD

National Children’s Policy

Children deserve the best. This is the principal philosophy on which this Policy is built.

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The National Children’s Policy recognises the valuable work of the United Nations through the Convention on the Rights of the Child of 1989, which our country signed and ratified. This Convention brings together the rights of every boy and girl, irrespective of the differences that characterise them. In fact, this Convention focuses on the protection of children, their active participation in society and the provision of high quality services that address the child’s needs. Our aim is that the obligations that come out of this Convention are recognised by all, even by children themselves, who have the right of access to information. Apart from the United Nations Convention, we also have to acknowledge the valuable work being done by the European Union and the Council of Europe, both of which have placed an emphasis on child well-being for countries’ sustainability. In recent years even our country has witnessed various advances in this sphere, both from the services aspect as well as on a regulatory level.

It is on these foundations that we are committed to continue strengthening a society that is suitable for children, where all children are given the opportunity and the necessary space to develop their talents and creativity, where they can be proud of their childhood. This is the main message that I wish all adults to uphold. An inclusive society demands that children play an integral part in all aspects of society, and this involves the commitment of all. We cannot have a vision for society that places the interests and needs of children at the centre if adults and the children themselves do not take a full part in the implementation of the Policy. On the other hand, we need to instil in children the message that they have both rights and obligations, just like adults. Therefore a balance needs to be found between the various individual interests in society.

The launch of the National Children’s Policy is an important step. However, for the contents of this document to be reflected in practice, there is a need to recognise that all children have a contribution to make to society. Not only because they are the adults of tomorrow, but because they are today’s citizens. This is a commitment that all of us have to embrace.

Dolores Cristina

Minister of Education, Employment and the Family
Chapter 1

Executive summary

1.1 Principles
The principles underlining this Policy centre across the concept of having child-focused programmes and actions, through a holistic and integrated approach. Children’s perceptions and life experiences are characterised by the formal and informal context within which children live, and which consequently shapes their development.

The draft National Children’s Policy aims to ensure that children’s views are not only listened to, but also taken into account. Through the adoption of such an approach, children will be respected as human beings, with the capacity to shape their own lives. These concepts are reflected in the ten principles underpinning this Policy.

• Best Interests
• Mainstreaming
• Well-being
• Participation
• Inclusion
• Accessibility
• Protection
• Families
• Accountability
• Sustainability

1.1.1 The Best Interests of the Child
The principle concerned with ‘the best interests of the child’ is reflected in various international treaties, with the responsibility on signatories to effectively integrate and implement.

The United Nations Convention on the Rights of the Child\(^1\) states that:

‘(2). In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.’

Article 3, United Nations Convention on the Rights of the Child

This is also articulated in the Charter of Fundamental Rights of the European Union\(^2\):

‘In all actions relating to children, whether taken by public authorities or private institutions, the child’s best interests must be a primary consideration.’

Article 24, Charter of Fundamental Rights of the European Union

\(^1\) United Nations Convention on the Rights of the Child

\(^2\) Charter of Fundamental Rights of the European Union
The Convention on the Elimination of All Forms of Discrimination against Women dedicates an article to this principle as well, by stating:

‘State Parties shall take appropriate measures:
... (b). To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it is being understood that the interest of the children is the primordial consideration in all cases.’

Article 5, Convention on the Elimination of All Forms of Discrimination against Women

This principle is also enshrined in the Maltese Civil Code which stipulates that:

‘(1). Notwithstanding any other provision of this Code, the court may, upon good cause being shown, give such directions as regards the person or the property of a minor as it may deem appropriate in the best interests of the child.’

Article 149, Chapter 16 of the Laws of Malta

These provisions entail that the concept of the ‘best interests of the child’ is reflected in all actions and decisions concerning children. It is worth noting, that giving ‘primary consideration’ to the best interests of the child does not necessarily imply that the final action is determined by these interests. Notwithstanding, these provisions imply that the ‘best interests of the child’ should be a primary, but not the sole, consideration in decision-making. However, cases where the ‘best interests of the child’ is not applied should be the exception and not the norm, and justification for the decision taken should be formulated on solid grounds, guaranteeing that appropriate weight was actually given to the ‘best interests of the child’. Authorities are to develop and systematically and periodically conduct ‘best interests assessments’, ensuring that this principle is put in practice in the actions concerning children. Ultimately, it is significant for every society that interpretation and application conform to these treaties.

The term ‘best interests’ broadly refers to the well-being of the child, which is determined by different circumstances. It is, therefore, necessary that when applying this principle, stakeholders understand the variables which characterise the child’s life. This also entails having procedural safeguards that differentiate between actions affecting all children, such as healthy eating, and actions relating to a particular group of children. Furthermore, in the process determining the child’s best interest, it is essential that the child’s view is adequately listened to.

1.1.2 MAINSTREAMING CHILDREN’S PERSPECTIVES

Mainstreaming children’s perspectives entails recognising the concept that almost all matters of both national and international policy affect children to some extent, either directly or indirectly. Accordingly, governments are to ensure that at all levels, the interests and needs of children are duly considered and taken into account. Mainstreaming, thus moves away from a narrow focus on issues related to children, and instead depicts the perspectives of children in all other matters. Whilst mainstreaming in principle may not pose serious challenges, in practice it entails a new way of looking at policy-making and decision-taking. Through the adoption of such an approach, children’s thoughts are rendered visible. The benefits derived from mainstreaming children’s perspectives are considerable, namely that children are viewed as active contributors in decision-making.

The fact that children may not share the experience of adults does not automatically imply that they do not have anything to say, or that what they say is not important. It is to be recognised that one of the purposes of drafting a policy targeted specifically at children, is that it complements and builds on other policies across all sectors. In particular, with regards to policies and actions specifically related to children, or families, children should be involved.

Ensuring that the needs and views of children are considered, demands a joint effort to analyse policies, actions and budgets from their viewpoint. This further entails that authorities adopt a system of ‘children
Mainstreaming children requires building institutional capacity and providing the necessary resources, for its effective implementation. Issues related to children are cross-cutting, and such multi-dimensionality makes it therefore imperative, that policy makers across all fields understand this concept and adopt an integrated approach. Coordination between and within ministries, as well as at local level is to be enhanced. This calls for training and awareness raising, as well as facilitating the establishment of monitoring systems and supportive infrastructures. Ultimately, it is believed that adopting a children’s mainstreaming approach is the most successful tool, to adequately reply to the challenges faced by societies, in the spheres related to children.

### 1.1.3 WELL-BEING

The well-being of children is a right which should be conferred to all, irrespective of any characteristic that makes a child different from another. As children are a social unit, which interacts with other members of society and with the community at large, it is crucial that their well-being is looked at both on a micro and macro level. Well-being is associated with the quality of life of the individual, although its definition may have different meanings to different people. This subjectivity makes well-being a fluid concept, which deserves the attention of policy-makers and practitioners. Ultimately, it is important to recognise that the well-being of children should not be put at peril, and that needs are addressed, for the child to be able to develop in a safe and secure environment, which provides opportunities for growth.

Ensuring that the well-being of children is a priority, is essential for children to be able to reach their full potential. This realisation establishes the commitment of stakeholders to ensure that children’s subjective views are taken into consideration, and that adults are equipped with the changing realities which may alter the indicators of well-being.

As the conception of well-being evolves, social structures need to be adept to meeting the emerging demands. Schools and families are the institutions where the child establishes the familiar network, required for development. Therefore, it is essential that they provide the necessary cushion which is crucial for their emotional and physical well-being. The community also plays a central role in the development of children. It involves creating a network with children and enticing them to develop community ties through children’s own perceptions of the community they interact in. Community development ensures that children are empowered to be active participants enabling them to voice out their opinions, to develop their civic well-being and their sense of identity.

Strong social and emotional skills are essential at all life stages, and it is thus necessary that institutions are supported in creating the healthy environment which children need. It is, therefore, vital that children whose background puts them at a disadvantage, are given the
opportunity to develop such skills, at par with their peers. This calls for more strengthened early intervention services, which can be community based or centralised. These skills offer children the resilience to positively engage in society, whilst providing a supportive framework in other sectors such as education.

It is to be recognised, that everyone in society is responsible for securing the well-being of children. Families, the community, schools, Government, public services, voluntary organisations, the business industry, the media and others have a crucial part to play in valuing children and promoting their well-being. Benefits accrued from achieving these outcomes are widespread. Ultimately, it is society at large which benefits, when children’s well-being is maximised. It is therefore, everyone’s duty to ensure that the diversity of needs are reflected in the plans and programmes adopted.

1.1.4 EMPOWERING CHILDREN THROUGH PARTICIPATION
Empowering children to actively participate in society is a prerequisite, if societies are to fully adhere to the Convention on the Rights of the Child. Active citizenship entails that participation of all members is promoted. For this to be possible, opportunities for involvement and access to information are central. Communities, schools and children’s rights practitioners play a crucial role in developing the participation needed, for children to feel empowered in society.

A difference needs to be made between consultation and participation. Whereas participation implies that children are actively engaged in designing programmes and in decision-making, taking into account their age, abilities and cultural diversity, the former means that children’s views are sought, but not necessarily put into practice. In such exercises, very often younger children are not given the opportunity to participate. This signifies a danger, since it should be acknowledged that children of all ages have the right to be heard and be actively involved. Alternatively, society must explore different methodologies whereby participation is facilitated for all age groups.

It is believed that participation skills, which are essential for children to be empowered, are best learnt by providing the relevant opportunities to effectively experience active learning. Accordingly, putting this into practice entails developing initiatives at all societal levels, to involve children through different means of expression. For adults to translate this into practice, it is to be ensured that the methods adopted are not inherently tokenistic. For successful involvement to be practiced, the mechanisms adopted should ensure that children experience a sense of ownership. These could range from fluctuating between top-down and bottom-up approaches, and jointly with children, manage and evaluate such initiatives to distinguish the process which works best.

The role of statutory organisations, particularly those involved with children, is central for this principle to be actualised. Adults in both governmental and non-governmental organisations have the necessary tools to open the channels of communication, and ensure that children’s views are given the desired weight. Building and developing such mechanisms should thus be a mission which these organisations uphold. The Office of the Commissioner for Children plays a major role in coordinating and promoting the active involvement of children. It is further recommended that collaboration with schools and other organisations in the community, and the voluntary sector is strengthened.

1.1.5 INCLUSION
Society is to ensure that children are safeguarded from all risks of social exclusion, whether material, social or emotional. The right to inclusion involves understanding the different dimensions which cause stumbling blocks for children experiencing social exclusion. Such obstacles are to be overcome through a commitment for action, which promotes an active inclusion approach that integrates access to enabling services, participatory measures and adequate support structures.

Social exclusion is both a cause and effect of discrimination. It is to be acknowledged that very often the seeds of exclusion are sown early in life, and that therefore early intervention programmes and preventive services should be secured. Children and their families should
receive the necessary support to be able to address the potential barriers inhibiting their development.

Achieving inclusion at all levels is a national priority which demands concrete action. All children should be given the required opportunities to develop their capacities and enjoy their rights. Different starting positions in life require State intervention and State investment. It is acknowledged that the benefits accrued to children, the wider society and the economy, when investing in policies and actions which support children are considerable.

Whilst acknowledging that States should provide universal services, it is also recognised that children experiencing social exclusion merit a targeted approach. Delivering targeted benefits is thus essential in ensuring that children who are vulnerable are given the protection needed, to develop their full potential. This method also facilitates the reduction of the risk of transferring intergenerational social exclusion.

In dealing with social exclusion, it is believed that a proactive approach yields more positive results, as opposed to a punitive approach. This entails adopting the necessary delivery mechanisms which ensure that children who are socially excluded, or at risk of being so, are supported, rather than being confronted with additional barriers, which may stigmatise or accentuate more their exclusion from society.

**1.1.6 ACCESS TO QUALITY SERVICES**

It is necessary that society ensures that all children grow up with access to adequate resources and quality services. At all stages of their life cycle, children are to be provided with appropriate services that address their needs and interests. These services should include both formal and informal structures, which children could rely on. It is thus crucial that a sound relationship is built between the State and the family, which is the primary source of care.

It is to be acknowledged that the adequacy of services should be viewed in a holistic manner. All policy-makers and service providers are to ensure that services are adequate and that they are of high quality. Furthermore, it is to be ascertained that such services are child- and family-friendly. This entails appropriate information and individualised services where appropriate.

Early childhood is to be recognised as the crucial stage in children’s development. It is necessary that the State continues to invest in services which are directly targeted at children in their early years. The provision of such services should be accessible to all children, and account to the diversity of children’s needs provided for. Early childhood services should be based on the concept of educare, where children are given the opportunity to develop both emotionally and educationally.

It is important to distinguish between three types of services. All children require basic services, also known as universal. In Malta’s case, these include education, health and social security services through children’s allowance which is a universal benefit received by all children. The universal benefits are received automatically and are enjoyed by all children in society. The second type of services found within a society is known as targeted services, which provides facilities for those children and families experiencing difficulties or who have identified needs, such as children with disabilities. Targeted services can also include services targeted particularly at specific areas of vulnerability. The third type of services is known as specialist services which deal with more sensitive issues, concerning children and families who are at risk. The latter type of service type includes child protection, looked after and adoption services amongst others. These different types of services require intensive State investment and a multi-dimensional approach which endorses and encourages coordination. Monitoring and cooperation are crucial tools for effective services to be safeguarded. Specific strategies and monitoring tools are thus required so that societies address these weaknesses with concrete action.

**1.1.7 SOCIAL PROTECTION**

Both on a national and international scale, children’s protection has achieved prominence. It is recognised that the protection of children is the responsibility of all. Treaties, laws, conventions, policies and strategies specify the need for societies to make every effort to protect children from susceptible situations. Whilst
acknowledging that all children have the right to be protected, it is recognised that there are specific groups of children who are more vulnerable than others. This entails the provision of services which address directly the situation which puts them at risk.

Situations of vulnerability are numerous and may take many forms. It is, therefore, pivotal that professionals dealing with child protection work also with the families, whenever this is possible and in the best interest of the child. Society is to ensure that child care protection systems that are based on integrated family and community support are developed. Standards of practice are to be strengthened and reviewed, ensuring that changing needs are adequately addressed.

Children and families are to be given a voice and involved in the establishment of support services which influence them. Moreover, children and adults who have experienced vulnerability can be key stakeholders in improving standards of practice. Professionals are to be adequately sensitised to work with children from specific backgrounds, and a multi-disciplinary approach adopted, whilst encouraging inter-agency collaboration and flexible management. The State is to invest more in resources, ensuring that different professionals working in child protection are supported, and given the opportunity to develop.

1.1.8 STRENGTHENING FAMILIES
Children’s development is best safeguarded if support structures are also available for families. Creating a positive family environment and ensuring that families are given the necessary assistance both in their family life and in their professional life, is crucial.

Government’s priority must be to support families to cope with the challenges they may face. Family breakdown often produces repercussions for the development of the children. It is worth noting as well that parents experiencing conflict often undergo distress through procedures of breakdown, and it is essential that an integrated approach is adopted, providing assistance to all parties involved. Whilst reconciliation is desired, it is important to recognise that there are situations where reconciliation is highly unlikely.

In child related issues, this Policy acknowledges that the best environment for children to grow up in is the family environment. However, there are circumstances where the best interests of the child require that a child is removed from the family and placed under the care of the State. These instances should be a last resort, only reached at when no other solution seems to be feasible. In these cases, both children and their respective families are to be given all the necessary support to overcome their vulnerability. Societies are to also ensure that specific measures are in place which facilitate the reconciliation between family and work. Flexible working arrangements and specific provisions should be provided to enable parents to balance their work and family responsibilities. It is crucial that work arrangements accommodate the diverse household compositions characterising society today. Such measures should be accessible to all, and should be complemented with quality child care services, which offer support for both children and parents.

1.1.9 ACCOUNTABILITY
For this Policy to be truly effective, accountability of those responsible for compliance with international and national obligations, is to be ensured. Government, policymakers and practitioners at national and local level, are to guarantee their political will to develop their commitment in areas related to children, into concrete action. The State owes to its children, the dedication and perseverance to produce tangible and visible results.

Good governance procedures, emerging from the principles enshrined in this Policy, include ensuring better coordination and cooperation at different levels, ensuring transparency of services, and improving horizontal coordination of services for children and their families. The draft National Children’s Policy recommends that this responsibility is allocated to a central observatory which is accountable for policy development, coordination, and monitoring procedures.

Accountability requires that targets are set, and that evaluation tools for appraising and conducting impact assessments are designed. Ultimately, the actual test of good governance rotates around the degree of delivery in practice of human rights. This demands an effective
framework which involves the three arms of governance: the executive, legislature and judiciary. Whilst the executive is responsible for all actions of government through the Ministries, administrative structures and implementing agencies, it has also the function of drafting and proposing policies, laws and programmes, as well as defining national budgets. The legislature is bestowed with approving the budgets, discussing the proposals related to legislation and passing it into law. The judiciary is then conferred the right to administer and interpret such legislation. Whilst some roles may overlap, it is deemed necessary that accountability for children’s needs and interests is assured.

1.1.10 SUSTAINABILITY
Sustainable social policies for children are an essential tool, for ensuring that the objectives outlined in the draft National Children’s Policy are in fact achieved. In outlining such goals, this Policy aims at being the stepping stone towards the creation of a feasible and desirable action plan which favours all children. It is acknowledged that for this strategy to be effective, the plan should feature both the proposals which need immediate intervention and those actions which require longer time-frames to be established. Reviewing and evaluating the Policy will be imperative, in order for it to be sustainable in the long term.

Sustainability infers that society recognises the importance of a child-centred investment strategy for the well-being of the individual and society at large. An environment which is supportive to the implementation of social policies is needed, especially when economies undergo financial turmoil. Through periods of economic crisis, societies are to ensure that children are not jeopardised. Social policies, in concert with other policy areas, are decisive to translate children’s interests into practice. Interdisciplinary efforts are hence crucial to achieve sustainable development by focusing on children and families. For policies, laws and conventions to be enforceable, children should be given space to participate, and above all, children should be respected as equal human beings, endowed with inalienable human rights.

REFERENCES

“Most psychologists have to be convinced that anything happening after age 12 makes a difference, whereas political scientists have to be convinced that anything happening before age 18 makes a difference.”

Torney-Purta 2005

CHAPTER 2

Introduction

2.1 TOWARDS A NATIONAL CHILDREN’S POLICY

Over the last decades, there has been a significant growth in awareness of the need and importance of children as active participants in society. Children just like adults are rights-holders. This draft Policy acknowledges that children are not people of tomorrow, but people of today, and it thus aims to bring about an understanding that children matter in their here and now, and that their needs and interests should be made visible across all sectors of society.

For the purposes of this policy, the child is defined as:

‘... every human being below the age of eighteen years’

Article 1, United Nations Convention on the Rights of the Child

The draft National Children’s Policy focuses on the specific interests of children as a distinct social group, whilst recognising the interdependency with other stakeholders. Despite the fact that the dependency of children is discernible, this Policy seeks to analytically build on the instruments, which give children the conceptual independence which is still, to some extent, concealed. Rights of children and adults will often coincide, but reconciliation is needed where potential conflicts arise. It is acknowledged, that substantial differences can be identified in the needs of unborn children, babies, toddlers, school-age children, and adolescents. However, this Policy aims at providing a framework which brings together these groups under the mutual experience which all of them share, that is childhood. It is, indeed, believed that separating them from one another, would bring about considerable lacunae which are to be avoided in this context.

The draft National Children’s Policy aspires at producing an overall coordination of policy towards children, through mainstreaming children’s needs and endeavouring to guarantee a cross-departmental commitment, towards the achievement of the objectives and principles set out in the Policy. Such an approach requires all parties involved in the areas concerned with children to ensure that fragmentation is avoided. For this vision to be turned into practice there is to be a concrete and coherent commitment, for children to be viewed as important and equal human beings, who can contribute to the well-being of society.

Based on this approach, the draft National Children’s Policy is rooted in the principles of the United Nations
Convention on the Rights of the Child (UN CRC), which is the most ratified human rights treaty in history. The Convention recognises children’s rights as human rights, and establishes a universal set of standards which are to be adhered to by all signatories. It sets focus on the child as a whole and enshrines children’s rights to protection, provision and participation. The Convention on the Rights of the Child acknowledges the civil, cultural, political, economic, social as well as basic human rights, which every child should enjoy. The ‘best interests’ of the child is to be given primary consideration, as is also incorporated in Maltese law.

Whilst acknowledging Government’s efforts in putting children at the forefront of the national agenda, this Policy encourages stakeholders to continue to invest in supporting children’s development. It is appreciated that for a children’s policy to be truly effective, structures are to be reinforced. The environment in which children live is to be child-friendly if Government’s objective to have a society which concentrates its efforts on children is to be maximised. Access to information and services, is central for children to be able to exercise their rights and be able to participate fully in society. Children are citizens in their own right, and not just mere passive recipients. This entails acknowledging children’s constructiveness, not only for themselves, but also for adults they interact with, and for society at large.

Ultimately, the objectives of this Policy are to offer the necessary opportunities for children to grow up in a country which recognises the value of children. Throughout this Policy, well-being is not viewed as a luxury, but rather as a necessity which should be shared by all, without exceptions. Such framework entails a consistent and multi-dimensional approach, which needs to be reviewed continuously, in accordance with changing circumstances.

2.2 POLICY CONTEXT

Children today are growing in a society which is characterised by an increasing social change. Fluctuating family structures, demographic realities, historical developments, and technological advances, are putting pressure on societies to adapt to changing times. Such changes set a number of challenges for both adults and children. Whereas children grow up in an environmental context, which is nurturing them to be imbued towards such societal changes, adults are experiencing different transformations throughout their life cycle, putting more emphasis on them to be alert to the changes occurring. These different experiential contexts can produce conflicting relationships, especially where the same indicators of well-being are not shared.

The traditional welfare state which was once structured on the traditional family, with the male as the main breadwinner and the woman as the carer, is now no longer the norm. Children are growing up in more pluralistic families, where roles are symmetrical. Alongside this family structure, there are now more family patterns which are changing the social definition of the family. The composition of the household is also undergoing changes. Marriage and child-bearing are being postponed to a later age, and the fertility rate across Europe has dropped significantly. The role once held by the grandparents, who in their old age take care of the grandchildren, is now also expected to go through changes, as a number of grandparents would still be active in the labour market. Active ageing and changing family formations are hence bringing about a societal need to invest in more child-care centres and family-friendly measures.

It is recognised that a children’s policy cannot be viewed in isolation from other policies. It is crucial to acknowledge, that children’s issues are interrelated with other sectors, thereby making them not only a product of social policies. For society to effectively address children’s needs and interests, policy-makers and stakeholders involved are to realise that children’s issues emanate from a comprehensive set of policies. When children are looked at only from a 180 degrees perspective, policy-makers run the risk of losing important insight, which shapes the development of children.

This draft National Children’s Policy is being drawn up at a time when societies around the world are experiencing financial turbulence, which has brought about a number of undesired consequences, not only for economies, but also for other sectors which depend on fiscal stability. No
society was immune from the repercussions experienced. This unexpected economic downturn, is thus to be considered when planning the strategy stemming from this Policy. An effective policy is to take into consideration the variables influencing societies, if it is to be realistic. It is also to be stressed, that this Policy is not a static instrument, and it is thus crucial that it is reviewed, to be in line with the changing policy contexts characterising society.

2.3 DEMOGRAPHY
The global population more than doubled in less than fifty years. Between 1960 and 2005, the population in fact experienced an increase from 3,023 million to 6,512 million inhabitants6. The number of inhabitants in Europe in 2005 amounted to 729 million, which is equivalent to 11.2% of the whole population. Although the number of inhabitants continued to grow in this period, Europe’s relative share of the world’s population experienced a decline. This may be attributed to the fall in the average numbers of birth per year, which declined from 11.9 million births between 1960 and 1965, to 7.4 million in the period covering 2000 to 2005. The fertility rate of women in Europe experienced a downward trend, from an average of 2.6 children per woman in the 1960s to 1.4 in the 1990s.

In the period 2000 to 2005, the rate seems to be stabilised around the 1.4 average. In Europe, children aged less than 15 years old, accounted for 15.9% of Europe’s population in 2005, which was also the same share recorded by people who are 65 years and over. The declining birth and fertility rates have caused the young-age dependency ratios in Europe to be almost halved. From 41% in 1960, the dependency ratio has declined to 23% in 2005. It is likely that the elder persons in Europe, will continue to account in the coming decades, for a growing share of the European population. The European old-age dependency ratio experienced a rise from 14% in 1960 to 23% in 2005. This meant that approximately 46% of Europe’s population was not of working age in 2005.

In 2008, the European Union’s population for the 27 Member States was 497.4 million, and is expected to reach 505.7 million by 2060. Projections indicate that Malta’s population in 2060 will remain unchanged; that is 0.4 million. The population by age reveals that in the 0 to 14 years age bracket in 2008 Malta had a rate of 16.2% as compared to 15.7% in the European Union. The population rate registered in 2008, for the age group of 15 to 24 years of age, was 14.1% in Malta, compared to 12.5% in EU27.

The child population in Malta recorded a drastic decline in half a century. From 1957 to 2008 the population of children fell from 133,377 in 1957 to 79,334 in 20087. This means that that there was a decline of 41%. By single year of age, the highest number of children was registered for 17 year-olds with 5,538 children in the population. This was followed by 16 year-olds with a population of 5,401, and by 15 year-olds with a population of 5,272. The lowest number by single year of age was recorded by 1 year-olds with a population of 3,553. This is followed by 2 year-olds with a population of 3,568 and under 1 year-olds with a population of 3,717.

In 2008 in Malta, the rate of boys under 18 years of age, as a percentage of the population, amounted to 20.8% as compared to 19.4% for girls. Although the number of children as a percentage of the population is decreasing, with a 20.1% in 2008, when compared to 27.9% in 1990, and 41.7% in 1957, the percentage difference of boys in relation to the percentage of girls remains static, with boys outnumbering girls as a percentage of the population.

The projected population for Malta in 2025 for the age group 0-4 years of age is expected to be 10,296 for males and 9,397 for females. In 2050, the 0-4 age group population is expected to fall to 8,579 for males and 7,854 for females. For the age group of 5 to 9 year olds, the projection for 2025 is 10,983 for males and 10,076 for females, whereas in 2050 the projected population for this age bracket will be 8,719 for males and 8,123 for females. Finally, for the age group of 10 to 17 years old, the population in 2025 is projected to be 6,481 for males and 6,054 for females, as compared to 5,244 males and 4,934 females in 2050.

In 2007, 63.4% of private households in Malta had no children aged less than 18 years, whereas 18.5% had one
child, 13.9% had two children, and 4.2% of the private households had three children or more.

In 2008, the crude birth rate in Malta amounted to 9.4%. This marked a drastic decline from the 33.2% registered in 1931. Since 1940, a general decrease in the number of births was observed, with an annual drop being registered in recent years. However, in 2008 an increase of 185 births was observed when compared to 2007, or a crude birth rate of 9.4% in 2008 as compared to 9.2% in 2007.

The total fertility rate in Malta has experienced an overall decrease since 1960. The fertility rate in 1960 was 3.6%, as compared to 2.1% in 1990 and 1.4% in 2008.

Of the 3,721 total births in Malta registered in 2008, 1,048 were births outside marriage. This represents a drastic increase from the 289 births outside marriage registered in 1996, the 464 recorded in 2000, and the 779 recorded in 2005. From the 1,048 births recorded in 2008, 352 or 33.6% were registered as having an undeclared father. It is worth noting, however, that this percentage of births being registered as having undeclared father is the lowest recorded since 1996. Indeed in 1996, the percentage of births outside marriage of which with undeclared father was 59.9%, decreasing to 51.3% in 2000, and 33.6% in 2008. The number of teenage mothers under eighteen years of age was 104 in 2008, whilst the percentage of single teenage mothers under eighteen years was 52.9%.

In Malta, as across the EU, a number of emerging demographic characteristics are being identified. These include a reduction in the number of births, and in the number of marriages, a postponement of the age in which people get married, a postponement of childbearing, an increasing number of births outside marriage, an increasingly ageing population, and a rise in family breakdown. As a consequence of these trends, the number of households is increasing, and the household formation is smaller in size.

The transition towards a much older population is impacting children and is expected to continue to do so in the decades to come. As the old age dependency ratio increases and the young age dependency ratio decreases, the State will need to incessantly continue to intervene, so that society remains sustainable. The shrinking number of children, who will be active in the labour market once they are of working age, will be providing the support through state contributions for the increasing number of people outside the formal economy. It is, however, augured that Government adopts a child investment strategy, where children’s welfare is not put at risk due to the limited resources, which will be transferred to supporting older people. It is to be acknowledged that inter-generational solidarity and welfare are safeguarded, and that the interests of both young and old dependants, as well as of other vulnerable groups, are reconciled through a concrete strategy.

Labour market participation today is not solely male-based, and although a significant gender gap still persists, women’s participation in the formal economy is on the increase. This calls for countries to invest in measures which are family-friendly. These include quality care services both for children and for the dependent elderly, flexible working arrangements, and different leave provisions which would facilitate the reconciliation between family and work. The cooperation of the business sector, as well as civil society, is crucial in this respect.

2.4 EU AND INTERNATIONAL CONTEXT

The United Nations, the Council of Europe and the European Union all focus to varying extents on child-related issues. It is to be acknowledged, that whilst there is uniformity between all three organisations on the definition of the child, being every human being below the age of eighteen years, there is no consistency in the definition of youth. Whereas the United Nations defines youth as those persons aged 15 to 24, the Council of Europe addresses young people as those being 10/12 to 30 years of age. The European Union’s definition of youth includes persons from 13 to 30 years. Whilst these definitions differ, it is also clear that there is a partial overlap in all three definitions between the concepts of ‘children’ and ‘youth’.

The policy agendas of these three organisations indicate that they share a number of thematic priorities. These include participation, protection from violence, poverty and social exclusion, and the provision of welfare for
vulnerable children. There are other themes which are not a focus of all three organisations, but which are highlighted by two of them. The United Nations and the Council of Europe both make special reference to health in the policy agendas related to children, whereas the European Union and the Council of Europe share a particular interest in child-friendly justice and access to justice, as well as to the role of family policies.

In the different policy agendas, relating to children and youth, of the United Nations, the Council of Europe and the European Union, the common thematic priorities include participation and poverty and social exclusion. The overlaps identified between the agendas of the United Nations on children and youth, include participation, poverty and social exclusion, health, education, armed conflict, HIV/AIDS, the environment, and child labour. As for the agendas of the Council of Europe, the common themes which are a focus in both children’s and youth’s policy reports include participation, poverty and social exclusion, and democracy, whereas the common themes found in the agendas of the European Union rotate around participation and poverty and social exclusion.

Within the three organisations, the legal basis on child-related issues is found in a treaty. This treaty is legally-binding for Member States. The United Nations Convention on the Rights of the Child of 1989 was the first international treaty making a formal commitment to ensure the realisation of children’s rights. Historically, this Convention is the most widely ratified human rights treaty. The Committee on the Rights of the Child monitors the implementation of the Convention, and encourages States to set up adequate mechanisms and develop special measures to ensure that the provisions listed in the Convention are effectively put into force. A number of other United Nations conventions also address children to some extent, but the Convention on the Rights of the Child, together with the two Optional Protocols related to the involvement of children in armed conflict, and on the sale of children, child prostitution and child pornography are the most prominent legal basis in the international sphere, providing a holistic comprehensive framework which Member States can use to evaluate their children’s policy agendas.

Within the Council of Europe, the legal basis which provides an explicit mandate to take action in the field of children’s rights is the Warsaw Declaration of 2005. Moreover, a number of conventions relating to human rights address also particular aspects related to children. These include the European Convention on Human Rights, the revised European Social Charter, and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment.

The European Union has also contributed to develop a legal basis which safeguards children’s rights. The inclusion of Article 3(3) paragraph 2 in the Consolidated Version of the Treaty of the European Union of 2008 is the most recent legal instrument in the area of children’s rights. It specifies that the European Union shall combat social exclusion and discrimination, and promote the rights of the child. Moreover, the Charter of Fundamental Rights of the European Union includes a general article on children’s rights (Article 24) and a specific article on child labour (Article 32). This Charter gained treaty-level status in 2009 with the entry into force of the Treaty of Lisbon.

The policy documents of the United Nations, the Council of Europe and the European Union are intrinsically not binding. The United Nations policy report ‘A World Fit for Children’ aims at providing the framework in which all children are given the best possible start in life. The principles outlined in this document include putting children first, eradicating poverty, combating discrimination, providing protection and education, combating HIV/AIDS, promoting participation, and protecting the environment.

The Council of Europe’s main policy document is ‘Building a Europe for and with Children’ also known as the Stockholm Strategy, which covers the period 2009-2011. The main objectives of this document are supporting the implementation of children’s rights, offering protection from violence, combating poverty and social exclusion, encouraging child-friendly justice systems, promoting democracy, and mainstreaming a child rights perspective in all policies and actions.
The main policy documents for the European Union are the Communication ‘Towards an EU Strategy on the Rights of the Child’ which was issued in 2006, and ‘An EU Agenda for the Rights of the Child‘, launched in 2011. The main principles outlined in the 2006 Communication included the promotion of children’s rights through further participation and access to information in a child-friendly manner, mainstreaming children’s rights in EU actions, enhancing the capacity and expertise of actors involved in child-related issues, and further develop EU’s role in international fora to promote to rights of the child. The principles outlined in ‘An EU Agenda for the Rights of the Child’ which follows the Communication issued in 2006 aim at making the rights of the child an integral part of the EU’s fundamental rights policy, increasing cooperation with other policy structures, building more evidence-based policy making, an increased child participation and awareness raising, and further work towards more concrete EU action in the fields of children, through more child-friendly justice, the protection of vulnerable children, and the promotion and protection of the rights of the child in external actions.

The United Nations, the Council of Europe and the European Union, through their documents, stress the need to strengthen inter-organisational cooperation, and to enhance collaboration with other policy areas related to children. Through their policy documents and their legal basis, these three organisations provide a concrete framework which Member States are to follow.

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Children need a stable family environment to be happy and must not be denied the love of their parents. They need to have a balance between playtime and school, and enough time to practise their pastime.
3.1 Dimensions of Child Well-being

The concept of well-being spans across a multitude of sectors. It integrates cognitive, social, physical, spiritual and socio-emotional functions, and extends across the life course of the individual. Inherently, well-being connotes positive social relationships, emotional security, meaningfulness and a successful individual functioning. Whereas there are basic elements of well-being which should be inherent to all children, there are other factors which can be considered as essential by one group and as superfluous by another. This is because well-being also has a subjective dimension, as it further relates to the satisfaction and the particular needs felt by the person. Well-being is sensitive to variations, depending on specific characteristics attributed to one social group as opposed to another. These include differences in age, beliefs, ethnicity, cultural and socio-economic backgrounds, and historical contexts. Moreover, dimensions of well-being may vary developmentally as the child grows up.

Having a child-focused perspective entails facilitating empowerment, self-fulfilment, life-satisfaction, motivation and a sense of ownership. Adults are to realise that although children engage in activities which may be analogous to the adult world, such activities may represent a distinct meaning. It is, therefore, important that stakeholders concerned with children are aware of the child’s patterns of childhood. This requires analysing the children’s activities, the use of time, their participation in society, and the child’s relationships with significant others.

Significant actions are to be taken, to encourage a vision which upholds well-being across the life span of the individual. This entails strengthening the opportunities which children need, to grow and experience a positive life. Making child well-being a national priority, reinforces the social fabric, as well as helping to combat inter-generational poverty and exclusion.

It is hence significant that policy-makers, families, and practitioners understand the basis of child well-being across the diversity of society, and use such insight in policies and community-based programmes which put forward children’s well-being. The responsibility of well-being is not the realm of any one stakeholder. Rather, the positive development of children depends on an integrated approach, which looks at the child as a whole. Recognising the interrelatedness of these multiple dimensions and ensuring the commitment of all professions is thus crucial.
3.2 Socialisation

Investment in children’s early years is crucial, as it is the formative period in which the child develops and starts experimenting in giving meaning to the world. Children’s early life experience determines outcomes achieved later in life, and it is thus essential, that investment in implementing initiatives are in place as early as in the childhood years.

Early life is characterised by the different relationships which children build with those around them. The physical and emotional places of development are fundamental in the child’s development ladder. The social constructs which children build in their socialisation process with parents, teachers and peers, as well as the environment they interact in, are significant elements of analysis for policy-makers and practitioners. Through such interactions, stakeholders can understand the extent to which indicators of well-being are being achieved. Such analysis will also provide insight on the complexity of children’s needs and interests.

Children experience multiple components emanating from their socialisation process. These include a sense of identity stemming from the roots of every individual, communication, the development of trust and understanding, empathy and sympathy, as well as negative feelings, such as stress, anxiety, disagreement and conflict. Through curiosity and exploration, children get an overview of these differing emotions. As Fattore et al. (2007) says, ‘Well-being is defined through feelings, in particular happiness, but integrating sadness is also relevant. Well-being is about feeling secure, particularly in social relations... also as being a moral actor in relation to oneself (when making decisions in one’s best interest) and when one behaves well towards others... Well-being is the capacity to act freely and to make choices and to exert influence in everyday situations. This was not necessarily being independent from others. Children articulated the social relations upon which autonomy was premised, including stable, secure relationships with adults...’

Adults can contribute in enabling supportive relationships which enhance the security and stability needed for children to grow in a healthy environment. Where this is not possible as a result of tension in the family, support is to be given to both the children and the family, through community services and reach-out programmes. Early intervention can be decisive in building healthier relationships between the family, and in reducing the risk factors which the child can experience later on in life. Fostering and sustaining well-being through the socialisation process hence entails delivering information and the necessary support to parents and other stakeholders involved in the primary roles of the socialisation process, to be able to build the knowledge-base of the determinants of well-being, and the tools to be used to impact positively child well-being. Moreover, successful outcomes in this domain involve adopting a comprehensive approach, which looks at the well-being of the child from a multi-dimensional perspective, with ranging components, rather than having a single strategy which is not aligned with the different needs.

Designing appropriate measures geared for the development of children, includes opening up opportunities for children to grow up in an environment, which is adept to their dynamic needs and interests. Access to quality services and integration of delivery systems is imperative in this respect. National authorities are to continue strengthening early childhood programmes, and invest in community-based services and activities. These include reinforcing student services, as well as other areas working in the ambit of children. Such service-providers are to be enabled with the necessary tools and resources that facilitate children’s development.

Active participation of children in society, as individuals and as a group, is to be further encouraged. Stakeholders involved with children are to be offered training which focuses on children’s socialisation with the outer world, including new means of socialisation through social media. Initiatives geared at children should be innovative and experiential. They should also foster participation and involvement in activities which are enjoyable for the child. For this to be truly effective, the collaboration of a multitude of actors is a must. Investment in children is not to be seen solely in terms of government expenditure. Partnerships between schools, cultural, sports, and recreational organisations should be encouraged, so
Well-being

Children are socialised into the world through the involvement in practices which instil fun, as well as appreciation, and a healthy competitive spirit.

Children’s well-being is associated with the environment they interact in. It is thus to be ensured that sustainable development lies at the core of the policies and actions targeted at children. A decline in the state of the environment, through the reduction of green areas, increasing levels of pollution, and climate change all pose threats to the environment which have a detrimental effect on children’s health, as well as on their social and emotional well-being.

Society is thus responsible to offer children a healthy and sustainable environment. It is for this purpose that the State is to strengthen its efforts to invest more in promoting and communicating environmental awareness amongst both children and adults, so that all individuals are committed to minimise the hazards which put in jeopardy the environment. It is hence recommended that at both local and national levels, children are educated on the benefits attached to the protection of the environment and that they are encouraged to reduce and prevent waste and depletion of resources, reduce energy and water consumption, and recycle amongst other initiatives.

Good practices and adequate monitoring to demonstrate that improvements in the state of the environment are registered are encouraged.

Moreover, it is to be ensured that children have the right for decent accommodation which is pivotal for their well-being. It is recognised that adequate housing and its surroundings plays a significant role in the well-being of the child and the life chances. All children deserve a place where they feel the safety, warmth and protection of a home. It is further recognised that anti-social behaviour for children living in areas of poor quality housing may develop, leaving a negative impact on their childhood, which in turn makes the cycle of social exclusion and deprivation even harder to break. The concern for suitable accommodation is outlined in Malta’s Housing Authority’s mission statement which specifies that ‘Decent housing strengthens communities and provides a better setting in which to raise our children.’ The State should thus be committed to ensure that children and their families are assisted through timely and adequate interventions, for children not to live in environments which are conducive to their well-being. The necessary precautions are thus to be taken for children to enjoy a healthy and stable ambience which offers protection. This is also significantly relevant for minors entering the country irregularly. Whilst appreciating the efforts taken to integrate minors into society, it is to be noted that it is not acceptable that minors are placed in detention centres. It is thus proposed that alternatives to detention are found, ensuring that closed centres are only a last resort.

3.3 THE CHILD WITHIN THE FAMILY

The family is the place where most children grow up. Consequently, it is necessary that policies focusing on children do not overlook the family. This does not mean that children’s policies should be viewed solely under the umbrella of family policies, but rather, that the interdependency between the two should be analysed. Underlining the impact of families on the well-being of children is crucial within public policy domain. The family is the primary group of socialisation, within which the child’s needs and interests are defined. Accordingly, ensuring stable families and providing the necessary security needed for children to grow up in a healthy environment, implies providing the opportunities for families to develop.

Societies should place a stronger focus on parenting and families. Giving weight to the critical relationships between children and their families, and providing them with support mechanisms, ensures a broader societal well-being, which puts children’s and families’ quality of life at the centre of its strategies. The fundamental role played by fathers and mothers should be recognised. Traditionally, child rearing was mainly attributed to the mother. Little attention was given to the expressive role that the father plays in the life of the child. Overcoming the barriers which restrict men’s involvement in their children’s and family’s life is a priority, which societies today must work at. This involves eliminating gender stereotypes portraying the father as being unable to care for the child, and offering more incentives which promote the figure of the father as carer. Portrayal of the parallel roles played
by fathers and mothers is fundamental in contemporary societies. The State can be a model of best practice in this regard, by strengthening the existing initiatives at the workplace aimed at promoting the positive benefits of involved fathering. Encouraging fathers to avail themselves of special entitlements related to their fatherhood, should be one of the priorities related to the well-being of children and the family as a whole. These initiatives should be complemented by the other family-friendly measures, which are to a large extent absorbed by women. Reconciliation between family life and the career ladder is one of the requisites for a stable family environment.

Positive parenting is crucial for the well-being of the child. It is recognised that all parents want to be a good mother or father to their children. Nonetheless, parenting can be a challenging responsibility, especially where the family’s indicators of well-being are not being met. It is therefore central, that society pays special attention to parents, so that the necessary conditions to raise children and to help them develop to their full potential are facilitated. While it is acknowledged that parenting is a personal domain, it is also worth emphasising that public authorities should support parents by securing appropriate living standards, offering access and affordable quality services, addressing problematic risk factors, such as poverty and social exclusion, and providing incentives which support families in their private and professional life. It is thus recommended that a positive parenting strategy is developed which presents clear and concrete milestones in this sphere.

Research indicates that children in jobless households are at a greater risk of experiencing poverty and social exclusion. The Survey on Living and Income Conditions shows that in 2008, in the EU27, 8% of the employed population was at-risk-of-poverty, as compared to 5% in Malta. In contrast, 44% of the unemployed population and 27% of the inactive population respectively in the EU27 were at-risk-of-poverty, as compared to 31% and 20% in Malta. This statistical analysis points out that the highest risk of poverty and social exclusion is among children and the elderly. With a 17% of the total EU27 population being at-risk-of-poverty, and a 20% rate amongst children, as contrasted with 15% and 20% respectively for Malta, the situation calls for a clear and concrete investment strategy, so that poverty is combated. Children living in single parent households were also most likely to be at risk, with a registered at-risk-of-poverty rate of 59% in Malta. Parents and children experiencing poverty and social exclusion, need additional support to move away from the cycle of deprivation. State support, school-based programmes and pro-active community programmes are crucial in this field. It is further recommended, that services for children, whose parents are in institutions such as prison, mental health institutions or rehabilitation programmes, should be strengthened. Society is to acknowledge that children have the right to know their parents, and to build a healthy relationship with their family, and thus contact with the parent in a child-friendly atmosphere should be ensured. Ultimately, the responsibility of combating poverty and social exclusion should not rest solely within government parameters. An integrated approach which coordinates the efforts of all actors is to be reinforced.

In circumstances where the child cannot remain with the parents, society is to ensure that formal arrangements are in place. These should safeguard stable and loving relationships with carers. Enabling the protective factors needed to addressing poor adjustment is a main concern. Moreover, in situations where parental conflict arises to the extent that family breakdown is inevitable, and reconciliation is unlikely, it is to be guaranteed that the children’s well-being is not impinged. Good parental relationships with children after family breakdown should be encouraged and facilitated. Family breakdown often precipitates phases of stress and tension. It is hence imperative, that all members of the family are provided with the support needed to deal with such situation.

Where circumstances of conflict between parents prevail, it is important to recognise that even though the role of husband and wife may come to an end, the role of father and mother does not cease to exist. In most instances, children want to retain a relationship with both parents, as they are significant figures in the life of the child. It is therefore crucial that flexible and responsive measures are adopted, which focus on the well-being of the child and the family, through an integrated cooperation between state
provision, school-based programmes, and the court. Other stakeholders play a more subsidiary role, but nonetheless are important in the promotion of the child’s well-being. It is crucial to stress the role of the media, which should be sensitive to the well-being of children and the broader family, and avoid sensationalism. The subsidiary legislation (SL 350.15 of 2007) and guidelines issued by the Broadcasting Authority, the Commissioner for Children and APPOGG on the participation of vulnerable persons in media programmes entails that informed consent is to be given before participation of children in programmes.

3.4 Child-Centred Investment Strategy

As demographic patterns indicate, Europe’s population will be characterised by an old-age dependency ratio which has almost doubled in less than five decades, as opposed to the young-age dependency ratio which, in the same period has been halved. As societies are experiencing an ageing population, the need is felt to have tangible investment strategies, which focus on the family and the child. A decisive commitment is thus called for, to create a framework which focuses on the child as a precondition for the welfare of society.

Investing in the child means ensuring that early childhood education and care is prioritised, and that parents are supported in the early years of the child’s upbringing. Failure to support development in childhood has irreversible effects for the individual child, denying the child’s opportunity for realising the full potential. Focusing on the formative years warranties early prevention, and a higher probability of reducing inter-generational transfer of poverty, social exclusion, and anti-social behaviour. Government must continue supporting the family and strengthening the strategy that invests in societal developments which look at the development of the child and the familial context, which is central for the well-being of the child.

Adopting a life-course approach entails analysing the contextual transformations characterising societies, and adapting to the necessities needed for society to open up opportunities and life-chances for all. The State is thus, to ensure that opportunities and life chances are not dependent on social inheritance. Having effective formal arrangements in place as early as possible in childhood years ensures that children are not trapped in a system which under-privileges their life opportunities. This demands a concerted vision to prioritise universal access to education, life-long learning, modernised social services, affordable and adequate child-care services, flexible working arrangements for parents, and incentives which strengthen the families. It is strongly recommended that Government continues to invest in creating a healthy environment for children and their families, by continuing to analyse further the family within the labour market and within society. This Policy thus views family-friendly measures as an essential part of the work pattern. An additional leave entitlement should be offered, which gives opportunity of work absence for parents when children are unwell. Defined in practical terms, this provision gives the possibility to parents to avail themselves in lieu of sick leave when their children are ill.

Mobilising the potential of children and families from all social backgrounds and life circumstances is pivotal, if one of the principles adhered to by society is safeguarding the well-being of the people, and accomplishing social inclusion. Mainstreaming children and the family in all policy actions taken is one of the prerequisites which determines the realisation of inclusion. Putting children and family welfare at the centrepiece of policy-making is a priority, which the Draft National Children’s Policy seeks to accomplish.

It is acknowledged that Government adheres to the priority that investing in children and the family is the key to social justice. This is reinforced by government expenditure on child-related benefits across the years. Statistics indicate that in 2008, child-related social benefits amounted to €43 million. This is equivalent to 7% of the total government expenditure on social benefits in that year. The child-related benefits included children’s allowances, orphan’s allowances, disabled child allowances, and maternity benefits. Moreover, government expenditure on education and health in 2008 amounted to €311 million and €316 million respectively. Expenditure on pre-primary education in 2008 was €6.2
Well-being

The total is thus €6.4 million, which is 0.11% of the Gross Domestic Product. No data is currently available on the percentage spent on child-related services in education or health, nor in other sectors, such as recreation, environment or child protection, as part of the total government expenditure by sector (with the exception of social benefits).

This Policy thus recognises the urgent need to collate this data, which makes visible the public investment spent on children. National budget allocations should mainstream children, and the impact of budget provision analysed. Such investment in concert with systematic structures which put forward the concepts of active participation, ‘making work pay’, life-long learning, quality childhood services, shared quality time between parents and children, gender equality, and protection are tools which shall be reinforced if the well-being of society is not to be undermined.

**KEY POLICY ACTIONS: WELL-BEING**

1. Encouraging an integrated approach which focuses on the holistic development of the child through early and preventive intervention services, access to provision, and support mechanisms.
2. Assisting stakeholders through further investment in training and resources.
3. Ensuring that a strategic approach is adopted through further monitoring, impact-assessments, awareness-raising and sensitisation of information.

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Drittili et

Dritt tri' edukazzjoni
“WE SHOULD HAVE THE RIGHT TO A GOOD UPBRINGING SO THAT WE WILL GROW UP AS RESPONSIBLE, DISCIPLINED CHILDREN”
“Children are not mini-persons with mini-human rights.”

Maud de Boer-Buquicchio,
Deputy Secretary General of the Council of Europe

CHAPTER 4

Rights and obligations

4.1 CONVERGENCE BETWEEN RIGHTS AND OBLIGATIONS

The last decades have witnessed an increased interest in the promotion of children’s rights. With the presentation of the United Nations Convention on the Rights of the Child which is legally binding, States took the commitment of putting children’s rights at the forefront of their national agendas. Children are thus seen as fully-fledged recipients of human rights. The vision portrayed by the Convention is of children as individuals, and members of a family and a society, with rights and responsibilities, which are appropriate to their age and stage of development. The Convention thus looks at the whole child, articulating that rights should be enjoyed by all children, rather than being the privilege of the few. Hence, countries are to guarantee these rights irrelevant of the place children come from, their gender, race, creed, religion, and cultural or ethnic background.

Malta’s ratification of the Convention on the Rights of the Child took place on the 26th of January 1990, and since then Malta has been under the obligation to comply with the agreed principles and standards of behaviour towards children. The Convention which brings together children’s human rights, as also found in other international instruments, specifies that all rights are of equal importance. They are universal, inalienable, indivisible and mutually dependant. These rights are the key to ensure that the child grows with the full possibilities for development. The Office of the Commissioner for Children which was set up in terms of the Commissioner for Children Act of 2003, is entrusted with the role of promoting children’s welfare and interests, as well as ensuring that the rights enshrined in the United Nations Convention on the Rights of the Child, and other international documents are complied with at national level.

The United Nations Convention on the Rights of the Child which is divided into fifty-four articles stipulates that civil, political, economic, social and cultural rights are to be safeguarded. These rights can be classified in three categories, namely protection, provision and participation. Protection rights guarantee the safety of children and prohibit all forms of abuse, neglect, violence and exploitation. Provision rights cover the special needs of children and their right to access quality services, as well, as the right to an adequate standard of living. Participation rights ensure that children and young people are given the opportunity to be involved in the decisions which concern them, and to have time for leisure, play and cultural activities.
The rights laid down in the United Nations Convention on the Rights of the Child are to be provided by the State or by adults. When a State signs and ratifies a Convention, it is formally agreeing to abide by the principles set out. Ensuring that there is full adherence at national level, and making the necessary legal and structural arrangements for turning rights into practice, is a main concern. Recognition and enforceability of the rights should thus be watched over.

The Convention on the Rights of the Child acknowledges that all human beings have human rights, and such rights are to be protected before as well as after the birth of a child. The preamble states:

‘Bearing in mind that, as indicated in the Declaration of the Rights of the Child, ‘the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection before as well as after birth.’

Convention on the Rights of the Child, 1989

The protection of the unborn child is reiterated in national policies and legislation, where it is stressed that the right to life is extended to the unborn child from the moment of conception. In Malta, abortion is illegal and is punishable at law under Section 241-243A of the Criminal Code29. The rights of the unborn child are also stressed in the Commissioner for Children Act of 2003, which authorises the Commissioner to ‘promote the highest standards of health and social services for women during pregnancy and to promote social care and protection, including adequate legal protection, for children both before and after birth.’

Protection of the unborn child is also safeguarded in the Domestic Violence Act which includes the ‘child conceived but yet unborn’ as a household member.30

Government policy states that within the national ambit, the use of abortion as a means to resolve health or social problems goes against the fundamental right to life. This matter is also strengthened by the Protocol on abortion which is annexed to Malta’s Accession Treaty to the European Union, which gives legal certainty that no European Union law can change Malta’s legislative framework on the issue of abortion. The text of the Protocol is as follows:

‘Nothing in the Treaty on European Union, or in the Treaties establishing the European Communities, or in the Treaties or Acts modifying or supplementing those Treaties, shall affect the application in the territory of Malta of national legislation relating to abortion.’

Protocol of Abortion in Malta

The Convention on the Rights of the Child emphasises the child’s right to respect, highlighting the recognition of the human worth of all people. The Convention further expands the State’s responsibility to ensure the health and safety of a child, ranging from warranting that the child has a safe place to live, ideally within a family, to encouraging the media to disseminate information, which is reliable and socially and culturally beneficial to the child. States are also to ensure the child’s access to the highest attainable standard of health and treatment of illness, including action to reduce infant and child mortality, and to guarantee appropriate maternal, prenatal and postnatal health care. Through the Convention on the Rights of the Child, States recognise the right of every child to a standard of living which is adequate for the child’s physical, mental, spiritual, moral and social development. The Convention also establishes the rights of children accused or convicted of crime. The State is to protect all children from any form of discrimination and to take action to promote their rights. The State is also obliged to provide the child with adequate care when parents or guardians who should be responsible for that child, fail to do so. The Convention further insists on the State’s responsibility to provide services to support families, including measures for reconciliation between family and work.

Parents are the principal persons endowed with the protection of a child. Hence, they are obliged by the Convention on the Rights of the Child to do all that is in their powers to protect their child and to ensure that the ‘best interests of the child’ is given primary consideration. The Convention specifies that it is the child’s right to know and, as far as possible, be cared for by their parents. Article 18 of the United Nations Convention stipulates that both parents should share the responsibility for the upbringing and development of their child. The parents
or guardians are to encourage children to exercise their rights, to offer them protection and to ensure that their children are safe and healthy. Parents are under the responsibility to make sure that their children attend school, and to encourage them to develop their skills and talents to the best of their abilities. Parents are also to encourage children to participate and to voice their opinions, especially in decisions that concern them. In so doing, parents are to be assisted by the State in providing the necessary guidance and direction. This shall be done through the development of institutions, facilities and services for the care of children, which should be utilised by the parents or guardians.

The Convention on the Rights of the Child, whilst conferring duties to the State and to parents, makes reference as well to the responsibilities of children, which should be age-specific. Accompanying rights by responsibilities ensures an understanding that every human being within society is to respect the rights derived to others. This entails ensuring a collective effort towards the realisation of rights and duties, where children have an active role to contribute. Where the Convention stipulates that the rights apply to everyone, whatever their race, religion, abilities or regardless of what they think or say, and whatever type of family they come from, it is also putting the responsibility on the child to respect others, notwithstanding the differences which characterise them. Article 29 states that children are to respect their parents and their own and other cultures. Moreover, if children are bestowed the right to be protected from violence, abuse and neglect, they have also the responsibility not to harm or bully others. Where children have a right to a clean environment, they have also the duty to contribute towards looking after the environment. If children have a right to freedom of thought, conscience and religion, they are also under the obligation to respect other’s thoughts or principles. By giving children the right to make mistakes, the Convention is encouraging them to learn from their mistakes. Where children have the right to education, they have also the obligation to share their knowledge, and not distract others in the classroom.

Whilst stressing that rights are inalienable, the Convention on the Rights of the Child emphasises the convergence between rights and responsibilities, putting a corresponding obligation for every right. Whilst the implementation of the Convention is mainly a government responsibility, society at large is also under the obligation to contribute in the achievement of the prescribed outcomes. Satisfying, promoting and protecting the rights of children are not abstract causes, but rather a duty which everyone is called to attend to. Government, parents, teachers, journalists, professionals dealing with children’s issues, researchers, and children themselves play decisive roles in guaranteeing the implementation of children’s rights. Civil society, the private industry and the media are also encouraged to recognise the child as an important subject for the development of society, as well as acknowledging the invaluable role that they can play in the achievement of children’s rights.

4.2 THE CHILD AND FAMILY DIVIDE

The Draft National Children’s Policy recognises the effort made by most parents to guarantee the environment needed for their children to enjoy the rights conferred to them. Society is thus to ensure that contradictions between parents’ and children’s needs and rights are shunned, through the necessary provisions which offer the required support. In spite of the recognition of the central role played by families, it is also acknowledged that areas of overlap between children and their family do exist. It is important that legislators, policy-makers and service providers are aware of the divergence between children’s and families’ rights, and that they appreciate that children are not an annex to adults’ issues, but rather social actors with current needs and rights which are not necessarily analogous to those of adults. It is, thus, essential that a holistic understanding is adopted, and that an appropriate balance is found when rights and interests come in conflict. Children’s experiences and perspectives are to be listened to, as these may differ from the views encompassed by adults. Children are to be seen as individuals in their own right, who are connected and mutually dependent on adults and society at large. Consequently, societies are to uphold both children’s and human rights of all members of the family, and make provisions so that distinct and complementary interests within the family do not give rise to tension.
A debatable and sensitive issue which can materialise into friction is that relating to health matters, where the child and family divide may escalate. In issues concerning the health of minors, parental request is requested. Yet, there may be cases of conflict where minors choose to deal with health-related matters without their parents’ consent. The Manifesto for Children issued by the Commissioner for Children in 2008 states that:

‘The minimum age for medical counselling without parental consent is currently eighteen years of age. Present legislation should be reviewed so as to entrust medical professionals with determining the competence of the child according to age and maturity, in order to enable child access to necessary medical care and advice without parental consent.’

It is acknowledged that determining the competency of a child in health-related matters is not a straightforward feat. The ‘Fraser’ guidelines look directly at whether doctors can give contraceptive advice or treatment to minors without parental consent where as the ‘Gillick’ competency is extended to all medical advice which also includes contraceptive advice and treatment. Upon meeting the said criteria of assessment of the ‘Gillick’ competency and the ‘Fraser’ guidelines, it is established whether the minor understands the advice given, and has the maturity to understand what is involved, as well as the advantages and the disadvantages of the treatment proposed, and whether it is in the child’s best interest to give the child advice or treatment without parental consent. This Policy recognises that this issue deserves further analysis, and it therefore proposed that a discussion at national level is conducted, so that decisions on health related matters put the child’s best interest at the forefront.

At times, rights of children may not be guaranteed by the parents because of circumstances which deny the opportunities of parents to safeguard an adequate standard of living. In such instances, as the Convention on the Rights of the Child specifies, the State is to intervene to ensure that the child’s rights are not undermined. Furthermore, the State is also called to offer the necessary support to parents. This entails providing a synchronised and unified support for families and their children. Government is, thus, entrusted with taking informed decisions to find a cohesive response to the vulnerability of these situations, through greater investment in preventative and support services.

Rights are often a weighing process. In circumstances where the family is going through breakdown, the balancing of rights is necessary. In order for the well-being of children and the family members to be maximised, even in adversarial situations, the State is to commit the resources needed to provide adequate family support. In these instances, welfare of the children is best promoted where a relationship with both parents is safeguarded, as long as it is in the child’s best interest to do so. The Convention on the Rights of the Child through the adoption of a child-centred approach explicitly recognises the importance of the family. Hence, to avoid the risk of having a fragmented approach, the protection of children and the assistance needed by families cannot be separated. This does not imply that the individual rights of the child are not prioritised, but rather that the child’s rights should be primarily protected within the family context and by the State, which is compelled to make provisions for family support.

The United Nations Convention on the Rights of the Child stipulates that ‘the best interests of the child should be a primary consideration’. This does not guarantee, however, that the decision taken is necessarily in the best interests of the child. Furthermore, it does not imply that what adults consider to be in the best interests of the child is equivalent to what the child thinks is in his, or her best interests.
In determining the course of action, it is necessary that the balancing exercise is comprehensive, and that the perspective of the child is sought. National coordination of policies and actions, as well as multi-disciplinary teams entrusted with balancing the rights of parents and children, are essential in such context.

A child-tailored strategy within the family framework is called for, to ensure that the child is not the victim of adult-based decisions which put his or her rights at peril. Whilst acknowledging the divergent interests which may arise between adults and children, it is to be stipulated, that this Policy believes that society should be guided by the principles that adhere to human rights. As the Convention on the Rights of the Child stipulates, the child has the right to be protected by the family. It is, therefore, instrumental that a coherent plan of action is designed which ensures that situations of abuse, neglect, and omission of declaration of who the father is, are avoided. Moreover, as Article 272 of the Civil Code states, it is the duty of the parents, the physician, the surgeon, midwife or any other person in attendance at the birth of a child, to give notice within five days of such birth, for the act of the birth to be drawn up. The law refers to the duty of registration of a child’s birth. When one fails to carry out such duty, that person is said to be acting in breach of the law. Notwithstanding this provision however, the law does not seem to provide any legal consequence. It is thereby felt that such situation is regulated by the introduction of a provision which makes the failure of registration, an offence punishable at law. Whilst ensuring adequate services for families, it is to be underlined that society is not to make allowances for any form of abuse on the child. Hence, such provision would further promote the protection of children in circumstances where neither parties present at the birth of the child register the birth of the said child, with the result that such child is not made known to the State.

Removing children from their families is to be seen as a last resort. In circumstances where children cannot live with their parents, the State is to provide the child with alternative care. Government is to ensure that quality care and welfare services are provided for those children who are in need of residential care, out-of-home care or other forms of alternative care. Standards are to be abided by, making sure that the rights of all children are observed. It is further recommended that children who need alternative care are informed about their rights, choices and circumstances, and that they are involved in the decision-making process, depending on the age, maturity and abilities of the child. Information is to be child-friendly, and a multi-disciplinary team of professionals is to continue to assist the child in this process of transition. Regardless of whether the child stays in alternative care for a short or a long period, that child is to be guaranteed the stability, safety and support needed for a healthy development. The family of origin, where possible, and care givers, are to be supported through community-based programmes and family workers.

4.3 POLICY AND PRACTICE RELEVANCE
The universality, inalienability and indivisibility of children’s rights call on societies to devise concrete actions. Children are not solely viewed as targets of rights, but holders of rights. These entitlements are equally important, and cannot be ranked in a hierarchical order. The standards set out in the United Nations Convention on the Rights of the Child are non-negotiable and States are thus obliged to ensure that these rights are respected. By agreeing to the obligations set out in the Convention, governments have taken the commitment to protect children’s rights, and to ensure that such rights are known and respected by all. Accountability of States...
necessitates specific actions, which ensure observance with the Convention’s principles. Non-compliance with the Convention’s universal minimum standards are now scrutinised publicly within the international community.

Turning abstract rights into reality involves the political will to amend laws, policies and practices which are not compliant with the principles set out in the Convention. Public policies are to promote the realisation of children’s rights, through mainstreaming children’s rights and putting the child’s best interests at the forefront. Governments are called to listen to children’s perspectives and to involve them at the different stages of policy-making. The qualitative study on the ‘Rights of the Child’ issued by Eurobarometer in 2010, reveals that children would like to see some changes in the ‘adult world’ for their rights to be further protected. These include adults having more trust in children and involving them more in decisions, increasing efforts to use technology and the internet to engage children in issues and to inform them about risks, encouraging respect from adults for children’s freedom to be children, communicating on children’s rights, and guaranteeing more support where it is needed. The standards established by the Convention on the Rights of the Child can only be fully realised when they are respected and understood by all members of society. Each and every individual within society has a vital role to play in securing that these standards are adequately met. The Eurobarometer Study on the Rights of the Child issued in 2008, indicates that 27% of Maltese respondents aged 15 to 18 stated that their rights were ‘very well protected’, 51% ‘fairly well protected’, 17% ‘incompletely protected’, and 1% ‘not protected’.

The Committee on the Rights of the Child specifies that every State is to have an independent human rights institution, with responsibility for the promotion and protection of the rights of the child. The Office of the Commissioner for Children’s role in Malta is to promote and advocate the rights and interests of all children, and to ensure that children are given the opportunity to express their views in matters that concern them. The Commissioner for Children also has the duty to advocate for adequate support to parents for the upbringing of their children, and to ensure that the rights and interests of children are properly taken into account by government departments, local authorities, other public bodies, voluntary organisations and public organisations, when decisions on policies and programmes related to children are taken. In respect of its investigative role, the

PERCEIVED LEVELS OF PROTECTION OF THE RIGHTS OF THE CHILD ACROSS THE EU

Q2. Do you think that the specific rights of children are in [YOUR COUNTRY]...?
Base: all respondents
% by country

The Commissioner for Children Act of 2003 states that ‘The Commissioner shall not carry out investigations concerning specific, individual conflicts between a child and its parents or guardians, or between the parents and guardians including matters concerning the exercise of parental responsibility and any other matter that falls within the competence of any court or tribunal established by law and in any such case the Commissioner shall submit to the complainant, the reason for the refusal.’

The Commissioner for Children does not have the powers to initiate and/or support legal action, and to intervene in court cases on behalf of children. It is acknowledged that the role of the Commissioner for Children is central in the protection of children’s rights. To strengthen the role of the Office the Commissioner for Children, additional resources are required to ensure its better functioning. Furthermore, it is to be ensured that the role of this Office is visible and understood by all, and that any ambiguities are resolved. The 2008 Eurobarometer study on the Rights of the Child reveals that across Europe, the large majority of respondents said that neither they, nor any of their peers had ever tried to seek help, when they believed that their rights had been violated.

Moreover, other actors are called to play a significant role in ensuring that principles are put into practice. Educational contexts, starting with early education hold important structural elements which can promote and practice rights. Education institutions can promote and support the holistic development of children and it is therefore important that school curricula focus on human rights at all levels of the education system. Participatory mechanisms such as student councils and student representatives should be further encouraged. The State is invited to facilitate the efforts of educational facilities, to continue enabling children to exercise their rights. Teachers and other adults, working in the educational context, are to be offered the support needed to ensure that children’s rights are effectively made available.

The media can also be an agent of change in respect to children’s rights. All forms of media can build the awareness needed to make children’s rights visible. The media is an ideal channel to portray the perspectives of children, and to involve them in debates and discussions that are related to them. Moreover, the media should be encouraged to involve children and develop opportunities to develop programmes specifically designed for children. Adults working in this sector are to be accountable for
what is transmitted through their means of information. The positive results that can be yielded by adopting an approach, which safeguards the best interests of the child, are to be emphasised. Failing to do so, as well as neglecting the rights of children through insensitive reporting or portrayal, can have unconstructive consequences for children.

Businesses can also take an active role in developing the standards set out in the Convention on the Rights of the Child. By adopting social corporate responsibility into their agenda and aiming to create child-friendly and family-friendly businesses, the private industry contributes to operationalising children’s rights. It is recommended that the State collaborates with the business community, so that actions are undertaken to contribute towards creating a society which puts focus on children, and to respect and support children’s rights. The corporate sector is thus called to take initiatives which foster a child right’s dimension, ensuring that products and services which are related to children, do not negatively impact children.

Putting rights into practice entails that a number of measures are adopted, so that society ensures that there is compliance with the rights of the child, as suggested by the Convention on the Rights of the Child. The State is to ensure that a comprehensive national agenda for children is adopted. Developing mechanisms to promote coordination of services, monitoring, impact analysis and evaluation of activities is essential. Societies are to ensure that children’s perspectives are made visible, and that rights are understood by all. Legislations, policies and services are to be compliant with the standards set out in the Convention, and thus the State is to ensure that the adequate remedies are taken, where such standards are not being complied with. The role of statutory bodies in favour of children’s rights should be strengthened. Moreover, States are to encourage cooperation between stakeholders involved in the area of children, as well as promoting partnerships with children.

### KEY POLICY ACTIONS:

**RIGHTS AND OBLIGATIONS**

1. Encouraging Stakeholders to learn about rights and obligations, whilst ensuring that such rights are mainstreamed in all policies and actions.
2. Promoting coordination of services across different sectors of society.
3. Ensuring that existing ambiguities are adequately addressed, and that current legislation, policies and practices are compliant with international obligations.

### REFERENCES

1. Commissioner for Children Act (Chapter 462 of the Laws of Malta).
2. Criminal Code (Chapter 9 of the Laws of Malta). Articles 241-243A
3. Commissioner for Children Act 2003 (Chapter 462 of the Laws of Malta). Article 9(h)
4. Domestic Violence Act (Chapter 481 of the Laws of Malta). Article 2(ix)
5. Civil Code (Chapter 16 of the Laws of Malta). Article 272
THE DANGERS CHILDREN CAN FACE ARE: BULLYING, CYBERBULLYING, ABUSE ON THE INTERNET, ACCIDENTS, LACK OF SECURITY WHEREVER THEY ARE, LACK OF ATTENTION FROM THEIR PARENTS, NEGLECTING OUR STUDIES, DANGER ON OUR ROADS, ADULT GAMES ON THE INTERNET, STRESS, NO PAVEMENTS, PEER PRESSURE
“Safety and security don’t just happen, they are the result of collective consensus and public investment. We owe our children, the most vulnerable citizens in our society, a life free of violence and fear.”

Nelson Mandela

CHAPTER 5

Protection

5.1 LEAVING NO CHILD BEHIND: A LEGAL ANALYSIS

Protection of children has always been at the forefront of the national agenda. Governments’ investment in safeguarding the well-being of children has constantly been embedded in Malta’s welfare system, strongly entrenched around the family and the child. The National Children’s Policy embraces UNICEF’s vision to create a protective environment, where girls and boys are free from violence, exploitation, and unnecessary separation from family; and where laws, services, behaviours and practices minimize children’s vulnerability, address known risk factors, and strengthen children’s own resilience. This approach is based on a human rights perspective, and emphasises prevention, as well as the accountability and responsibility of governments and all other entities and institutions dealing with the well-being of children.

Malta’s obligations in terms of child protection stem from the United Nations Convention on the Rights of the Child, the European Convention on Human Rights and other international and national legislation. Despite the European Union, not having general competence in the area of human rights, the Charter of Fundamental Rights of the European Union makes a special provision to the rights of the child, specifying that the right to protection and care is necessary for well-being. Moreover, through its provisions the European Union is active in relation to the protection of children in several fields. In the past years, a number of legislative instruments were issued by the European Union, in matters concerned with parental responsibility, the safety of toys, trafficking, sexual exploitation of children and child pornography, missing children, the promotion of safer use of the internet and new online technologies, and child labour. Such focus on the child has led the European Union to develop frameworks, soft law measures and coordinated action plans, mainly in relation to equal opportunities, child poverty and social exclusion, health, and early childhood education and care.

The European Union’s commitment towards the protection and rights of children, who constitute one fifth of the European Union’s population, has been stated in several instances. European Union Member States are bound by international and European treaties to protect, respect and promote the rights of the child. It is to be stated that the European Union is not legally bound to abide by the obligations set out in the United Nations Convention on the Rights of the Child. Yet, all European Union Member States have independently ratified the United Nations Convention, making them legally bound
to observe it as individual states. Malta, as a member state of the European Union and an independent signatory of the United Nations Convention on the Rights of the Child, and the European Convention on Human Rights, is bound to abide by all obligations set in these treaties.

The United Nations Convention on the Rights of the Child sets a number of guiding principles and provisions dealing directly with the protection of children. Through its articles it provides a framework for the protection of children against violence, harm and exploitation, as well as protection in areas related to refugee children, security against discrimination, child labour, the use of harmful drugs, children in conflict with the law, and children deprived of family environment. Through the Committee on the Rights of the Child, signatories are bound to submit regular reports, giving account of the measures taken for the implementation of the articles at national level.

The Convention on the Rights of the Child has entered into force in Malta in 1990. In addition to the Convention, Malta has also signed and ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, in September 2000 and September 2010 respectively. This ratification marked a major development towards the protection of the rights of children, in that it strengthens the protection of child victims, and further consolidates Malta’s commitment towards international cooperation to fight crimes against children.

The other Optional Protocol to the Convention on the Rights of the Child refers to the Involvement of Children in Armed Conflict. Malta signed this Optional Protocol in 2000, and ratified it in 2002. However, Malta is still in the process of withdrawing the declaration made upon signature, following the needed revision of the relevant domestic legislation. Presently, in accordance with Article 6(4) of the Malta Armed Forces Act (Ch. 220 of the Laws of Malta), a child who is 17 years and six months may be enlisted in the Armed Forces of Malta. This is not in compliance with the United Nations Optional Protocol on the Involvement of Children in Armed Conflict which provides that minors, that is persons under the age of eighteen years, are not to be involved in armed conflict. Authorities are thus urged to make the necessary amendments so that the reservation is withdrawn, for Malta to be in line with the Optional Protocol’s provisions.

The provisions in the United Nations Convention on the Rights of the Child, and other international treaties, demonstrate that all children have a right to be protected. It follows that preventing and responding to the protection and needs of children is a precondition to ensure that children’s right to survival, development and well-being are preserved. Nonetheless, it is recognised that the primary responsibility for many children’s issues should lie at the national level. This impels countries to continuously make the necessary provisions, so that the protection of children is safeguarded, and the involvement of stakeholders enhanced.

The protection of children is enshrined in several laws in Malta which explicitly or inexplicitly deal with issues related to the protection of children. Various provisions in the Constitution of Malta reflect the articles set out in the United Nations Convention on the Rights of the Child. Apart from the rights conferred from the Constitution, several laws were enacted which highlight the need to guarantee a protection which is legally binding, and which is thus enforced in courts. The Civil Code, Chapter 16 of the Laws of Malta is the most ancient source of domestic legislative framework which makes explicit reference to the rights and needs of the child, as well as to parental responsibility. The Civil Code preserves the principle of the ‘best interests of the child’. It entrusts the parents with the care and custody of their children, unless the law deems that this is not in the best interests of the child. The Civil Code has specific provisions which ensure that children who have additional needs are given the protection needed. Moreover, the Civil Code was amended in 2004, to remove the distinction between legitimate and illegitimate children. All such references to illegitimate children were replaced with the words ‘children born out of wedlock’.

Other legislative instruments which were enacted in the past years, include provisions related to education, equal opportunities, domestic violence, child abduction and custody, data protection, processing of personal data,
probation services, broadcasting code for the protection of minors, young persons and labour, adoption, foster care, under-age drinking, safety of toys, protection against detention of third-country nationals who are minors, and registration of childcare facilities.

Other Acts were established which centre on the protection of children and the promotion of rights. These include the Children and Young Persons (Care Orders) Act and the Children and Young Persons (Care Orders) Regulations and the Commissioner for Children Act. The latter empowers the Commissioner to investigate complaints of alleged breaches of children’s rights. The role of the Commissioner entails also to ensure that Malta is compliant with the United Nations Convention on the Rights of the Child. It further entices the Commissioner for Children to ensure that the rights and interests of all children are promoted and provided for. The Children and Young Persons (Care Orders) Act and the Children and Young Persons (Care Orders) Regulations make provision for those children who are to receive care and protection away from the custody of the parent or parents, although access can be granted in some circumstances. The Children and Young Persons (Care Orders) Act vests the obligation on the Minister responsible for social welfare, for the care and protection of the child. Children who are in need of alternative care are ensured by means of such Act, the necessary measures which are needed for their upbringing. The Act and Regulations further establish that the child is to be provided with an environment which is conducive to ‘psychological security as well as to psychological well-being, so as to promote normal and healthy development’. This entails also the guarantee that the rights conferred to any other child are provided for and protected.

In May 2011, the number of children who were under a care order was 275, including 37 unaccompanied minors. It is recommended that this Act is reviewed to address the existing anomalies. Furthermore, it is highly proposed that the responsibility of the care and custody of the child is no longer vested in the Minister, who is a political person. Rather, the responsibility of the care and custody of children should be of a Board of Professionals specifically appointed for this task, and for ensuring that children in such vulnerable circumstances are receiving the protection needed. The functions and obligations entrusted to the Board of Professionals shall be regulated by the revised Children and Young Persons (Care Orders) Act.

Recognition that all children deserve care and protection entails that States invest in legislative frameworks and service provision which ensure that principles are implemented, and that their effect is felt on the principal stakeholders, that is children. The Foster Care Act and the Adoption Act are significant in this context. Existing legislation in the area of adoption has undergone several changes along the years. The Adoption Act puts emphasis on the emotional development of the child, as well as the best interests of the child, stating that notwithstanding the other provisions, the ‘best interests of the child’ prevails. The eligibility for adoption was reassessed, and emphasis was placed on the age differences between the adopter and the child to be adopted. Furthermore, by virtue of amendments, the child was conferred the right to have a child advocate prior to adoption. This right however is only applicable to children aged eleven and over, resulting in a number of other children who are not entitled to such right. It is thus recommended that the necessary amendments are made so that the right for the child to have a child advocate is not limited by age.

The latest amendment related to adoption, deals with the number of years in which spouses had to be married to be eligible for adoption. Before being amended, the law stated that the couple had to be married for a period of at least three years before they could be considered for adoption. Following the amendment, the provision entails that there are no marriage time restrictions on prospective adopters, so that the Article now reads:

“(2). An adoption decree may be made on the application of two spouses, who have been married to each other and are living together, authorizing them jointly to adopt a person and may not be made on the application of one only of such spouses.”

Ch. 16, Article 114(2) of the Laws of Malta
Furthermore, in relation to adoption procedures, it is recommended that the law is amended to strengthen the role of APPOGG Agency in the termination of parental authority and as a result the adoption of a child.

The Foster Care Act was enacted in 2007. The Act formally sets up a Fostering Board which has a consultative role. Amongst the functions established by law, the Fostering Board makes recommendations to the Minister responsible for Social Policy, for the effective implementation of the provisions under the Act, as well as specifies what type of foster care is suitable to be provided by each foster carer, and determines the suitability or otherwise of prospective foster carers. Article 25 of the Foster Care Act specifies the responsibility of the foster carer, in relation to the child under his or her care.

'A foster carer shall ensure that the child placed in his care shall be cared for, maintained, instructed and educated according to the child's abilities, aspirations and natural inclinations. The child shall also have access to the social worker who is taking care of the placement.'

Ch. 491, Article 25 of the Laws of Malta

The United Nations Convention on the Rights of the Child cites the significance of foster placements as a means of alternative care, for the well-being of the child. The United Nations Committee on the Rights of the Child as a response to Malta’s report on the implementation of the Convention, in 2000 expressed its concern about children’s long stay in residential settings. In May 2011, the number of foster placements was 217, including 13 young people who are over the age of 18 and who are receiving after care. In the same period, the number of children in institutional care was 184, including 3 young people who were over 18 years of age, and who were being offered after care. It is worth noting that 33 children were five-years and under. This Policy recommends that children under the age of three are not admitted into residential care, but are provided with an alternative family. Where children are deprived of a family environment, the State is to provide the necessary mechanisms which ensure that children are endowed with the care needed in such delicate circumstances.

Since 2000, a number of provisions were adopted by the State to produce a regulatory framework which offers an adequate alternative to children who are in institutional settings. However, it is recommended that the State continues to invest in foster carers, and takes the necessary provisions to incentivise more adults to take up the role of foster carers. This could take the form of special leave arrangements and fiscal incentives.

The Council of Europe has been active too, in the promotion of foster care, particularly for very young children. The Council of Europe’s Committee of Ministers’ resolution on Placement of Children states:

'State Parties are to ensure in the framework of their policies for family welfare that placement decisions are taken accordingly to sound procedures and in a favourable context, in particular by... promoting foster care as being frequently the best mode of temporary placement, especially for young children.'

Resolution (77)33, Council of Europe’s Committee of Ministers’ Resolution on Placement of Children

When referring to the protection of children, it is important to highlight the issues related to Child Abduction. The Child Abduction and Custody Act entered into force in 2000. Through this Act, Government acceded to The Hague Convention on the Civil Aspects of International Child Abduction of 1980 and the European Convention on the Recognition and Enforcement of Decisions Concerning Custody and on Restoration of Custody of Children of 1980. The Hague Convention on the Civil Aspects of International Child Abduction seeks to protect children from the negative effects of abduction and retention, experienced across international boundaries by providing a procedure for their immediate return. This multilateral treaty is however debateable to some extent, and an analysis has been commissioned by the Ministry responsible for the Family to highlight the anomalies and difficulties experienced by the National Central Authorities entrusted with the responsibility of child abduction cases under The Hague Convention on the Civil Aspects of International Child Abduction. One
of the objects of concern of the present Convention is to
secure the prompt return of children wrongfully removed
to or retained in any Contracting State. Article 3 of such
Convention explains that such removal or the retention
of a child is wrongful if it is in breach of rights of custody
under the law of the State in which the child was habitually
resident. However, in practice, it is debateable whether
the wrongful removal or retention across international
boundaries is not in fact in the interests of the child. The
high incidence of inter-country marriages shows that
this may not necessarily be the case, particularly where
children are removed from their country of habitual
residence of which they are not a citizen, to be taken to a
country of which they hold citizenship. The latter country
may be able to offer them a better social network than their
country of habitual residence and thereby in effect prove
to be more beneficial when taking into consideration the
best interest of the child.

Furthermore, The Hague Convention on the Civil Aspects
of International Child Abduction does not provide an
exhaustive definition of the term ‘custody rights’, but states
that it includes the right to determine the child’s place of
residence. This is however, not interpreted in the same
manner across the board, with the result that sometimes
this may give rise to a number of problems in terms of
relation between the Courts of the two States concerned.
The Hague Convention does not impose an obligation on
the State to listen to the child. It can hence be argued that
the Convention does not promote the right of the child
to be heard in matters that are related to him or her, as is
stipulated in article 12 of the United Nations Convention
on the Rights of the Child.

It is thus recommended that once the report is analysed,
Government takes the necessary action to address the
anomalies found in the Convention, ensuring that the best
interests of the child are emphasised. Improving the overall
system of international child abduction mechanisms is of
principal concern for guaranteeing the further protection
of the rights of the child.

Another regulation which makes a provision on child
abduction is the Brussels II Bis of 200352, which Malta
is bound to abide to. This is a European Union Council
Regulation, relating to jurisdiction and the recognition
and enforcement of judgements in matters relating to
matrimony and parental responsibility. It also focuses
on the enforcement of access orders between countries,
aiming to facilitate cases of dispute related to international
child abduction. This Regulation complements The
Hague Convention, but the former provides for a system
which reinforces the right of the child to be heard in
proceedings related to child abduction, giving however
the conclusive authority to the judge to decide whether it
is appropriate in the circumstances that the child is heard.
The Regulation specifies that:

‘(2) When applying Articles 12 and 13 of the
1980 Hague Convention, it shall be ensured
that the child is given the opportunity to be
heard during the proceedings unless this appears
inappropriate having regard to his or her age or
degree of maturity …
(5). A court cannot refuse to return a child unless
the person who requested the return of the child
has been given an opportunity to be heard.’

Article 11 (2), (5), Brussels II Bis (Council
Regulation (EC) No 2201/2003

Another area of concern in the protection of young
people relates to children and justice. The United
Nations Convention on the Rights of the Child states
that children who are in conflict with the law are not to be
treated cruelly, and should not be placed in prison with
adults. Furthermore, contact with their parents is to be
preserved, and are to be given the means necessary for
effective rehabilitation and reintegration in society. Article
40 which specifically deals with juvenile justice, specifies
that children who are accused of breaking the law have
the right to receive legal help, and to have a fair treatment
in the justice system. Moreover, the Convention obliges
States to set a minimum age of criminal responsibility,
below which children are not to be held responsible for
the crime committed. Minimum guarantees for fairness
are to be provided, and a quick resolution of judicial or
alternative proceedings ensured. In 2010, in Malta the
number of decided juvenile court cases amounted to 52
with 24 females and 28 males respectively53. This was the
lowest number of juvenile court cases since 2006, with the
The highest rate registered in 2007 with 93 court cases. The most frequent cases concerning juveniles in 2010 were related to insults and blasphemous words, slight injury, and offenses against public order and peace.

The right to a child-friendly system is given particular attention both at European Union level, through the newly launched EU Agenda for the Rights of the Child, and at Council of Europe, which has issued the European Guidelines on Child-Friendly Justice, that include monitoring mechanisms to assess and promote access to children’s rights in civil justice.

One of the main issues of concern in the area of children and justice is the access which children have to justice, or the availability of child-friendly justice that is not restricted only to children who are in conflict with the criminal law. Both victims and perpetrators who are still minors are thus to be ensured that they have access to the judicial system. Access to justice is a human right, and hence the State is to ensure that all individuals, regardless of age, should be able to benefit from it. APPOGG is the government entity which is directly responsible for child protection cases, where children are often involved in a court process, either as victims or as witnesses, or even as perpetrators. Court cases related to civil law are heard in the Family Court, whereas cases dealing with criminal law are processed through the Juvenile Court. The Family Court was established by means of a legal notice, establishing a Family Section in the Civil Court First Hall. The Family Section is supported by the professional assistance of mediators and child advocates. The court upon its discretion, may appoint a child advocate to represent the interests of the child. It is to be stated however that a number of ambiguities still persist.

Although the Convention on the Rights of the Child expressly states that the child has the right to be heard in matters concerning him or her, the law in Malta specifies that in cases where children are involved with the justice system, the child cannot ask to be represented by a child advocate. Instead it has to rely on the goodwill of adults, namely judges, parents or mediators involved in the particular case. Therefore, the present law does not have the provision that entitles the child to access legal representation independently.

Currently, it is only in issues concerning parental authority and decisions affecting the ‘best interests’ of the child, that the Civil Court is compelled to hear the child if he/she has reached the age of fourteen. Through this provision, the child is granted the right to participation. However, it is evident that the right for participation in matters concerning them should be bestowed to all children, irrespective of age. The recent amendments to the legislation relating to adoption were a positive stride in addressing the situation related to children’s legal representation, where the provision was made, enabling children who are eleven years and over to be represented by a child advocate.

The law related to Adoption however makes a provision that the right to representation can also be conferred to the social worker.

‘Upon an application for an adoption decree of a person to be adopted, the court may on its own motion or on the application of an interested person, including the child to be adopted, appoint a child’s advocate, and, or a social worker to ensure that the child is adequately represented and his best interests safeguarded.’

Subsidiary Legislation 16.04, Adoption Regulations, Article 2(2)

It is acknowledged that APPOGG, as the national welfare agency, should strengthen its collaboration with the Court, enticing the justice system to ensure that the child is heard. This Policy thus recognises that in the process, a person representing the rights of the minor is present. This person should be the Child Advocate. Social workers and child advocates should work together to safeguard the social, emotional and civic rights which the child is entitled to. Specific guidelines on the practices of the child advocate in court cases are to be established. Furthermore, it is to be ensured that court procedures involving children are more efficient, and that such cases are not prolonged. It is moreover recommended that more investment is put into recruiting child advocates. It is to be recognised that an improvement in this area is being experienced, with the recruitment of other child advocates, so that in 2011, the number of child advocates available amounts to four. It is
further recommended that the child should be given the right to ask, at his own discretion, to be represented by an advocate. This right should not be restricted by age.

In Criminal law, children who are nine years of age, and who show ‘mischievous discretion’ can be deemed liable for criminal offence. When the child reaches fourteen years of age, full criminal responsibility is assumed, although penalties may be deducted, taking into consideration the young age. Juvenile criminal proceedings should be heard at the Juvenile Court. Yet, where the act is committed with adult perpetrators, upon the request of the police, the case may be heard in the Criminal Court, where adults are prosecuted. It is recommended that in such instances, the child is heard separately, and without exception, cases dealing with children, should be heard in the Juvenile Court.

Article 35 of Chapter 9 of the Laws of Malta, defines the age of criminal responsibility:

‘(1) Minors under nine years of age shall be exempt from criminal responsibility for any act or omission.’

(2) Minors under fourteen years of age shall likewise be exempt from criminal responsibility for any act or omission done without mischievous discretion.’

**Article 35, Chapter 9 of the Laws of Malta**

Furthermore, minors between the age of fourteen and eighteen are tried according to the same principles which are applicable to adult offenders. However, upon conviction, the punishment applicable shall be diminished by one or two degrees. The Committee on the Rights of the Child, in the concluding observations on Malta’s report on the implementation of the United Nations Convention on the Rights of the Child, in 2000 commented Malta’s criminal law, with reference to children, as follows:

‘In light of articles 37, 39 and 40 of the Convention and other relevant international standards 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, the Committee recommends that the State party undertake legislative reform to raise the minimum age of criminal responsibility; to eliminate the assumption that a child aged between 9 and 14 years could act with ‘mischievous intent’; and to ensure that the juvenile justice system covers all children under the age of 18.’

**United Nations Committee on the Rights of the Child: Concluding Observations – Malta 2000**

The Manifesto for Children of the Commissioner for Children, on the same lines specifies that:

‘(2) The age of nine years is too low for the attribution of criminal responsibility. It is recommended that this age be raised.’

**Manifesto for Children**

In its Annual Report 2010, the Commissioner for Children proposed that the age of criminality is raised to 14.

Furthermore, the Council of Europe’s Guidelines on Child-Friendly Justice state that:

‘The minimum age of criminal responsibility shall not be too low and should be determined by law.’

**Council of Europe’s Guidelines on Child-Friendly Justice**

Following the recommendations of the UN Committee on the Rights of the Child, the Commissioner for Children, and the Council of Europe, and in light of the principle of the best interests of the child, it is recommended that the age of criminal responsibility is raised, in light of the principles set out in international treaties.
‘The Committee recommends that the State party review its domestic legislation regarding the minimum legal ages for criminal responsibility... in accordance to the principles and provisions of the Convention, especially the best interests of the child.’


This Policy recognises the need to find alternatives to incarceration of young offenders. It is recommended that a suitable facility is found for children convicted of a crime. The focus should be on rehabilitation rather than incarceration. Detention should be a last resort, and when this is the case, a secure environment should be guaranteed. The Policy welcomes the declaration made by the Minister responsible for Justice to move the Young Offenders Unit, also known as YOURS, out of Corradino Correctional Facility. YOURS takes in male offenders who are under 21 years. Following this positive step, it is now recommended that a detention facility is found for young girls convicted of crime. Furthermore, it is recommended that inter-agency collaboration is strengthened in instances dealing with children in conflict with the law. The police, welfare agencies, voluntary organisations, and professionals in the justice system should reinforce their efforts to ensure that children are given the protection needed in such circumstances. Specialised training for all practitioners involved with children should be a prerogative for the State.

It is further suggested that a child-welfare section is established within the police forces, ensuring that services are victim-focused. It is also recognised that the workload of APPOGG, which is the support agency dealing with juvenile offenders, is to be reduced. Children are to be given the possibility to be heard, and they should be accompanied by a social worker, when they are interrogated. The Policy recognises therefore, that it is priority for the State to invest and do all that is possible to ensure that children are protected in judicial proceedings, and interviewed in a child-friendly environment, and that alternative measures are found which are child-friendly, and which focus on rehabilitation.

With reference to children as witnesses, it is to be understood that a child who is called to testify in court proceedings is vulnerable and it is thus crucial that the prosecutor and adults whose role deals with children and the judicial process ensure that children’s needs are understood and that they are given adequate protection, through the use of various measures designed to protect their interests. This further promotes the right of the child to be heard. In this regard, it is important to point out that with regards to the giving of testimony by witnesses, the Criminal Code of Malta does not limit this to any age. Thus children are allowed to stand as witnesses as long as they understand that this is wrong to give false testimony.

Children are to be treated in a caring and sensitive manner throughout the investigation and prosecution process, taking into account the age and level of maturity of the child. During the pre-trial stage of the proceedings, the prosecution must treat as paramount the protection of children, including the risk of further trauma and victimisation. Article 90 of the Police Act makes a provision for the *viva voce* testimony of vulnerable witnesses, including minors, during the trial to be made by means of a contemporaneous video conference. Such measure ensures that children’s interests and personal safety are protected. Article 90(2) of the Police Act aims to ‘secure greater protection of the personal safety, sense of modesty, psychological stability of such witnesses as may, on account of special circumstances, require such protection.’

In the event of the protection of vulnerable witnesses, the Minister responsible for the Malta Police Force, together with the Minister for Justice may prescribe regulations, as well as rules of procedure and evidence, for the setting up of a contemporaneous television transmission during a trial. This Policy further encourages the use of audiovisual statements where possible, from children who are witnesses. When more than one statement or interview is requested, this should preferably be carried out by the same person, in order to ensure coherence of approach in the best interests of the child. Interview protocols are to take into account the different stages of the child’s development, and are to be designed and implemented to underpin the validity of the child’s evidence. Moreover, direct contact, confrontation or interaction between a
child victim or witness with alleged perpetrators should be avoided, unless at the request of the child victim. With the aim of protecting the child in such vulnerable circumstances, children should thus be given the opportunity to give evidence in court proceedings without the presence of the alleged perpetrator.

Another matter in relation to the protection of children and the law, delves around the prospect of having one Act within the Laws of Malta, which brings together all legislation dealing with children. In the Commissioner for Children’s Annual Report 2009, this thought is reiterated.

’Professionals and service users at present find it difficult to access relevant legislation, and the piecemeal introduction of child legislation causes variations in interpretation and application of the law which is not in the best interest of the child.’
Annual Report 2009, Office of the Commissioner for Children

It is believed that a comprehensive Children’s Act can be advantageous, in that it creates a legislative framework which collects the legislation dealing with the lives of children. It is however noted that one code can present challenges. An all-encompassing law can be difficult to be adopted, mainly because child-related legislation covers a wide breadth of areas. Additionally, there are a number of legal instruments which while not specifically relating to children, have a significant impact on the rights of the child. Such situation may lead to an Act which is not holistic after all, minimising the effectiveness it was meant to achieve.

The United Nations acknowledges that particularly in countries which have a common law tradition, the incorporation of all laws into one act, is not easily workable. Following legal analysis, this Policy thus recognises that one Children’s Code may not be advisable. It is therefore recommended that rather than working on one single Code, a law-by-law approach is adopted, which ensures that the Convention on the Rights of the Child is harmonised in domestic law. It is then crucial, that professionals working in the area of children are aware of the legal implications of the provisions in the law which are related to children. The Policy hence recommends that a review of the legislation is conducted to ensure that the laws reflect the comprehensive rights-based approach which is enshrined in the Convention on the Rights of the Child. The review of the legislation affecting children should go beyond the laws that specifically mention children. This would ensure that children’s issues are mainstreamed in all legislative instruments. If anomalies are found, the State is to ensure that they are addressed, for legal implementation of the Convention’s provisions to be enforced in courts.

5.2 PROVISION OF SERVICES
This Policy is centred on the concept of the child as a whole. The well-being and development of all children is a priority which authorities are to endorse. The sustainability of society depends on the investment governments put in their resources, ensuring that welfare and opportunities are granted to all. Recognising the value of all children entails also understanding that some children need additional support to be active participants in society.

This Policy acknowledges that the protection of children is the responsibility of all. Protection of children centres around four guiding beliefs:
1. Recognition of children’s interests
2. Protection against any form of harm, exploitation or abuse
3. Coordinated response to child protection
4. Early intervention and Prevention

5.2.1 RECOGNITION OF CHILDREN’S INTERESTS

Upon signature and ratification of the United Nations Convention on the Rights of the Child, Malta has been under the obligation to uphold and promote the rights and obligations inherent in the Convention’s provisions. It is acknowledged that all children need services and benefits which are universal. These include access to health care, education, and children’s allowance. It is therefore necessary that the State invests in guaranteeing an optimum standard of these services. It is acknowledged that for all children to benefit, structures need to be
inclusive and must address the multiple needs which children may have. In certain instances, arrangements are to be made to have services which are targeted to a particular sector of the population. These may include provisions needed for children with learning difficulties, children with disabilities, and community services specifically targeted at families and children. These may take the form of community centres in specific localities, or community centres which offer services to children and their families with identified needs. Furthermore, societies are to be equipped with services which offer more specialised care. These generally address sensitive issues such as child abuse, alternative care, domestic violence, or substance abuse. The latter type of service provision requires more personalised and family support, and states are bound to provide a continuum of services which ensure that these children are given the necessary protection.

In recognising children’s interests, it is crucial that the right of children to be involved in matters affecting them is not jeopardised. All rights of children should be adequately observed and promoted. This means securing that the rights of all children, including those who are most vulnerable are adhered to. In this regards, a specific area of concern is the legal framework concerning the voluntary placement of children in care. It is envisaged that locally, there are some discrepancies in the treatment which is afforded to children who are placed in care following a court or care order, and children who are voluntarily in care. Presently, children who are placed in care voluntarily, owing to the child’s natural parents not being able to look after the child, are given lesser rights and access to services than those children who are placed in care following a care or court order. It is thus proposed that legal amendments to the Children and Young Persons (Care Orders) Act are made to regulate the different scenarios of child care to ensure that equal protection rights are granted to all, irrespective of the different circumstances. Furthermore, this Policy suggests that a gap analysis is carried out so that the National Standards for Out-of-Home Child Care issued by the Department for Social Welfare Standards in 2009 are implemented.

Ultimately ensuring that children’s interests are prioritised entails a commitment towards ensuring a development which enhances children’s well-being, enabling them to reach their full potential, and to take an active role at all levels of society. APPOGG is the social welfare agency responsible for the protection and promotion of the well-being of children, through the development of psychosocial welfare services. The Department for Social Welfare Standards is the regulatory body which promotes social welfare standards and regulates social welfare services related to children and the family, as well as ensuring the implementation of established standards to improve service delivery and enhance the quality of life of service-users. The role of both entities is central for the protection of children.

However, it is recognised that action is to be taken to address the structural deficits which still exist. It is thus recommended that APPOGG, within the Foundation of Social Welfare Services is strengthened through further investment both in capital and resources. The high caseload which social workers deal with is to be addressed. Furthermore, it is requested that further collaboration between entities is encouraged, so that a continuity of services offered to the child is safeguarded. It is further recommended that the Department for Social Welfare Standards has the necessary legislative framework to effectively carry out the tasks within its remit. It is recognised that a central Observatory responsible for children should be created, with the objective of holding an advisory role. Its remit will involve policy-making and monitoring, child impact-assessments, children budgeting, and research. Such role should complement the regulatory body and the service provider, as well as work closely with the Commissioner for Children, government entities, voluntary organisations, and the corporate industry.

5.2.2 PROTECTION AGAINST ANY FORM OF HARM, EXPLOITATION OR ABUSE

Protection needs may take different shapes. It is recognised that social protection and stronger services should be given particular attention. Within the Maltese legal framework, the abuse of children is prohibited in all its forms. Child abuse is not tolerated, nor is possession of or access to child pornography. It is recognised that different types of child abuse can be identified, and that abuse can occur in all settings, ranging from the family to school to institutions, and other places.
Perhaps the most well-known category of child abuse is that which is related to physical abuse. According to data published by the National Statistics Office in Malta, in 2008, 29% of child abuse cases reported to APPOGG, were related to physical abuse. It is internationally recognised in human rights law, that children have a right to protection from all forms of violence, and this includes corporal punishment. One third of Council of Europe Member States have made corporal punishment illegal, and a number of others have taken the commitment to reform their legal framework. But, despite these positive developments, corporal punishment is still lawful in the remaining countries, and is viewed as an acceptable form of 'discipline' in particular in the home. In Malta, 'reasonable chastisement' is still accepted, as is stated in Article 154 (1) (a) of the Civil Code. It is hence recommended that urgent action is taken so that the necessary amendments are adopted, banning the use of corporal punishment. It is believed that corporal punishment goes against the right of children to equal protection under the law.

The second type of child abuse is sexual abuse. Data from the National Statistics Office indicates that in 2008, 20% of child abuse cases reported to APPOGG were related to sexual abuse. Child sexual abuse is when someone uses a child for their own sexual pleasure and gratification. An abuser may not necessarily be another adult, but can also be a child. Sexual abuse can take many forms, including sexual touching of any part of the child's body, encouraging the child to engage in sexual activity, penetrative sex, showing indecent images of children, exposing the child to sexual activity, and showing the child images related to sexual activity.

The Sex Offenders Registry which at the time of writing is still at Bill stage under the Protection of Minors Act, will represent a major development to address this form of abuse. This Act aims to protect minors from adults who had been found guilty of abuse. Thus through this Act, information will be accessible for relevant authorities working in areas related to children, who will be legally responsible to validate with the set register, whether a person seeking employment with the particular organisation, had been found guilty to an offence against minors.

The current Bill includes a number of offences against minors, which range from offences of a sexual nature, to other offences which put children at peril or in a vulnerable situation. It is to be ensured that the remit of the Bill is not too wide, and that professionals who will be responsible for its implementation are equipped with the resources needed to warrant that the provisions of such Bill are actually put into practice. Moreover, it is believed that this Bill should not focus solely on the punitive aspect, but rather provide for other measures which focus on the probation and rehabilitation of offenders.

It is furthermore recommended that a list of the names of children experiencing any form of abuse is kept by the police, and that a child protection plan is established by the designated social welfare agency. Access to the Child Protection Register is to be reserved only to professional workers involved directly with the family or the child. Such child protection plans are to be developed by the professionals, and the parents where deemed to be in the child's best interests. Such plan shall also be agreed with the child in accordance with the child's age and understanding. The plan is to specify the child-focused outcomes which are to be clear to all professionals working with child. Moreover, this plan is to identify the developmental needs of the child and the services needed to meet such needs, and the strategic approach to be taken to ensure that the child's needs are adequately addressed.

Moreover, in view of strengthening the protection of children against sexual exploitation and sexual abuse, and to bring justice to victims of child abuse and their families, it is felt that the present sentence of punishment laid down in the Criminal Code with respect to the offence of defilement of minors, as provided for in Article 203, is too low and does not favour children above the age of twelve years. Having last been amended in 1994, the said provisions do not reflect a true position of protection of children from child abuse. It is hence recommended that a revision of the punishment for this offence concerning the safeguarding and protection of children from this form of sexual abuse. Furthermore, it is recommended that the law governing prescription with regards to offences of sexual abuse is amended, in order to ensure that justice for such offences against children is respected.
This Policy calls also for a revision of the provision regulating the offence of inducing an under age person to prostitution, and instigating the defilement of such person, or encouraging or facilitating the prostitution or defilement of the minor, as laid down in Article 204 of the Criminal Code. The punishment provided for this offence presently stands at eighteen months to four years, which is considered too low for a grievous offence as is sexual exploitation. It is thereby recommended that in order to further promote the child from any form of harm, such law is revised.

Malta has recently signed and ratified two important international instruments dealing with child-related abuse. These are the United Nations Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Figures by the International Labour Organisation in 2002, indicate that every year approximately 1.2 million children are trafficked into exploitative work, many of them into commercial sexual exploitation. The Convention of the Council of Europe is the first international legal instrument to establish several forms of sexual abuse of children as criminal offences. It highlights preventive measures and lays out programmes which are intended at helping victims. Moreover, the Convention encourages people to report suspected sexual exploitation and abuse. With the intent of combating child sex tourism, the Convention lays out that individuals who commit offences abroad can also be prosecuted. Each party to the Convention binds itself to take the necessary legislative or other measures to encourage and support the setting up of information services, such as telephone or Internet help-lines, to provide advice to callers, even confidentially or with due regard for their anonymity.

Furthermore, the Council of Europe’s Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse observes that:

‘Sexual exploitation and sexual abuse of children have grown to worrying proportions at both national and international level, in particular as regards the increased use by both children and perpetrators of information and communication technologies.’

It is acknowledged that the problem of child sexual abuse online deserves a multi-agency and multi-sectoral approach, where a collective effort between different stakeholders is adopted. It is believed that the sharing of resources and practices helps to achieve a holistic approach in dealing with abuse.

Presently, the Council of Europe is promoting its campaign titled ‘The ONE in FIVE’ – Promoting the Underwear Rule, to stop sexual violence against children—under the ‘Building a Europe for and with Children’ programme for the promotion of children’s rights and the protection of children from violence. Member States of the Lanzarote Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (which Malta ratified on the 6th September 2010), together with partner organisations such as UNICEF, are participating jointly on the implementation of the campaign in the respective countries.

This Policy further recommends that prevention programmes are available, focusing on educating parents, caregivers, schools and other individuals who may provide children with access to the internet. The case may rise where parents are not well-informed on the consequences of the internet. It is hence recommended that parents are supported in expanding their knowledge base on the internet and the potential dangers of risks online. Research indicates that whilst 91% of individuals in Malta using the internet have used some kind of information technology security software or tool, such as anti-virus, anti-spam or firewall, only 9% of individuals in Malta who live in a household with dependant children and use the internet, have installed a parental control or a web filtering software. The percentage in the EU27 of the latter is 14%.

Recently, a new project ‘Be Smart Online – a Safer Internet Centre for Malta’ was launched to raise awareness among all children and teenagers on the importance of using the internet wisely. This project was built on the work previously done through the Hotline which had been set up locally to combat child abuse over the Internet.
The collaborative joint incentive set up between the Office for the Commissioner for Children, the Ministry for Education, Employment and the Family, Malta Information Technology Agency, and the Foundation for Social Welfare Services, is aimed at preventing online child exploitation and abuse. It is recommended that a national awareness campaign in a drive to promote safer internet for all users is continued. Moreover, it is recommended that efforts are strengthened at a national level with children of different age groups to raise awareness on the determining factors relevant to child protection in relation to new technologies.

Moreover, the European Commission’s proposal regarding the combat of child sexual abuse is welcomed. Through this proposal, all Member States are to introduce or strengthen criminal prosecution of activities like ‘grooming’, which means befriending children with the intention of sexually abusing them, and ‘sex tourism’, even if the abuse has taken place outside the European Union. It is important that focus is directed towards prevention, and that better protection for victims of such offences is afforded, by introducing harsher punishments for the commission of these offences, as well as closing down child abuse websites to avoid re-victimisation. Merely blocking websites in breach of such practices, is not effective.

The third category of child abuse is neglect. The different forms of child abuse related to neglect include emotional neglect, where the parent or guardian abandons the child or fails to provide the psychological and emotional care needed for the child’s development, or educational neglect, where the parents fail to send the child to school. Another variation of child abuse in relation to neglect includes the failure to provide for the basic needs, such as food and shelter, as well the failure to provide the required health care. In 2008, 17% of child abuse reports received by APPOGG were related to this form of abuse.

The final type of child abuse is also known as emotional abuse. Statistics indicate that in 2008, 4% of child abuse cases reported to APPOGG were related to emotional abuse. This was the least reported form of abuse in 2008. As in other forms of abuses, the negative connotations connected to emotional abuse are several. Different shapes of emotional abuse include yelling, belittling, blaming, ignoring and calling names, amongst others. Emotional abuse is more than mere verbal abuse. It impinges on the child’s emotional and social development, and repercussions may not be so easy to overcome.

The total number of reported abuses to APPOGG in 2008 was 464. As can be noted from the figure, the highest rate of abused children by age-group was the 0 to 5 category with 33%. This was followed by the age group of the 6 to 10 year olds with 28%, and by the 11 to 15 year olds with 19%.

It is to be asserted that the numbers indicated above, depicting the reported abuses refer to the total number of new cases opened in that specific year, and not to referrals, thus excluding re-opened cases.

Additionally, it is felt that another area of concern in relation to the protection of children is that related to child labour. This topic deserves particular attention. It
is recognised that locally, penalties to anyone illegally employing underage children are considerably low. Penalties need to be increased in order to act as an effective deterrent measure. Amendments in this regard should be reviewed, so that protection to children at risk of child labour is safeguarded. Present local subsidiary legislations regulating child labour, namely SL. 452.92 Young Persons (Employment Regulations) under the Employment and Industrial Relations Act and SL. 343.23 Man Power Records (Commencement or Termination of Employment) Regulations, Employment and Training Services Act, have been criticised for imposing different fines. Hence, the need is felt to address the present anomalies and to harmonise the laws.

It is further recommended that enforcement measures are strengthened to increase protection for children working illegally. It is moreover believed that absenteeism from school can be linked with child labour. It is thus recommended that further studies are conducted to analyse the relationship between child labour and absenteeism from the school system. It is understood that education is pivotal both for the development of the child and to curb against inter-generational poverty and social exclusion. Ensuring that children attain a basic education is thus necessary. As a result it is recommended that the provision which established that the minimum age of admission to employment shall not be lower than the minimum age at which compulsory full-time schooling ends, is amended so that admission to enter the labour market is granted to children who have attained the working-age and who have managed to obtain at least a school-leaving certificate. This means that in order for the child to be able to enter the formal economy legally, he or she will have to attain a school-leaving certificate, which recognises compulsory schooling.

When focusing on the protection of children from harm and abuse, it is necessary to focus on children experiencing domestic violence within the home. Domestic violence can take many forms and it has adverse effects on the victims. Data provided by APPOGG indicates that in 2011, there were 349 children who were known to the welfare agency, who were living in households where there is domestic violence. This not does exclude that the numbers are more than those which are known by APPOGG. Domestic violence is widespread and occurs across different socio-economic realities. When experiencing domestic violence, in the place which should be their safety hub, children are defenceless. It is hence encouraged that domestic violence services are equipped with the resources needed, so that children are given the assistance needed to be free from harm.

Moreover, this Policy welcomes the ‘Guidelines for Child Protection in Sport’ issued by the Malta Sports Council, which aim to ‘create a safer sporting environment for children and young persons, by helping sport organisations identify what is required of them to protect children.’ Focus is also placed on the different forms of abuse in sports. Based on the framework of the United Nations Convention on the Rights of the Child, these guidelines outline the commitment of sport organisations towards tackling any alleged abuse on children. It further outlines the different types of abuse which children can experience, and gives concrete examples as signs which can raise concern. These guidelines are targeted at all individuals working either explicitly or implicitly with children, as well as sport coaches, parents, volunteers, carers and participants.

5.2.3 EARLY INTERVENTION, PREVENTION AND COMMUNITY-BASED SUPPORT

In prioritising protection of children, it is acknowledged that a stronger focus is to be placed on better prevention services, giving access to children and their families, to ensure that their quality of life is not put at stake. A renewed commitment is thus to be directed towards prevention, early intervention and community-based support, involving children and their families.

Moreover, it is emphasised that whilst mainstreaming of children’s well-being should be adhered to in all legislation, policies and actions, it is also to be acknowledged that specific issues related to children demand a targeted-approach, which specifically address the needs of those who are most vulnerable. In adopting such stance, it is important to make a difference between a formative approach as opposed to a punitive approach. When dealing with families at risk, it should be a priority for national authorities to adopt supportive methods which get to the
root of the problem, rather than punitive approaches which stigmatisse further the child or family. A repressive approach which punishes the child or the family for non-conformity to the norms associated with social life may produce further stigmatisation. Rather than punishing the family or the individual for non-conforming to the standards imposed by society, authorities are to understand why such norms are not being followed. A personalised support structure is thus needed to assist the family, in the difficulties being encountered. Family workers or support officers, who play a key role in ensuring that children and their families are given the support needed, are to ensure that the approach taken is integrated and specifically focused on the needs of the child. Furthermore, through more personalised assistance, practitioners are to incentivise the individual and the family to be reintegrated in society.

It is recognised that education is central for the child’s well-being. In line with the National Sexual Health Policy, it is recognised that sexual health is an integral part of the person’s well-being. The Sexual Health Policy, launched in 2010, outlines that sexuality education is a lifelong learning process which starts at childhood, and continues to develop throughout the different stages of the sexuality process experienced by individuals. This Policy acknowledges the importance of having structured and comprehensive programmes in the school syllabi which focus on sexuality and relationships education, giving learners the opportunity to understand sexual behaviour and the risk-factors attached to sexual relationships.76

Education is also a critical instrument for prevention against social exclusion and deprivation. Absenteeism is to be addressed because it implies that children are denied their basic right of education. Moreover, it can cause a multitude of problems at later stages, including poverty, low skills, dependency on the State, and unemployment. It is further understood that the consequences arising are far-ranging and involve not only the child, but also the family and society. Tackling absenteeism is an increasing issue of concern in an era which advocates for a knowledge-based society as a means towards sustainability.

It is to be acknowledged that absenteeism can be related to a number of causes. These include bullying, ethnicity, family dysfunction, health problems, failure to learn, inadequate social and emotional functioning, unemployment, lack of motivation for learning, over protectiveness, poverty and substance abuse amongst others. Such causes imply the need to have a formative approach, rather than a punitive one, since the latter may cause further social dysfunctions.

Statistics collected for the first three months of 201177 indicate that in Primary State Schools, the number of students, excluding kindergarten students, who were absent unauthorised for more than three days amounted to 392 in January or 2.77% of the whole target population, 511 in February which constitutes 3.62% of the population, and 462 students or 3.27% of the primary population. The figures for Secondary State schools increase as opposed to the Primary Population, with 1189 students who were unauthorised to be absent in January, constituting 8.37% of the target population, 1363 students in February amounting to 9.60%, and 2371 students or 16.69% in March.

These figures indicate the need to adopt a comprehensive strategy, which aims at reducing the numbers of students being absent from school, and assisting them and their families by focusing on their needs. It is believed that early intervention should be strengthened, through more community-based programmes and family workers, so that both children and their families are assisted and incentivised to reintegrate into social life. Moreover, it is recommended that new possibilities and modalities of learning are adopted, so that learning is tailor-made to the child’s needs. This entails substantial investment to ensure that the education facilities are equipped with the resources and training needed to occupy such a role. It is recommended that every college is equipped with a centre which focuses on vocational subjects, where young people can further their interests in particular non-academic subjects, with a focus on embedded learning, based on a ‘learn-while-doing’ model.

In response to absenteeism, multi-disciplinary teams including social workers, people from the education field, psychologists, psychotherapists, family workers, and trainee counsellors are to be reinforced. It is further suggested that a study is commissioned, which focuses
on school-related expenses. The objective is to have a coherent set of guidelines for schools on the expenses involved for families, which are related to class resources, events and other indirect expenses, such as charity funds. It is to be ensured that expenses are curbed, so that families who are already financially socially-excluded are not confronted with further exclusion, causing amongst others absenteeism, owing to their financial limitations.

Another area which should be given particular focus in the protection of children deals with substance abuse. Substance abuse by children is disturbing in any society because it endangers the child’s development, as well as instigates social disorder. At present, Maltese law prohibits the sale of tobacco to persons under the age of 18. The local legal framework also establishes that children under the age of 17 are not allowed to drink alcoholic beverages. A legal notice of 2009 which regulates ‘good order at places of entertainment’ further states that the sale, display and consumption of alcohol at places of entertainment is prohibited, when there are children aged 17 and under. Replies from parliamentary questions in 2009 and 2011 respectively, indicate that between January and September of 2009, no minors were caught consuming alcohol, and in 2011, criminal proceedings had begun against 19 bar owners for serving alcohol to minors. The former parliamentary question suggests that enforcement procedures are to be strengthened.

Research indicates that in the period between 1995 and 2007, the use of illicit drugs in Malta among students aged 15 to 16, increased drastically, from a 2.4% in 1995 to 15.1% in 2007. When children were asked if they had ever smoked marijuana, the replies received indicated that use had escalated for the period under study, with 8.0% in 1995 to 12.9% in 2007. Another increase was registered in the use of cocaine and ecstasy, with a percentage of 1.9 and 2.1 respectively in 1995 as compared to 3.7 and 3.9 in 2007. Figures remained stable and relatively high for the percentage of students ever been drunk, or having had any alcoholic beverages. Indeed, numbers show that for the former, 45.3% replied in 1995 that they had been drunk at least once in their lifetime, as compared to 45.0% in 2007. With regard to use of any alcoholic beverages, the percentage in 1995 was 91.9 as compared to 92.0% in 2007. These figures illustrate the need to have a sound educatory framework which educates children from a young age on the effects of substances. Such framework should ensure that a difference is made between experimentation and abuse. Most young people are drawn to substances and other dependencies by curiosity. It is often family members themselves who introduce alcohol to the child. Such experience is then shared with peers. Other adolescents start drinking alcohol so as not to feel excluded from their friends. Prevention programmes should include a variety of activities which address the risk and protective factors associated with substance misuse and substance abuse. Where a child is a perpetrator of a drug offence, all efforts are to be made to ensure that such child is diverted away from institutional sentences. Strategies are thus to be carefully tailored according to the particular needs of the child. The education sector is to work closely with the welfare agencies to ensure that help is given to those children who need special attention.

Early identification and intervention are essential to ensure that young people do not become dependant on substances. Such programmes are to be based on the identified settings which work for the target group. Children receiving such services should not be given treatment in conjunction with adults. Moreover, it is recommended that an effective system for the protection of children, who reside in families where a household member has an addiction problem, is established. The National Alcohol Policy which will be launched in the near future and the National Drugs Policy issued in 2008, are welcomed. It is recommended that young people are involved throughout the stages of the drafting of the National Alcohol Policy. Recognising that they can make a difference is a positive step towards warranting their active participation in other fields of social life.

Another risk factor which can endanger children’s well-being is the dependency on gambling. Many children experience gambling before they reach the age of eighteen. Whilst recognising that a gambling experience does not necessarily mean that that child will become addicted to gambling, it is acknowledged that regular gambling is a risk factor for addictive gambling later on in life. Therefore, it is encouraged that a National Gambling Policy, together
with a concrete action plan are drawn up, to focus on the prevention, intervention and treatment of individuals and families who are experiencing gambling problems. Society is to ensure that the normalisation of gambling occurring through media programmes, advertising, games, and smart phone applications is limited, through effective prevention programmes which raise awareness on the risks of dependency.

This Policy recommends that leisure education is developed in the National Curriculum, with the aim of promoting the benefits of leisure and raising awareness on the risk-factors. It is also recommended that regulations and enforcement procedures are in place. Moreover, it is suggested that the State develops treatment interventions for children and young people with gambling difficulties. Such interventions are to be individualised, and are to be separated from treatment interventions offered to adults.

5.2.4 COORDINATED RESPONSE TO CHILD PROTECTION

Any society which protects children, requires a coordinated approach between different stakeholders, who are responsible for safeguarding the well-being of children. Certifying that children’s needs are addressed, entails a commitment across societal structures to concentrate on the holistic development of the child, ensuring that they are given the opportunities needed to fulfil their potential.

It is acknowledged that protection and opportunity complement one another. It is therefore necessary that society is adequately equipped with intervention services that support children and their families, and people working with children, and has the required resources to ensure that children are given the opportunities needed to develop holistically.

The draft National Children’s Policy encourages professionals working with children to operate in multi-disciplinary teams, with the objective of understanding the respective role and responsibilities of each, and organising services around the needs of the child. Such a holistic approach would avoid the fragmentation of services, and alternatively create more continuity and stability for the child in need of protection. It is recognised that vulnerable children may interact with a number of professionals from different spheres, and it is thus essential that the child does not receive conflicting messages from the persons who are intended to offer guidance and support. Hence, effective dialogue and information sharing should be central.

It is to be understood, that whilst the law makes provisions for data protection, the legal framework should not be used as a deterrent for sharing crucial information related to the safety and protection of the child. If it is in the child’s best interests, professionals should be bound to share confidential information, even if that means sharing it without parental consent. It is moreover recommended, that where there is the detection of some form of abuse, professionals refer such case to the designated welfare agency, so that the necessary action is taken. Consequently, reporting should become mandatory, and professionals are to be ensured that adequate protection and support is also provided to them, when divulging such sensitive information on the welfare of children.

Multi-agency training is considered to be central to the protection of children. Frontline workers are often confronted with delicate and intricate matters. Specialised training is thus crucial, for professionals to be equipped with the skills and competencies needed to deal with particular situations. It is thus recommended that practitioners working with children receive specialised training in child protection, to complement the training already received in their field of work. Moreover, it is recommended that at university, social work students are asked to specialise in their first years of their course degree. Professionals are to ensure that they are adequately trained in the legal framework related to children, and that they understand the importance of adopting a child-focused approach which involves children directly.

The commitment which professionals working in the field of children have, is to be appreciated. Ultimately, the mission of all professionals working with children is to ensure child well-being, and guarantee the holistic development of the child. The role they occupy in society makes a difference to children who are exposed to risks. It is, therefore, to be recognised that these professionals working, amongst others, in the spheres of protection...
services, health care, police, education and the judicial system are to be given the required assistance to fulfil their obligations in the best way possible. It is hence recommended that resources are reinforced, so that case loads are decreased, stress is reduced, and as a result retention and motivation improved, and resilience reinforced. Working towards improving efficiency and effectiveness is central to the protection of the child. This necessitates that delays in court cases and service provision are reduced, as well as ensuring that the necessary setting is created so that children are heard and supported in child-friendly environments.

**KEY POLICY ACTIONS: PROTECTION**

1. Ensuring that legislation, policies and services are systematically reviewed.
2. Carrying out the necessary studies to ensure that the protection of children in different spheres is enhanced.
3. Encouraging multi-agency training and enforcement mechanisms to promote protection and curb all forms of abuse.

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I believe that if someone says something that makes sense, even if that person is young, that person has the right to be heard in society and in the spirit of reciprocal respect should be heard. Space for young individuals in the society around us.
Active participation

6.1 CHILDREN AS ACTIVE CITIZENS
In everyday discourse, adults are often heard conversing about what their children will be when they grow up. In political discourse, children are often referred to as the leaders of tomorrow. Yet, seldom is it heard that children are citizens of today, with the right to participate in actions and decisions which concern them. Including children in decision-making is a right in democratic society, which must be adhered to. As Article 12(1) of the United Nations on the Rights of the Child stipulates,

‘(1). State Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.’

Article 12, United Nations Convention on the Rights of the Child

Article 24 of the Charter of Fundamental Human Rights of the European Union states:

‘(1). Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.’

Article 24, Charter of Fundamental Human Rights of the European Union

Creating a dynamic and participative society, as well as recognising children’s capacity to express their thoughts, should be at the core of policy-making. As Lansdown (1995) suggested, ‘Participation is a fundamental right of citizenship. The creation of a society which combines a commitment to respect for the rights of individuals with an equal commitment to the exercise of social responsibility must promote the capacity of individuals from the earliest possible age, to participate in decisions that affect their lives.’ Through effective involvement, children are informed about the decisions concerning them, and are empowered to take action. This Policy seeks to highlight the responsibility of society towards having citizens who are well-informed on societal matters, and who are socialised to understand how a democratic system, which values citizenship, works.

By empowering children through successful participation, society strengthens the sense of belonging, which children feel towards the society they interact in. In parallel with democracy, citizenship entails ensured participation and
the upholding of basic democratic principles, such as
tolerance and civic responsibility. For this to be possible,
it is acknowledged that access to information is essential.
Moreover, children are to be encouraged to familiarise
themselves with the tools of participatory citizenship,
which amongst others include dialogue, negotiation,
volunteering, understanding rights and obligations, and
appreciation of cultural differences. The Eurobarometer
study on the Rights of the Child issued in 2008\(^8\), suggests
that across the European Union, 67% of young people
aged between 15 and 18 years were aware that children
enjoy specific rights, when compared to adults.

Children are to be endowed with an education which
equips them for life. Whilst acknowledging the importance
of academic subjects, it is to be stressed that more
focus is to be given to life-skills subjects, inculcating in
children their role as active subjects of society. Children
are to be taught how to live in a present which is rapidly
changing, as characterised by evolving features such as
globalisation, technological advances, and demography.
Building an appreciation and an understanding of the role
citizens occupy in society, entails involving children, and

Q1. Are you aware that people under 18 enjoy specific
rights compared to adults?
Base: all respondents % EU 27

source: Eurobarometer – The Rights of the Child 2008

likelylihood of seeking for help when the rights of a child had been violated

source: Eurobarometer – The Rights of the Child 2008

yes = ‘yes, yourself’ and “yes, someone you know” and ”both you and other(s)”
facilitating learning, through dynamic methods of learning, which put emphasis on creative and critical thinking.

Effective participation entails that exclusive adult language is minimised. If children are to be given the opportunity to participate, they must be offered the right means needed to facilitate their participation. Hence, providing the tools, the space and the opportunity is a prerequisite for active participation. Information should be accessible and understandable for children. Furthermore, when adults foster dialogue with children, they are able to create the necessary conditions for successful communication. The Eurobarometer study on the Rights of the Child indicates that children’s preferred information channel is the internet, followed by television.

6.2 LEVELS OF PARTICIPATION

Research suggests that through active participation, children’s competencies are strengthened. In turn, these capacities produce better outcomes for the quality of participation (Rajani, 2000)84. The benefits derived from participation are significant, both for the child and for society at large. Participation enables the child to develop a sense of autonomy, as well as enhance the child’s self-esteem and resilience. Societies benefit through acquiring a holistic perspective of the realities experienced by society, as well as through the strengthening of democracy. Apart from the benefits derived from children’s participation, it is to be stressed that active participation is a precondition of social justice. As international treaties indicate, participation is a human right, and societies are to create the environment where such entitlements are enjoyed and respected.

Adults often associate children with passive recipients in need of care and protection. Perhaps inadvertently, children are viewed as objects of adult socialisation. However, as Mayall (2000)85 suggests, in defining childhood as inferior, societies depersonalise children, and in proposing that adults know the best interests of the child, children are denied their right to participate in structuring their childhoods. This Policy thus calls on society to recognise the value of children’s participation, and to instil in its people the responsibility of incorporating and respecting children’s perspectives.

The concept of what participation entails in practice can give rise to different interpretations. Children participate in a number of activities in their daily lives, ranging from play, joining in conversations, to attending school. Yet, in the context of the United Nations Convention on the Rights of the Child, participation is more than simplistically being involved in conventional activities. It involves being engaged in decisions, rather than merely taking part. As Roger Hart86 conveyed, participation is ‘the process of sharing decisions which affect one’s life and the life of the community in which one lives’. The core of children’s participation is embedded in the ‘Ladder of Children’s Participation’ developed by Hart.
Hart’s Ladder of Young People’s Participation describes the different levels of participation, with the bottom three rungs representing non-participation. In ‘manipulation’, adults use the notion of children to influence some cause, with children’s involvement being either absent or minimal. Where participation is present, children receive no feedback on the decisions. At the next level, children are treated as mere decorations. Children are there not because of the cause, but because of the image they represent, or because of a performance they are involved in. In this rung, adults do not make-believe that the cause is inspired by children. In ‘tokenism’, children are seemingly consulted, but in actual fact have little or no choice about the subject being discussed, or the means by which it is communicated. Moreover, in this level, children’s opportunity to formulate their own opinions is negligible. In this rung, adults can be genuinely concerned with giving children a voice, but the approach they use is not congruent with the intentions. Hence, tokenism is figurative of the symbolic, as opposed to the practical, engagement of children.

In contrast, the higher five rungs represent genuine participation. In the ‘assigned and informed’ rung, adults choose a project, and children volunteer to take part in it. In this rung, the children’s role is meaningful. They understand the purpose of the project, are aware of who was responsible for the decisions and why decisions were made concerning their involvement and take part after the project is made clear to them. In the fifth rung, ‘consulted and informed’, adults design and run a project, but children understand the process and their views and opinions are taken seriously.

At the next level, ‘adult-initiated, shared decisions with children’, real participation emerges. Although the initial idea is attributed to adults, the decision-making at all stages of the planning and implementation of the project, is shared with children. In ‘child-initiated and directed’, children come up with an idea and take decisions on how the project is to be implemented and materialised. In this level, adults participate in the project, but they do not take control. In the final rung, ‘child-initiated, shared decisions with adults’, children work on the concept and share with adults the responsibility of decision-making. Adults at this stage do not lead the project, but support children in its realisation and give advice as necessary. Hart’s model does not assert that it is essential that children operate at all times at the highest degrees, since different levels may be appropriate at different times. Nevertheless, the variations between stages signify the approach which adults should adopt for effective participation in concrete terms. It is acknowledged that societies are increasingly putting focus on participation of children. Nevertheless, it is to be recognised that even when children are being heard, it does not necessarily imply that policies and strategies are adapted to what they say. A difference is thus to be made between consultation and participation, as well as child-initiated or managed processes. All three stages are valid and entail a commitment to listen to children and take their views seriously. However, they offer variations in the degree to which children are actually engaged in the process. As Lansdown (2005) points out, in the consultative process, children’s views are solicited, but the process is adult initiated, and adult led and managed.

In consultation, children are thus invited to participate, but it is the adults’ role to control and analyse the outcomes. In contrast, in participation, the process is more collaborative. Children are given the opportunity to effectively contribute in the design, development, implementation, monitoring and evaluation of the project. Through such process, children are empowered to play a significant role in shaping decisions and contribute to defining the priorities. In self-initiated processes, children identify, determine and control their own project. In this process, children work together to organise and manage their project, and adults are facilitators rather than leaders in the process.

6.3 ENSURING MEANINGFUL PARTICIPATION
This draft National Children’s Policy supports the notion that children from a very young age are active subjects, capable of possessing and conveying views. For this to be possible however, appropriate means should be used to facilitate meaningful participation. Adults are not to inflict an age limit for participation, but rather are to encourage children to be effectively involved in the
dynamics of society. This entails creating the appropriate means and space to facilitate engagement. It is, hence, recommended that the appropriate structures and means are developed so that adults are encouraged to listen to children, and the right atmosphere created for children to be actively involved. There are a range of possibilities in which children can participate, through for instance dialogue, different art forms, role plays or story-telling. Ensuring meaningful and sustainable participation entails understanding that the skills and confidence needed to be active subjects in society, cannot be taught in abstraction, but rather are to be attained gradually, through effective practice and favourable conditions.

Implementing Article 12 of the United Nations Convention on the Rights of the Child implies understanding the relationship between adults and children, and recognising the value inspired by their participation. The Convention sets the basis for the recognition of rights, but full realisation entails commitment and an acknowledgement that a shift is to take place, in adults’ role as listeners and in their perception on the contribution of children to society. Citizens are, thus, to understand the decisions being taken in society, and are to be given the possibility to participate in making determined choices. Access to information is a precondition for the involvement of children, and subsequently society is to guarantee that it is constant throughout the stages of the policy cycle. This entails having child-friendly structures which are responsive to the participation of children in the different stages, ranging from formulation to evaluation of programmes. Whilst acknowledging the development of structures and mechanisms which have been applied in recent years, to support and facilitate children’s and young people’s participation in society, it is encouraged that more initiatives are created to support children in their full participation in society. Genuine involvement fosters motivation in children, which consecutively reinforces their competencies. It is hereby recommended that children are involved in the designing, implementation and evaluation of services. Furthermore, society should encourage organisations to develop guidelines and principles, as a sign of their commitment towards including children on their agenda. The State is further encouraged to minimise the disparities between principles and actual service provision. Moreover, organisations from cross-disciplinary sectors should be motivated to mainstream children’s participation, and to create partnerships with child-related bodies, with the aim of creating more opportunities for involvement. Mutual learning and exchange of good practices are to be encouraged, both at national and international level.

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We show respect towards people who come from different countries and as a result have different cultures and traditions. They are all different but all equal.
When we exclude someone’s perspective, we lose an opportunity to gain knowledge.

Dr Andre M. Perry

CHAPTER 7

Inclusion

7.1 ACCESSIBILITY

The draft National Children’s Policy recognises the value of social inclusion and respect for diversity, and aims to develop a framework which focuses on the holistic development of the child, and the potential that all children can achieve, if they grow up in an environment which is attentive to their needs. The right to participation in different fractions of social life requires that societies are equipped with the necessary resources to ensure that no child is left behind.

Encouraging inclusive communities enables children to embrace a sense of belonging in a society, which acknowledges that real social change can only come into effect through a socially inclusive society. It is understood that social inclusion is about providing equal opportunities, irrespective of gender, disability, ethnic origin, religion, income, or other traits which characterise the child’s life in any way.

The United Nations Convention on the Rights of the Child is a catalyst in the promotion of inclusive communities and accessibility to all. In adhering to this principle, societies have taken on board the commitment to address the structural inequalities hindering full development. This Policy is driven by the belief that rights of children, who are at risk of exclusion are not special needs, but basic needs. A comprehensive approach towards inclusivity thus entails eliminating the social, cultural, physical, economic, and attitudinal barriers impeding the full enjoyment of rights.

Access to participation in all spheres of society entails quality frameworks which facilitate inclusive opportunities. Inclusion can take many forms, and implementation is influenced by different variables. Ensuring that policies and programmes reflect the needs of all children demands a commitment from society at large. It is thus necessary that a coherent strategy is developed, which reflects the changes needed to achieve a society which puts inclusion at the centre. A review of current practices is thus encouraged, so that their relative implications on the inclusivity of children are analysed.

Within a rapidly changing societal context, where means of networking and building relationships are changing, stakeholders are to certify that accessibility of services is warranted. The importance of access for children to information services entails facilitating child-friendly information and services, where children are empowered to participate within society. The advent of technological advances, mainly through internet and social networks,
may put additional pressure on families who are already experiencing strenuous situations. Stakeholders coming from different domains must keep in mind the effects of the digital divide. The gap between those who have access to information, and those who are information-poor, needs to be resolved. This entails investing in the necessary tools to ensure effective participation, and educating parents on the benefits and functions of the new forms of information mechanisms.

It is recommended that whilst the mainstreaming of children’s well-being is promoted in all policies and actions, a targeted approach is adopted in instances of vulnerability. Marginalisation and segregation of individuals should be eradicated, and society is to ensure that children and families are given the opportunities to create the programmes needed to reflect the multiple needs of children. Investment in education services, training opportunities, and recreational facilities, which involve children from all backgrounds, is essential. Society is thus to be characterised by a system of support structures which address the varying needs experienced at different stages by children and their families. Such support mechanisms should include incentives for inclusion through accessible information and services, comprehensive community-based programmes, allocation of resources, childhood structures, early intervention and prevention services, and collaboration between entities and voluntary organisations working in the field of children.

7.2 ZERO TOLERANCE TO DISCRIMINATION

The United Nations Convention on the Rights of the Child\(^8\) states that:

\(1\). States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.\(^3\)\n
\(2\). States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.’

Article 2, United Nations Convention on the Rights of the Child

Discrimination limits rights, and excludes people from being active citizens within their society. Often people experiencing discrimination are viewed as being in need of protection, rather than empowerment. Yet, society is to recognise that all members are valuable in their own right, and that their contribution to the society they interact in, is to be commended. Equality of opportunity is thus crucial in ensuring that all people, at all stages of their life, are given the possibility to participate and enjoy their rights. Failing to do so mars the concepts of social cohesion and inclusivity.

Promoting respect for diversity in the early years entails investing in an environment, which upholds the well-being of the individual and focuses on inclusion, rather than segregation. Children should be taught that diversity is beneficial for society, and that labelling and stigmatisation generate more discord. It is essential that society invests in early childhood education and care programmes, which concentrate on the benefits of diversity.

Discrimination suppresses those who are stereotyped as being vulnerable, and does not give them the opportunity to reach their potential, to participate in social, cultural, political and economic life. In contrast, visibility of rights entails upholding differences and ensuring that no violations of rights are tolerated. This Policy thus recommends that a multi-disciplinary approach is adopted, to ensure that meaningful engagement is secured.

In tackling discrimination, policy-makers and practitioners are to be sensitive to the needs of the children and families they are representing. Action plans, programmes and dissemination of information are to mainstream inclusion and are to include the participation of children who will be directly affected. Professionals should also work closely with families, through community-work, or the
engagement of a family worker who supports the family to be reintegrated into society.

It is further recommended that equality bodies are strengthened to focus on all grounds of discrimination. Children experiencing any form of discrimination should have the possibility to voice their complaint, and investigative procedures should be in place to make sure that violations are dealt with. Cooperation between organisations relating to children is to be encouraged, so that awareness-raising is increased and respect fostered.

7.3 Disability
The United Nations Convention on the Rights of the Child for the first time in international human rights treaties has introduced specific rights for children with disabilities, acknowledging that disability is a human rights issue. As specified in Article 2 of the Convention, children with disabilities are to be endowed with all the basic rights stipulated in the Convention.

It is recognised that there are children who require additional needs, in order to enjoy fully the concepts of inclusion and equity. It is necessary that Government’s commitment to eliminate the existing structural barriers is transferred to all actors involved in child-related issues. Moreover, it is to be understood that the needs of children with disability are not necessarily the same as those of adults with disability, and therefore policy-makers are to ensure that policies and programmes are tailor-made to the specific needs of the target population.

The United Nations Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities90 share common principles. While the latter applies to all people with disabilities, the provisions of the Convention on the Rights of the Child focus on children with disability. Through their provisions, the two conventions complement and reinforce one another. Both conventions put an emphasis on the need to involve people with disability in the development of legislation and policies, and both share the belief that disabled children should have full enjoyment of human rights, on an equal basis with the rest of society. Countries are encouraged to provide the necessary assistance to ensure that the opinions and concerns of disabled children are made visible.

Both conventions mention education and participation in cultural life, recreation, and leisure as pillars to the realisation of rights. Education systems from early childhood should ensure, where possible, that children with disability are in mainstream education. Inclusive education must provide for the necessary resources needed for a high quality education. Schools are to be supported by appropriate and sufficient specialised personnel and resource centres which promote greater inclusion and improve the quality of educational provision to disabled children. Teachers are to be trained in dealing with mixed abilities, and specialisation encouraged. Moreover, children with disabilities, as stipulated in both conventions are to have the opportunity to participate in activities related to culture, play and leisure. For this to be effective, spaces must be equipped with the tools needed, and according to national standards.

Furthermore, it is recommended that Government continues to invest in social support structures for children with disabilities and their families, ensuring that separation from parents is a last resort. This should only be resolved to when it is in the child’s best interest, and not on the basis of the disability which the child has. In instances where no other option is available, it is to be ensured that alternative care within the community or within the wider family is provided.

Promotion of the rights is to be encouraged. For children to access rights, they need to be aware of them. It is thus necessary that this process is facilitated through the family and the school system, which are the main areas of socialisation. Ensuring that children with disability are not isolated from society, is a challenge which this Policy prioritises. This is to be done by eliminating the various barriers which deter children from effective engagement, resulting in the creation of further marginalisation. It is recommended that respect is promoted and that positive images of all children are portrayed.
7.4 TOOLS FOR SOCIAL INCLUSION

7.4.1 INTERCULTURAL DIALOGUE

Culture is an intrinsic tool in combating social exclusion, and in helping communities to overcome discrimination. Cultural diversity is a reality which every European country is experiencing. While it is recognised that diversity is an asset for societies, it is also acknowledged that it can create challenges. When diversity is rejected by members of a society, social exclusion and tension result. Struggling to eliminate such perceptions is, thus, necessary for societies to develop a sense of community through intercultural dialogue.

International conventions on human rights specify that cultural traditions, regardless of whether they represent the majority of the people, or a selected few, cannot trump on universal rights. Recognition and respect for diversity requires a commitment which fosters dialogue, perceived as an antidote to conflict. Democratic participation entails that all people are given the opportunity to cultivate their identity and traditions and be able to exchange their views openly. Society is, thus, encouraged to adopt a cross-sectoral approach which encourages constructive communication between cultures. Stakeholders involved in the ambit of education, employment, training, health, economy, justice, social policy and recreation should promote interaction between people coming from different cultures, as a positive and growing experience. This is reiterated in the Manifesto for Children, launched by the Commissioner for Children in 200890, which states:

‘Children often come into contact with children from different cultures. It is vital to encourage cross-cultural understanding and respect for different cultures in the classroom, and in recreational activities. This requires further efforts to foster cultural sensitization among teachers and youth workers.’

Manifesto for Children

All persons are entitled to live as equals, and to enjoy the rights conferred to them. Hence, society is responsible to build the framework which safeguards their rights. Meaningful participation can be best promoted by creating a culture which values pluralism. It is acknowledged that early education and care is a crucial vehicle in this mission. Through inculcating in children an appreciation of diversity, and an understanding of the dynamics of the plurality of ideas, beliefs and traditions, children learn to integrate in a heterogeneous society which belongs to all. By realising that what distinguishes people is what makes them unique, children learn the principles of human rights, which promote mutual respect.

Structural barriers to dialogue and participation, which can take many forms, are not to be tolerated. Discrimination and exclusion of people is an affront to the well-being of society. It is recommended that a culture, which is supportive of diversity is encouraged. This should be the cornerstone of a society which values democracy, inclusion and cohesion. It is, therefore, required that a multiplicity of initiatives are undertaken which ensure that equality of opportunity is secured. Urban spaces which foster intercultural exchanges should be created. These could include recreational spaces, sports complexes, community centres and schools. Through formal, informal and non-formal education, programmes and initiatives can be taken which encompass the elimination of stereotypes, and the appreciation of diversity. Within the formal curriculum, intercultural dialogue should span across subjects. Through creative and innovative approaches, children could acquire the tools needed to recognise the value of intercultural relationships. Voluntary organisations and communities should also foster intercultural dialogue through their projects. Involving people from different backgrounds enhances activities, as well as democratic citizenship. The media can also play a significant role in portraying good practices of intercultural interaction.

Children who are discriminated as a result of their cultural background, or who require special care, are to be protected by the State. This calls for coordination at different levels in the protection against discrimination, and the promotion of human rights. Promoting democratic governance across a multitude of sectors is a precondition of social inclusion. Facilitating access, fostering dialogue, and enhancing participation are thus central tools which Government is encouraged to support, in order to achieve equality.
7.4.2 SPORTS
It is acknowledged that sport denotes a number of constructive features, essential for the development of the child. Sport, apart from being a physical activity, enhances mental well-being, as well as being a means of empowerment. Through sport, children learn to build social competences and networks. Furthermore, sport is also a driver of social inclusion.

The contribution that sport yields by being a facilitator of social cohesion, through the integration of people with different needs and abilities, is significant. When participating in sport, children learn to build partnerships, and engage in a healthy social interaction. Sport can be viewed as an instrument which fosters social inclusion, through integrating people coming from different backgrounds. Apart from being a fun activity, sport gives the opportunity to children to create networks and build trust, through teamwork. Sport enables the child to understand the relationship between the process and the task, which are both significant for the outcome. Through engaging in sport activities, children learn to cooperate with others, and understand that different skills and competences can lead to a common goal.

It is recommended that access to sport activities, through supporting sport structures and encouraging sport-related activities, is assured. Social inclusion of vulnerable groups through sport, is to be given foremost consideration. Schools and sport organisations are to be supported in the provision of necessary facilities to accommodate the needs of all social groups. Investment of the business sector to accomplish this objective is encouraged. Schools should also be supported in promoting sport as a source of social inclusion, which leads to community building.

Recognising the role that sport plays in encouraging and promoting inclusion is, hence, necessary when developing programmes and actions which target children coming from vulnerable backgrounds. A coordinated approach between different policy domains, including education, sport, youth, health, local governance and welfare could lead to a better appreciation of the value of sport in the social spectrum. It is further recommended that actions are designed, which ensure the availability of facilities, accessibility of resources, and integration of individuals. By doing so, children are given the opportunity to develop and acknowledge the function sport plays as a pioneer of social inclusion.

**KEY POLICY ACTIONS: INCLUSION**
1. Investing in education services, training opportunities, recreational facilities and support structures promoting inclusion and diversity.
2. Equipping spaces with quality services and tools which foster inclusion, whilst assisting stakeholders in eliminating existing barriers.
3. Promoting different tools for social inclusion in all sectors of society.

**REFERENCES**
"CULTURE: IMPORTANT BECAUSE WE STRENGTHEN CREATIVITY AND EXERCISE OUR MINDS; WE LEARN MORE; CULTURE MAKES US HAPPY; IT IS IMPORTANT BECAUSE IT SHOWS US THAT WE ARE MALTESE"
“Children are naturally curious, self-motivated learners. That capability is still within us all. If you provide the right tools in an interesting environment, people will create their own path to discovery.”

George Lucas

CHAPTER 8

Creativity

8.1 DEVELOPING CREATIVITY

Creativity is a distinctive human trait which can be developed at different stages of the life cycle. From the years when a child is born, children start interacting with the world around them, engaging in exercises through which they start to explore and give meaning to their surroundings. This experience is an essential part of their formative years, and from this innate curiosity, creativity develops.

Allowing creativity to be nurtured is a public concern, which needs to be respected and promoted across different dimensions. It is recognised that given the right environment and the necessary conditions, children are able to engage in experiences which offer them the opportunity to process ideas, be innovative, think flexibly and use their imagination in different ways.

The outcomes yielded from enabling creativity are recognised both at the individual and societal level. Through the development of creative and critical skills, children become more responsive to planning, problem-solving and risk-taking. Moreover, they develop the dispositions that stimulate resilience, concentration, and personal and social development. At the macro-level, endorsing the national priority to invest in human resources entails tapping into skills which promote creative thinking. It is believed that such skills are instrumental in ensuring that societies are adequately equipped to address present and future challenges. Although the notion of creativity is often associated with the arts, it is to be understood that creativity is not specific to a particular subject.

Children can come across the creative experience through various forms, which may include, but are not limited to, emotional development, problem-solving, as well as physical and social sciences. Children should thus be subjected to the creative experience in its different formats through a structured learning framework, which supports the development of the child through creativity, and appreciates the potential of a cross-sectoral approach towards creative learning.

It is recognised that the role of adults in encouraging the development of creativity is essential. Children need to be involved and empowered to explore and experiment, take risks, ask questions, express themselves and be free to use their imagination. Creating the right ambience and understanding the benefits accrued from such approach are thus necessary. Supporting and facilitating the creative process is a task which adults are encouraged to
adopt, if children are to have the needed opportunities to develop their creative instincts. It is understood that time constraints and pressures may instigate adults to focus more on structured thinking. However, it is to be ensured that obstacles which stifle creativity are eliminated.

8.2 NURTURING CREATIVITY THROUGH EDUCATION

In line with the National Cultural Policy which recognises creativity as being a catalyst for the well-being of society, this Policy puts forward the right of children to be engaged in creative activity. Society is to acknowledge that children are to be provided with the opportunities to develop a wide range of competencies which encourage them to flourish, in whatever they are meant to be.

It is recognised that the education system at all stages, plays a central role in enhancing the appreciation of culture, and in instilling creativity in children. This entails the understanding that creative learning cannot be separated from other notions of learning inherent in the education structure. Children and young people should thus be encouraged to develop their thinking skills, through opportunities for creativity and innovation.

Ensuring that children are given the opportunities needed to experience creativity and culture entails understanding that creativity is not just about aesthetic arts, but should be applied across all subjects. Creative learning should be mainstreamed in the curriculum, and in turn translated into the pedagogy used in the classroom. Rather than having an education system which focuses on texts, students are to be encouraged to engage more through creative means, which foster movement, free thinking and experimentation. As Ken Robinson suggested in his speech about creativity and education, ‘Creativity now is as important in education as literacy, and we should treat it with the same status.’

It is acknowledged that for schools to be turned into creative hubs, structures are to be strengthened, and professional development encouraged. It is recommended that teachers are provided with the resources needed to create the desired environment in the classroom which instigates creativity. Training is to be offered also to other professionals working in the education sector, who are to be encouraged to facilitate the development of children’s creative abilities and cultural appreciation. Highlighting the role of culture and creativity in the development of competencies, requires a reconsideration of the education system by ensuring that the curriculum and the school syllabus reflect the significance of creativity. Moreover, it is to be ensured that the methods used in the classroom and in the assessment of skills, explicitly recognise the importance of creative and cultural education in school policies.

Research conducted with schools, in the primary and secondary sectors, by the Creative Economy Working Group, within the Ministry of Finance, the Economy and Investment, analysed the participation of children through school visits in the cultural and creative industries, for the scholastic year 2008/2009. The research had a 71% response rate from State schools. Response rates for independent and church schools were low, and hence were not included for the purpose of the study. The Working Group calculated the average number of visits per year by different cultural or creative sector. The research analysis indicates that in the primary sector, all students went on a ‘Heritage’ related visit, and 6 out of 10 students went on a second visit. Within the secondary sector, on average every student went on a visit which was related to ‘Heritage’. These conclusions indicate that ‘Heritage’ was the most popular culture related activity within State schools. Heritage for the purpose of this study includes museums, cultural, historical and archaeological sites, and crafts-related visits. The latter were the least popular in the visits related to ‘Heritage’.

The second most popular area in the cultural and creative sector was ‘Arts’ which included visual arts, performing arts, and music. Within the Primary sector, 8 in every 10 students went on an ‘Art’ related visit. In Secondary education, the number fell to 6 out of 10. The most frequent visit in this area was theatre-related.

The third area of popularity in State schools was ‘Media’. On average, in the Primary sector, 7 out of 10 students attended a ‘media’ related visit, whereas in the Secondary sector, the number of students was 5 out of 10. In this area,
Creativity

It is to be noted that when excluding visits to the cinema, visits related to film and video production and distribution, film servicing, publishing and printed media television, radio and other broadcasting, were sparse, with an average of 0 and 1 in every 10 students, in both the Secondary and Primary sectors.

The ‘Creative Business Services’ sector was the least attended, according to this research. The number of children in the Primary sector attending a visit related to this area was nil. Such area includes interior, graphic and fashion design. The average for students in the Secondary sector averaged to 2 students out of 10.

This research should prompt policy-makers and educators to offer more opportunities to children at all ages, to experience the different areas of cultural and creative activities. Whilst visits to more conventional sites are not to be reduced, schools are encouraged to promote all forms of cultural and creative dimensions. Acquisition of the abilities derived from participation and engagement in the creative sector are to be prioritised. The budgetary measure launched in 2011, which entitles students in the first three years of secondary school to a fixed amount of €15, through a ‘Culture Card’ that is to be utilised for eligible cultural activities and artistic productions, is an applaudable initiative. Yet, this Policy aims to encourage Government to extend this measure, so that all children, irrespective of age, are given the possibility to engage in the cultural and artistic sectors. As the Manifesto for Children stipulates, ‘Culture is the birthright of every child, contributing towards their creativity and identity formation. They have a right to know, understand, and explore their culture in a creative way. Opportunities and accessibility to culture and the arts should continue to be built upon and provided for children, in order for them to not only learn about culture and the arts, but to enjoy it.’

It is encouraged that schools work in partnership with creative professionals, through artists-in-schools programmes, ensuring that children are given the opportunity to interact with artists and to understand the benefits derived from creativity. Furthermore, schools need to enhance their collaboration with organisations involved in the areas of creativity and culture. More child-related initiatives are to be undertaken at a national level, for children to have more opportunities to participate in cultural events in which children have a leading role. The State and the business industry are encouraged to support cultural organisations to invest more in children’s and young people’s cultural activities and festivals. Museums, theatres, and orchestras occupy a central role in promoting collaboration, and in supporting children to be active participants. Out-reach programmes in the community are also significant in nurturing an appreciation of creative and cultural activities in children. Moreover, it is recommended that creative development is also used in other settings, including rehabilitation programmes and institutional settings.

The developments in new technologies and communication tools are characterising today’s societies,

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opening up an array of possibilities for showcasing messages, networking, and accessing information. From the advent of the internet to Facebook and YouTube, together with the rapid development of high-tech mobile phones, children and adults’ means of gathering information and communicating are going through a transformation. This may result in imbalances between adults and children, and more pressure on adults who are to learn the function of the new technologies and be familiarised with such devices. Schools are to ensure that these tools are also referred to in the classroom, and that every child is given the opportunity to use these new forms of technology, and learn the creative aspect which is connected to them. It is to be recognised that children are being reared in an era characterised by these new means of technology, and it is thus imperative that learning is not estranged from this context.

Nurturing creativity entails that children are given the opportunity to develop ideas, to explore and experiment, to interact, and to be able to express their views. As Malta will be hosting the European Capital of Culture in 2018, schools, local councils, and organisations related to creativity should be encouraged to enhance the significance presently attached to creativity in Malta’s school system, and promote children’s participation within the functions of the education spectrum. Countries around the world are recognising the positive implications derived from investing in creativity, both for the well-being of the individual and for the competitiveness of the nation. It is crucial that all children are given the necessary space to cultivate their talent and to learn new competencies synonymous with 21st century exigencies.

**KEY POLICY ACTIONS: CREATIVITY**

1. Nurturing creative learning and creative development across different spheres of society.
2. Supporting cultural organisations and educational settings to invest more in children’s creative and cultural appreciation and involvement.
3. Engaging in more child-related initiatives and the encouragement of an enhanced collaboration between schools and organisations involved in the areas of creativity and culture.

**REFERENCES**

“I wish a playground will be built like that at Ta’ Qali but on a smaller scale. I wish to have a beautiful place in Gozo. That is all I wish – that’s all.”
“Children need the freedom and time to play. Play is not a luxury. Play is a necessity.”
Kay Redfield Jamison

CHAPTER 9
Leisure

9.1 PLAY
The draft National Children’s Policy adheres to the belief that play is a basic need for all children, and that fun should be a key characteristic in their childhood. The United Nations Convention on the Rights of the Child specifies that:

‘(1). States Parties recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
(2). States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.’

Article 31, United Nations Convention on the Rights of the Child

Changes affecting society lead to transitions in other areas within the community. Throughout the years, society went through lifestyle variations, environmental changes, advances in technology, and changes in the broader structures characterising society. These transitions have brought about a change in children’s play as compared to what and how adults played when they were young. A commitment to present children with play opportunities entails understanding the dynamics in which children play. Whilst in the past, play was characterised by outdoor activities, today children play more in their homes. Toys and devices used for play have increased, but play has become more individualised, especially since the advent of videogames, computers, internet, and other recreational technological tools. These have led to a more sedentary form of play. Moreover, changing lifestyles with more commitments related to schoolwork after school hours, and activities during the week, as well as the demanding way of life of parents, especially where both are engaged in the labour market, have contributed to a change in play structure. The environmental changes have also affected the way children play. Streets have become busier, traffic and pollution have increased, and green areas have been reduced. As a consequence, outdoor playing is, for many, no longer an option.

Whilst recognising that societal fluctuations are producing new meanings to the definition of play, it is to be stipulated that play is a fundamental feature for the development of the child. Play is central, in that it conceptualises what is spontaneous and pleasurable, and above all, non-productive. In play, children are given the
possibility to choose freely their level of engagement, and are often confronted with their first experiences of active participation.

In congruence with the objectives set out in the Convention, this Policy aims to raise awareness on the value of play for the well-being of children. For young people to be able to develop into happy and healthy citizens, they are to be endowed with an environment which encourages them to play and to enjoy themselves in activities which are enriching, and which have no extrinsic goals. Recognition that play is not an add-on in the life of the child, leads policy-makers to focus more on this topic, which is seldom given the desired attention. It is, hence, an objective of this Policy to encourage the improvement of play opportunities for all children.

A commitment across different governmental structures is to be taken, to ensure that children who have additional needs are not deprived from their right to engage in play. Opportunities for play should be inclusive and equitable. Focusing on the child entails, that the diversity and the multiple needs of children are recognised and given attention to. All children should have an equal opportunity to access play. This involves ensuring that children who have additional needs, and who are going through vulnerable situations, are given attention. Action oriented towards the creation of play structures and facilities should, thus, include all children who are to some extent marginalised or at-risk-of exclusion.

Play opportunities should therefore be child-friendly. Hospitalised children are to be provided with all the necessary facilities to make their experience as close to their normal environment as possible. The use of play therapy, when possible, is also to be promoted. Children are to be engaged in play to help them deal with their illness and their stay in hospital. It is moreover to be recognised that asylum-seeking children are to be offered the opportunities, spaces and facilities needed to engage in play activity. Play should be an intrinsic part of their protection and care. Children who are at-risk-of exclusion may be further marginalised in play activities. Difficulties in accessing play, and a lack of toys and equipment, usually associated with play and inherent for their peers, are challenges which deserve attention. Opportunities of play should also be guaranteed to children in conflict with justice. The belief that play is a tool for social inclusion, and is beneficial for the development of children, should be rooted in all social programmes.

It is acknowledged that play structures are also to be disability-friendly. Physical and social access to play should be the norm. Whilst recognising that play facilities in institutions, specifically designed for children with disabilities are available, this Policy encourages authorities to design public play facilities according to the needs of all children. The promotion of equality should be endorsed at all levels and in all sectors. When planning the construction of playgrounds, and organising play activities, individuals are to recognise the difficulties that some children may have, and act on addressing such barriers.

The educational setting is central for accessing play and ensuring that all children acquire skills by engaging in play. The use of school buildings can provide opportunities for the development of play in the local community, even after school hours. Moreover, within school hours, it is recommended that children are not limited to play solely during the designated break time. The use of play in the teaching of subjects should be part of the national curriculum. Through play, children learn new social competencies, and are encouraged to interact with their peers. Play-based initiatives are central in early childhood. Childcare settings are, thus, to be encouraged to continue developing their schedules on concepts of play, education and care.

Government is encouraged to ensure that quality play provision is a criterion in all public structures, which are related to children. Community resources, including libraries, provide an opportunity for children to engage in play, whilst also benefiting from the services offered. Public libraries are thus to be transformed in fun centres, and in gateways of opportunities for developing skills and competencies through enjoyable activities. It is recommended that an investment is made, so that libraries, apart from a selection of books, offer opportunities for active participation and for creative experiences, through workshops, story-telling, and music, drama and dance.
events which involve children. Moreover, it is further suggested that libraries are equipped with educational videos, DVDs and CDs which children can publicly access.

At a national level, there is no single Ministry or Government Department responsible for play. Rather play is the responsibility of a number of stakeholders involved in the different elements related to the provision of play. These include urban development, quality standards, access, health and safety, education, transport and local governance. A coordinated strategic focus is, thus, encouraged so that the subject of play is given the deserved attention. Decisions on the development of play facilities should be done together with children. Participation in the planning and designing of play opportunities, ensures an enhanced appreciation of the public commitment invested in children’s aspirations. Partnerships with the business sector, local councils and voluntary organisations are encouraged so that the amenities needed for play are increased.

Quality standards and safety issues are central elements in play. Authorities are to ensure that on a national and local level, play provision is matched with concerns and assurance of safety. Equipment and toys used are to be certified, as in accordance with Legal Notice 50 of 2011, which establishes the Safety of Toys Regulations, transposing the EC Directive. This Policy further encourages authorities to monitor facilities and to conduct periodic evaluations, to ensure that play facilities meet the desired standards.

9.2 RECREATION

Young people in their secondary school years require other forms of recreational activities than the ones associated with their early childhood years. As adolescents begin to experience the transition from infancy to teenage years to adulthood, they necessitate organised activities and structures which ensure that their recreational needs are met. The World Health Organisation recognises leisure-time as a necessary stage in the life of a person, especially where young people are given the opportunity to actively participate in the forms of recreational activity. Recreation is crucial for self-expression, development of identity, and feelings of autonomy. It can also offset stress, tension, and sedentary lifestyles.

Leisure time is not only an entitlement for young people. It is also a means where they build personal relationships with their peers, and extend their network of friends, through independent and unconventional methods. Agency with their cohorts is central for young people’s socialisation process. Exploration and experimentation are also synonymous with this phase. Young people are to be prepared by the education system for the transitions which they will come across, ensuring that young people understand both the positive features emanating from adolescence, and the negative consequences of erratic behaviour.

As with play, recreational activities have changed along the years. Consumerism is characterising today’s societies. Young people are confronted with new commercials on a daily basis, advertising products which become a must for individuals of the same age-groups, often creating further cumbersome challenges for those families who do not afford such products. Failure to comply with these norms may produce adverse effects for young people, who do not conform to the trends of the day. Society, parents and the education system have the arduous role of educating children and young people about the negative consequence of adverts and consumerism. Technology-oriented recreation, which includes surfing the internet, networking on new social media, watching television, and playing videogames, are the prevalent activities among teenagers and young people. These new forms of technology compel society to ensure that young people are protected against the misuse of these sources.

Young people are to have the opportunity to engage in leisure activities. These can take the form of either organised activities, or casual activities. Adolescents are thus to have age-appropriate activities and spaces where they can interact with their peers. As with play, recreation is to be inclusive, and should address the multiple needs that a heterogeneous group comprises. Recreational activities are to ensure that anti-social behaviour is not legitimised. Regulations are to be abided by, and the inappropriate use of substance consumption regulated. The solutions can be either the promotion of organised activities, which do not display or sell any form of alcohol or drugs, or have a sound regulatory framework which
ensures that young people do not consume substances which are prohibited for their age. Education is central in this context. This Policy adheres to the belief that transgression is best avoided if young people are engaged in decision-making, and are educated about the consequences which anti-social behaviour leads to.

In line with the National Youth Policy, action plans targeted at young people should involve them, and should give particular attention to the diversity of perspectives inherent in adolescents. Strategic frameworks centred on young people and leisure are to be equitable, ensuring that all young people have access to recreation activities, and the opportunities needed to actively engage in such activities. Structural barriers encountered by young people coming from vulnerable backgrounds can be the main cause of constraint, segregating adolescents from mainstream recreational activities. Adequate and quality supports are thus to be prioritised, ensuring that all forms of obstacles hindering participation are eliminated. Social, economic, physical and attitudinal access to recreational activities should be safeguarded. Leisure-related activities for young people who are in an institutionalised setting, are central for their development and well-being. Recreational activities can be a successful means of rehabilitation or recovery. Authorities are thus encouraged to make use of such practices, where it is feasible and appropriate to do so. Moreover, it is encouraged that equipment related to multi-media and other tools of interest to young people are available in public spaces, frequented by young people in vulnerable situations. These include hospitals, juvenile centres, protection service centres and institutionalised settings amongst others.

Volunteering is a means, through which the energy and dedication of young people, is translated into beneficial causes for the community and society at large. Through volunteering, adolescents develop new skills and competencies, which are crucial for their development. The active contribution that young people give to society, as well as the benefits derived from voluntary activity should be formally recognised by society. It is thus recommended that the necessary procedures are undertaken, so that young people who are engaged in some form of voluntary activity are formally accredited for the service they give to society.

Physical activity should also be promoted as a means of recreational activity. Both within and outside the school boundaries, young people should be encouraged to participate in different forms of physical activity. Sedentary lifestyles, an increase in saturated foods, and a lack of involvement in physical activity, are principle causes of the high rates of obesity registered in Malta. The Health Behaviour in School Children (HBSC) study, which is a World Health Organisation (WHO) initiative, indicates that in 2006, Malta registered the second highest proportion of obese or overweight children amongst 11 and 13 year olds, and the overall highest proportion of

![Percentage of School Children Aged 7-11 Obese or Overweight](image)
obese or overweight 15 year olds when compared to the 41 countries participating in the study. In all three age groups, between 28% and 31% of children have a self-reported Body Mass Index (BMI) that is greater than 25. The International Obesity Taskforce (IOTF) data indicates that over 35% of children in the 7 to 11 year age group in Malta are overweight or obese. A study on 6 to 7 year olds carried out in 2008 found 26.1% of boys and 29.58% of girls to be overweight and obese, according to the 2007 WHO Child Growth Standards (European Child Growth Surveillance Initiative (ECOSI) Malta 2008). Physical activity is not only synonymous with healthy development, but entails also an element of fun. Physical Education lessons are to motivate children and young people into perceiving physical activity as a life-long involvement, which is enjoyable and stimulating.

National Government is encouraged to continue investing in recreational spaces for young people. Corporate entities, as well as local governance and voluntary organisations, should engage in partnerships which create the appropriate environment that enhances the personal and social development of young people. Cultural entities, sport organisations and libraries can also play a significant role in empowering young people to be involved in their functions, through youth-oriented and innovative activities. Special efforts are to be made to ensure that facilities and spaces for leisure are accessible to all. A coherent action plan guarantees that recreational facilities are centred on young people’s needs and desires. Ultimately, it is crucial that all stakeholders acknowledge that the benefits derived from actively participating in recreational activities are considerable.

**KEY POLICY ACTIONS: LEISURE**

1. Encouraging inclusive and equitable play opportunities for all children.
2. Ensuring that quality play provision is a criterion in all public places related to children.
3. Ensuring that young people have age-appropriate activities and spaces for leisure, whilst guaranteeing that quality standards, safety and regulatory issues are followed and enforced.

**REFERENCES**

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CHAPTER 10

Turning vision into practice

10.1 IMPLEMENTING PRINCIPLES

Upholding the principles outlined in this Policy necessitates commitment from all stakeholders involved in the sphere of children. These include government entities, private organisations, the voluntary sector and families. The aim is to have a society which respects and values every child, and which works towards the realisation of the full potential of all children, regardless of the different characteristics which they have. The United Nations on the Rights of the Child should be viewed as a framework for concerted action, enticing society to view the child as a whole, recognising children as partners and equal and active citizens.

Appreciating children’s contribution towards society entails reflecting on the dimensions to be adopted to ensure good practice, and the receptivity needed to guarantee a developmental process which upholds the child as a human being having human rights. Critical success factors emanating from this policy hence entail understanding better children’s needs and interests, giving them a voice as active participants in society, and guaranteeing that they have quality services and support structures.

It is therefore augured that following this Policy, a concrete strategy is formulated which takes a multi-disciplinary perspective, establishing the changes which need to come into force to translate this Policy into action. The strategy is to encourage the participation of children, and to ensure that the dynamic and multiple needs experienced by young people are given the required attention. The objectives outlined throughout the Policy centre around the child as the holder of rights, and a subject liable to vulnerability. It is thus central that the building blocks which this Policy aims to instigate are taken up by the stakeholders involved. Ultimately real success can be analysed if children themselves feel the positive change.

10.2 KEY POLICY ACTIONS

10.2.1 WELL-BEING

1. Encouraging an integrated approach which focuses on the holistic development of the child through early and preventive intervention services, access to provision, and support mechanisms.
2. Assisting stakeholders through further investment in training and resources.
3. Ensuring that a strategic approach is adopted through
further monitoring, impact-assessments, awareness-raising and sensitisation of information.

10.2.2 RIGHTS AND OBLIGATIONS
1. Encouraging Stakeholders to learn about rights and obligations, whilst ensuring that such rights are mainstreamed in all policies and actions.
2. Promoting coordination of services across different sectors of society.
3. Ensuring that existing ambiguities are adequately addressed, and that current legislation, policies and practices are compliant with international obligations.

10.2.3 PROTECTION
1. Ensuring that legislation, policies and services are systematically reviewed.
2. Carrying out the necessary studies to ensure that the protection of children in different spheres is enhanced.
3. Encouraging multi-agency training and enforcement mechanisms to promote protection and curb all forms of abuse.

10.2.4 ACTIVE PARTICIPATION
1. Promoting empowerment and active involvement of children at all levels of society.
2. Ensuring that policy-practice relevance in active participation is visible throughout society.

10.2.5 INCLUSION
1. Investing in education services, training opportunities, recreational facilities and support structures promoting inclusion and diversity.
2. Equipping spaces with quality services and tools which foster inclusion, whilst assisting stakeholders in eliminating existing barriers.
3. Promoting different tools for social inclusion in all sectors of society.

10.2.6 CREATIVITY
1. Nurturing creative learning and creative development across different spheres of society.
2. Supporting cultural organisations and educational settings to invest more in children’s creative and cultural appreciation and involvement.
3. Engaging in more child-related initiatives and the encouragement of an enhanced collaboration between schools and organisations involved in the areas of creativity and culture.

10.2.7 LEISURE
1. Encouraging inclusive and equitable play opportunities for all children.
2. Ensuring that quality play provision is a criterion in all public places related to children.
3. Ensuring that young people have age-appropriate activities and spaces for leisure, whilst guaranteeing that quality standards, safety and regulatory issues are followed and enforced.