

MALTA

Stephen Christopher Vella¹

I. Methodology

Various methods and sources have been availed of in the compilation of this report, mainly accessed by means of interviews held with key persons² working in the respective field. Prior to these interviews, a set of questions, pertinent to the specific field/expertise, were distributed to the concerned, thus facilitating the compiling of definitions and statistics.

These interviews on a nation wide scale were facilitated by the advantageous size of the island of Malta, which in studies of this sort favour the accessibility and collation of data.

All pertinent institutions were consulted in order to gather the relevant information. Annual and statistical reports of governmental and non-governmental organisations were used to obtain definitions and the essential statistical data necessary to render this report academic.

II. National definitions on sexual exploitation and disappearance of children in comparison with general definitions

A. Definition of child/minor

Age of majority (civil responsibility) is eighteen (18) years.

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² The following professionals were either interviewed or consulted: Ms. Sonia Camilleri - Commissioner for Children; Superintendent Alexandra Mamo and Inspector Sharon Tanti from the Malta Police Force - Vice Squad; Inspector Paul Caruana Malta Police Force - Cyber Crime Unit; Mr. Bryan Magro Policy co-ordinator within the Ministry of the Family and Social Solidarity; Ms. Micheline Sciberras Policy co-ordinator within the Ministry of Education, Youth and Employment; Ms. Carmen Galea - Child Safety Services Unit within the Education Division; Mr. Joe Camilleri - Senior Social Worker - International Abduction; Mr. Arthur Azzopardi - Health Division; Ms. Ruth Sciberras - Manager Child Protection Services - APPOGG; Mr. Josef Vella - Helpline 179 - APPOGG; Ms. Charmaine Sant - Co-ordinator Child Protection Services - APPOGG; Mr. Gordon Sammut Research Officer - APPOGG; The National Statistics Office; and Dr. Elaine Ellul legal advisor for the Foundation for Social Welfare Services. Thank you!

The legal age of consent for a sexual activity is eighteen (18) years.

The age of consent for civil marriage is sixteen (16) years, which is also the minimum age for employment. (The average age of marriage in Malta is 24-26, and women generally have their first child at age 28.)

The Commissioner for Children and all the national agencies rendering services in the social field classify all those under the age of eighteen (18) as minors. Schooling is compulsory through age 16.

B. Definitions of forms of sexual exploitation of children³

1. Sexual assault

Law enforcement and criminal law definition

The Maltese Criminal Code, Chapter 9 of the Maltese Laws, specifies and clearly distinguishes the various types of sexual assault:

Article 198 on *Rape and carnal knowledge with violence*, states that whosoever shall, by violence, have carnal knowledge of a person of either sex, shall, on conviction, be liable to imprisonment for a term from three to nine years, with or without solitary confinement.

In Article 201 on the *Presumption of violence in cases of carnal knowledge and indecent assault*, states that unlawful carnal knowledge and any other indecent assault, shall be presumed to be accompanied with violence:

- a. when it is committed on any person under 12 years of age;
- b. when the person abused was unable to offer resistance owing to physical or mental infirmity, or for any other cause independent of the act of the offender, or in consequence of any fraudulent device used by the offender.

In Article 202 on *Aggravating circumstances*, affirms that the punishment prescribed for any of the crimes referred to in the preceding articles shall be increased by one degree in each of the following cases:

- a. when the offender has availed himself of his capacity of public officer, or when the offender is a servant of the injured party, with salary or other remuneration;
- b. when the crime is committed by any ascendant, tutor, or institutor on any person under 18 years of age; when the crime is committed on any

³ The general research definition adopted to compare the various country reports is widely respected and emerges in all local definitions.

- prisoner by the person charged with the custody or conveyance of such prisoner;
- c. when the offender has in the commission of the crime, been aided by one or more persons;
 - d. when the offender has, in the commission of the crime, made use of any arms proper;
 - e. when the person on whom the crime is committed, or any other person who has come to the assistance of that person, has sustained any bodily harm;
 - f. when the person carnally known has not completed the age of 9 years.

Article 203 specifically deals with the *defilement of minors* and states that whosoever, by lewd acts, defiles a minor of either sex, shall, on conviction, be liable to imprisonment for a term not exceeding three years, with or without solitary confinement; Provided that the offence shall be punishable with imprisonment for a term from three to six years, with or without solitary confinement, in each of the following cases:

- a. if the offence is committed on a person who has not completed the age of twelve (12) years, or with violence;
- b. if the offence is committed by means of threats or deceit;
- c. if the offence is committed by any ascendant by consanguinity or affinity, or by the adoptive father or mother, or by the tutor of the minor, or by any other person charged, even though temporarily, with the care, education, instruction, control or custody of the minor.

Furthermore this article states that whosoever *instigates, encourages or facilitates the defilement of a minor* of either sex, shall, on conviction, be liable to imprisonment for a term not exceeding 2 years.

ii. Social work organisations definition

APPOGG, the National Agency that intervenes whenever and wherever a case of sexual abuse is reported defines sexual abuse as follows: involves forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetrative acts (e.g. with objects, rape or buggery) or non-penetrative acts. They can include non-contact activities such as involving children in looking at, or in the production of pornographic material or watching sexual activities, or encouraging children to behave in sexually inappropriate ways.

The Education Division⁴ within the Ministry of Education, Youth and Employment states that sexual activity between adults and children (any person under 18 years of age) is always abusive because children by definition are unable to give consent. Sexual abuse is any sexual activity where adults try to use children for their own sexual intentions. This may involve contact sexual abuse, such as: petting, mutual masturbation, forced masturbation, vaginal and anal intercourse, prostitution, etc. It also includes non-contact sexual abuse, such as: pornography, voyeurism, exhibitionism, sexualised comments, etc. Sexual abuse may be perpetrated by both family and non-family members. A Child Safety Services Unit⁵ within this Ministry has been set-up in 2002 to offer support to cases reported by schools.

The above referred Child Safety Services Unit defines sexual abuse as any activity where adults try to use children for their own sexual intentions. It is the actual or the risk of sexual exploitation of a child or minor. Sexual abuse is regarded as such whether perpetrated by family or non-family members.

2. Child prostitution

General research definition

Coercing or recruiting a child into prostitution, profiting from or otherwise exploiting a child for such purposes

Law enforcement and criminal law definition

Article 197 of the Criminal Code specifically deals with *prostituting of descendant under age by ascendant*, and states that any ascendant by consanguinity or affinity, who, by the use of violence or by threats, compels, or by deceit, induces any descendant under age to prostitution, shall, on conviction, be liable to imprisonment for a term from 3 to 6 years, with or without solitary confinement.

The same punishment shall be applied to any husband or wife or tutor who, by the use of violence or by threats, compels, or, by deceit, induces to prostitution his or her spouse under age or the minor under his or her tutorship.

Furthermore, Article 204 states that, whosoever in order to gratify the lust of any other person, induces a person under age to practise prostitution, or instigates the defilement of such person, or encourages or facilitates the prostitution or

⁴ *National Policy on Child Protection* – Procedures for Schools, Ministry of Education 1999, 14.

⁵ Child Safety Services (CSS) The provision of interventive and preventive services to students, parents and schools. Child Safety Services strives to offer effective and professional services catering for the needs of children who have experienced abuse. The unit delivers a number of prevention programmes to students, parents and staff in the educational establishments.

defilement of such person, shall, on conviction, be liable to imprisonment for a term from eighteen months to four years, with or without solitary confinement. It is considered as aggravating circumstances punished with imprisonment for a term from two to six years if the offence is committed to the prejudice of a person who has not complete the age of twelve (12) years:

1. if the offence is committed by deceit;
2. if the offence is committed by any ascendant by consanguinity or affinity, by the adoptive father or mother, by the husband or tutor of the minor, or by any other person charged, even through temporality, with the care, education, instruction, control or custody of the minor;
3. if the offence is committed habitually or for gain.

3. Child pornography

Law enforcement and criminal law definition

Article 208A of the Criminal Code states that, whosoever, any citizen or permanent resident of Malta, whether in Malta or outside Malta, as well as any person in Malta, who takes or permits to be taken any indecent photograph, film, video recording or electronic image of a minor, or distributes or shows such indecent photograph, film, video, or recording or electronic image, or is in possession of such indecent photography, shall, on conviction, be liable to imprisonment for a term not exceeding 6 months or to a fine (multa) not exceeding 200 Malta Liri (approximately Euro480), or to both such imprisonment and fine.

A photograph, film, video recording or electronic image shall, if it shows a person under age and is indecent, be treated for all purposes of this article as an indecent photograph, film video recording or electronic image.

Where the offence referred to above is committed by any ascendant to consanguinity or affinity, or by the adoptive father or mother, or by the tutor, or by other person charged, even though temporally, with the care, education, instruction, control or custody of the person under age shown in the photograph, film, video recording or electronic image, or where such person under age has not completed the age of 9 years, the punishment shall be of imprisonment for a term from 7 months to 1 year, with or without solitary confinement.

Amendments to the above article are solicited to cater for cyber crimes. The consultative report issued by the Child Abuse over the internet Task Force amongst its proposals one would find that term ‘offering’ should be included in the text. The terms ‘appearing to be a minor’ should also be included. The latter amendment is necessary when one considers the possibility of producing pornographic material utilising dummies, virtual characters and other similar

material. The term ‘or any other format’ should be included in order to cover all material that is illegal irrespective of its format.⁶

4. Sex tourism

General research definition

Engaging in sexual activities with a child under the age of sexual consent in another country than the country of origin of the perpetrator.

Engaging in sexual activities with a child above the age of sexual consent in another country than the country of origin of the perpetrator where:

- a) use is made of coercion, force or threats
- b) money or other forms of remuneration or consideration is given as payment in exchange for the child engaging in sexual activities or abuse is made of a recognised position of trust, authority or influence over the child.

Law enforcement and criminal law definition

There is no specific provision in this respect under the Maltese Laws. They are treated under the legislative provisions concerning child prostitution (above).

5. Trafficking in children (sexual exploitation)

General research definition

The recruitment, transportation, transfer, harbouring, subsequent reception of a child (either abandoned or not), including exchange or transfer of control over that child for the purpose of exploitation of the prostitution of others or other forms of sexual exploitation, including in pornography.

Law enforcement and criminal law definition

Article 248(E) of the Criminal Code defines ‘trafficks a person’ or ‘trafficks a minor’ as the “recruitment, transportation or transfer of a person, or of a minor, as the case may be, including harbouring and subsequent reception and exchange of control over that person, or minor, and includes any behaviour which facilitates the entry into, transit through, residence in or exit from the territory of any country for any of the purposes mentioned in the preceding articles of this sub-title as the case may be”.

In this regard, Article 248D states that “whosoever trafficks a minor for any of the purposes mentioned in articles 248A to 248C, both inclusive, shall on conviction be liable to the same punishment laid down in those articles, as the

⁶ Cfr. Ministry for IT and Investment Malta (2002). *Protection of Children from Abuse over the Internet*, Consultative Document, 33-34.

case may be, even if none of the means mentioned in article 248A(2) has been used.”⁷

C. Definitions of types of disappearances of children

1. Runaway (national/international)

General research definition

This category concerns all minors who voluntarily run away from home or from the institution where he/she has been placed.

Law enforcement and criminal law definition

In this regard reference needs to be made to Article 132(2) of the Civil Code which states that “Saving any other provision of law respecting enlistment in any disciplined force, it shall not be lawful for a child, without the consent of the parents, to leave the parental house, or such house his parents may have appointed for him. Where the child leaves the house without such consent, the parents shall have the right to recall him, and, if necessary, demand the assistance of the Police.”

2. Abduction by a third person (national/international)

General research definition

This category covers all abductions of minors by anyone other than the parents or the persons with parental authority.

Law enforcement and criminal law definition

The Criminal Code, Chapter 9 of the Maltese laws, states that any person found guilty of kidnapping, or concealing, an infant, or of suppressing its birth, or of substituting one infant for another, or of suppositiously representing an infant to have been born of a woman who had not been delivered of a child, shall, on conviction, be liable to imprisonment for a term from eighteen months to three years.

The Child Abduction and Custody Act (1999) Chapter 410 of the Maltese Laws ratified the two conventions relating respectively to the civil aspects of international child abduction and to the recognition and enforcement of custody

⁷ For the purpose of this report reference needs to be made solely to article 248B which states that ‘whosoever, by any means mentioned in article 248A(2), (namely violence or threats, including abduction; deceit or fraud; misuse of authority; influence or pressure; and the giving or receiving of payments or benefits to achieve the consent of the person having control over another person) trafficks a person of age for the purposes of exploiting that person in prostitution or in pornographic performances or in the production of pornographic material, shall on conviction, be liable to the punishment laid down in Article 248A(1). (namely imprisonment from two to nine years)

decisions. According to Section 7 of this Act, the First Hall of the Civil Court, which is vested with jurisdiction to hear applications regarding abduction, has the power to give interim directions as it thinks fit in order to secure the minor's welfare or to prevent changes in the circumstances relevant to the determination of the application. An example would be a Court Order to the relevant law enforcement authorities not to allow the abductor from leaving the Maltese islands. Another civil legislative provision which may act as a deterrent to a potential abductor is given by the Maltese Code of Organisation and Civil Procedure which provides for the warrant of prohibitory injunction which may be issued in order to restrain a person from taking a minor outside Malta.

Once the warrant is filed in Court it is decreed upon immediately by the Maltese law courts and is served immediately to the Principal Passports officer and the Commissioner of Police, the Comptroller of Customs and the Chairman of the Malta International Airport. Obviously, the other party is given a time-limit within which to contest the warrant but in the meantime the warrant is in force and shall remain in force for one year to be reckoned from the day on which it was issued, unless within such time the person suing out the warrant shall have, upon an application to that effect, obtained an extension. However, though such extension may be granted more than once, it may not be granted for more than one year each time.

According to the Maltese Criminal Code a person is guilty of abduction if there is violence and there is the intent to abuse or marry such person. Abduction is also punishable as a criminal offence when it is done with intent to traffic a minor for the purpose of exploitation in the production of goods or provision of services. Consequently abduction is prosecuted criminally when committed by a person who had the above-mentioned intentions. The Court can order that a person be prohibited from leaving the islands and such order is usually notified to the Principal Passports Officer, Commissioner of Police, Comptroller of Customs and the Chairman of the Malta International Airport.

3. Parental abduction (national/international)

General research definition

A parental abduction is regarded as the fact of a child being taken away to or kept in a country other than that of its normal residence by one or more of its parents or persons having parental authority against another parent's will or against the will of the person with parental authority.

Law enforcement and criminal law definition

The Child Abduction and Custody Act (Chapter 410 of the Maltese Laws) was adopted by Parliament on 27th July 1999 and entered into force on 1st August 2000. Thus, the Government has ratified the Hague Convention on the Civil Aspects of International Child Abduction (1980) and the European Convention

on the Recognition and Enforcement of Decisions Concerning Custody and on Restoration of custody of Children (1980).

It is designated by law that the functions of the Hague Convention be discharged by a Central Authority which, in the case of Malta, is vested in the person of the Director for Family Welfare. The central authority receives and processes applications while the Attorney General's Office is charged with filing applications to the competent court in such issues.

The main aim of the Convention is to ensure that the children who are abducted from or to Malta by a non-custodial parent will be returned as quickly as possible to the custodial parent. It also serves to recognise and enforce court orders of foreign courts of countries that are parties to this convention.

Criminal proceedings can be instituted by a private party in the case of abduction. Thus a parent can institute such proceedings against the other parent when abduction is committed, by lodging a complaint with the police authorities. The Court can order the confiscation of the passport of the abductor. It can also order that the minor is to be supervised by welfare officers in case there is a danger to the minor's well-being. During separation or custody proceedings the Maltese Court can, on an application for the child's return, declare the removal to be unlawful if it is satisfied that the applicant has an interest in the matter and that the child has been taken from or sent or kept out of Malta without the consent of the person having the right to determine the child's place of residence; a custody order which is inconsistent with an order for the return of an abducted child; or with a decision relating to the child's custody ceases to have effect. Moreover a custody decision given in or entitled to recognition in Malta is not a ground for the Maltese Court to refuse to return a child. However the Maltese Court may take account of the reasons for such decision.

4. Lost, injured or otherwise missing

General research definition

Listed here are disappearance for no apparent reasons of minors who have got lost (e.g. little children at the seaside in summer) or hurt themselves and cannot be found immediately (e.g. accidents during sport activities, at youth camps, etc.).

Law enforcement and criminal law definition

There is no specific reference to this phenomenon in the Maltese legislation.

5. Missing unaccompanied migrant children

General research definition

This category covers the missing migrant children, nationals of a country with which there is no free movement of persons, under the age of 18 who have been separated from both parents and are not being cared for by an adult, who by law is responsible for doing so.

Law enforcement and criminal law definition

There is no specific reference to the phenomenon in the Maltese legislation.

III. Data collection on sexual exploitation and disappearance of children

A. Relevant characteristics of the criminal justice system in your country

Cases related to sexual offences involving minors and such other offences are dealt with by the Court of Magistrates (Court of Criminal Judicature) or by the Criminal Court, in the case of a trial by jury. However, if the offender is a minor himself/herself, but under the age of sixteen years, the case shall be dealt with by the Juvenile Court.

With respect to private crime, certain proceedings under Maltese law may only be initiated upon the complaint of the injured party. For instance Section 544 of the Criminal Code, amongst other sections states that “Criminal proceedings shall not be instituted except on the complaint of the private party in any of the following cases:

- (a) carnal knowledge accompanied with violence;
- (b) abduction;
- (c) violent indecent assault.

Provided that where any of such crimes is accompanied with public violence, or with any other offence affecting public order, criminal action shall be taken independently of the complaint of the private party.”

B. Data collection on sexual exploitation of children in general

Data collection with regard to the sexual exploitation of children in Malta is not organised in a systematic way. At present there is no system of registration. Data collection is decentralised and organised on a number of levels. The Police keep track of all reported cases; social work agencies log the cases dealt with and process the data periodically on a *stand-alone* basis. Due to the lack of one

centralised registration system, the likelihood that same cases are reported at different organisations renders the total sum of cases handled inaccurate.

Furthermore, due to the delicate nature of the abuse, fieldworkers and professionals rendering service on a private practise are not bound to register cases dealt with. This lack of co-ordination and systematic organisation has a direct impact on data collection. In fact, it is not clear what type of information the separate major stake holders collate, who is duty bound to collect it, how it should be organised, and most importantly what impact such data could have to change certain policies.

The Police compile data concerning the victim and the offender (age, gender and relationship to victim/offender) and those concerning the case progress (pending/judged) and results.

C. Data collection on disappearance of children

All data relating to missing children is centralised, compiled and processed by the Police. Currently there are no cases registered of unaccounted missing children in Malta.

D. Concluding remarks

In respect to the statistics on sexually exploited children, collated by the Police force and the social oriented agencies, along with cases reported to private practitioners and institutions (such as the Rapid Response Team of the local Catholic Church⁸), to the author's knowledge, have never been integrated into a one-report in order to give a full picture of this abstruseness.

IV. Qualitative and quantitative data on sexual exploitation and disappearance of children

A. Frame of reference – demographic description⁹

Total general population end of year 2003: 399,867
0-17 years population: 89,745 of which 46,154 males and 43,589 females.

⁸ In 2000 the local Catholic diocese issued a report on the subject dealing with 21 cases involving sexual abuse allegations.

⁹ Data obtained from the National Statistics Office, source: Demographic Review 2003

Population density: 1257 persons per square kilometre - densely populated when compared to the European (24) average which is approximately of 100 persons per square kilometre.

The number of foreign residents represents 2.5% of the total population.

The demography of the child population in residential homes run by Church institutes in Malta and Gozo is different from that in other European countries, in that 52% of children in residential care are <8 years of age to proportionately more adolescents in other countries>. In fact residential care is the predominant form of substitute care for disadvantaged children in these islands.¹⁰

Asylum seekers aged 0-17 years unaccompanied by parent/s and are not being cared for by an adult who by law is responsible for doing so, during 2004: 71 minors. Until February 2005, 46 care orders were issued for this cohort.

Table 1: Maltese Population (0-17) by sex and single years of age (31st December 2003)

Age	Males	Females	Total
0	2,015	2,012	4,027
1	2,060	1,843	3,903
2	2,029	1,915	3,944
3	2,142	2,166	4,308
4	2,223	2,170	4,393
5	2,339	2,223	4,562
6	2,585	2,331	4,916
7	2,581	2,436	5,017
8	2,538	2,335	4,873
9	2,543	2,391	4,934
10	2,731	2,543	5,265
11	2,831	2,688	5,519
12	2,912	2,742	5,654
13	2,933	2,777	5,710
14	2,969	2,885	5,854
15	2,916	2,807	5,723
16	2,875	2,760	5,635
17	2,934	2,574	5,508

The Maltese population like the rest of all other European countries is ageing. The aged-child ratio in the year 2001 consisted of 65 old persons per 100 children.

It is worth noting that in 2003 96.1% of Maltese mothers choose themselves not to work and remain inactive due to their personal and/or family responsibilities. Child-care remains one of the top priorities for most mothers in Malta.¹¹

¹⁰ Cfr. Muscat Baron, A, et al (2001), *The care and health needs of children in residential care in the Maltese Islands*, in Child: care, health and development, 27/3, pp.251-62.

¹¹ National Statistics Office – Malta, News Release No.217/2004, Universal Children’s Day, 3.

Regardless of their physical and mental conditions, all children are given the opportunity to learn. Children with special needs are not only provided with special educational programmes in special schools but are also given the opportunity to integrate with other children in mainstream education. In fact 155 of the children with special needs attend specialised government schools, whilst 1,232 are integrated in mainstream primary and secondary, public and private schools.

B. Qualitative and quantitative data on sexual exploitation of children¹²

1. Sexual assault

Various surveys reveal that the incidence of sexual abuse on minors is more acute than the official statistics depict. One particular survey¹³ carried out in 1995 by university psychology students amongst uncovers a sizeable proportion of sexual abuse occurrences on minors. 75% of respondents stated that they had never been abused. Of the remaining 25% who stated that they had been abused, 14 were males, 17 were females, while 2 did not specify their gender. As regards the type of abuse, 19 of the 33 had suffered sexual abuse, 6 serious physical abused and 8 emotional abused. The age at which the abuse occurred was from 3 to 8 years for 13 persons, 8 to 12 years for 14 persons and 13 to 18 years for 3 persons. One cannot hypothesize, as the paper does, as to what the 72 per cent of non-respondents would have said had they replied to the questionnaire.

Another survey¹⁴ carried out recently (2003) by Mr. Roderick Bugeja on behalf of the Health Promotion Department on sexual behaviour amongst 13 to 15 year olds in Malta, reveal that 44.05% of respondents acknowledged that they are 'sexually active' although this thus not imply necessarily penetration, and 19% affirmed that they have started by age 11 to 13. Over 65% affirmed they had enough knowledge of sexual education, most of them preferred discussing such issues with peers, others with their Personal and Social Development (PSD) teacher at school, and a smaller percentage with their respective parents.

¹² As far as it was practical and possible, all data collated in this report was focused on the year span 2004. Given that the data relevant to the topics in question are of a delicate nature, and more often then not quoted in a sensational manner by the media, due care and attention has always been allotted in divulging statistics in respect.

¹³ This survey was carried out by way of random sampling questionnaire distributed among 471 with a return of 132 respondents. The survey was conducted out by seven final year B.A. (Hons) psychology students.

¹⁴ In *Commissioner for Children Annual Report 2004*, 45. The survey was carried out by Mr. Bugeja *Health Behaviour in School-aged Children (HSBC)*, amongst 1310 students aged 13-15, 573 males and 737 females.

The following table depict the Statistics gathered during the span of years **1994-2000** of children referred to Child Protection Services Unit (SWDP¹⁵ / APPOGG) has been classified by age group and nature of abuse. This sheds light on the extent of the various types of abuses in relationship to the age and gender.

Table 2: 1994-2000 statistics of cases of abuse (type and gender) assisted by the Child Protection Services:

Age Group	Sexual		Physical		Neglect		Emotional		At risk		Total 1994-2000	
	M	F	M	F	M	F	M	F	M	F	M	F
Pre-birth	-	-	-	-	-	-	-	-	4	3	4	3
0 – 1	29	11	31	15	1	2	-	-	9	4	70	32
1 – 4	47	48	57	54	9	12	2	-	10	4	125	118
5 – 9	87	80	96	99	19	21	3	4	13	15	218	219
10 – 14	102	68	02	78	12	17	5	5	10	13	231	181
15 – 17	64	29	71	35	6	1	6	4	9	4	156	73
18 +	-	1	-	2	-	2	-	-	-	-	-	5
Age unknown	19	17	17	16	-	-	-	-	-	-	36	33
Total	348	254	374	299	47	55	16	13	55	43	840	664

The following statistics are sexually abuse cases handled by the national agency APPOGG in 2004. Some of the following were also registered as suffering/ having suffered other type of abuse along with sexual abuse.

Table 3: Sexually abused cases handled by APPOGG Agency in 2004

Age Category	Male	Female	Not specified	Total
0-5	3	5	0	8
6-10	8	10	0	18
11-15	30	53	107	190
16-20	2	3	0	5
Total	43	71	107	221

¹⁵ The SWDP (Social Work Development Programme) evolved into APPOGG Agency.

Table 4: Out of these 221 cases (see Table 3) assisted by APPOGG agency the following 25 had their court hearing during 2004:

Age	Gender	Perpetrator member of family	Relation of the child with the perpetrator	Year in which criminal proceedings commence	Criminal proceedings still pending at court
5-7	2 females 1 male	yes	3 father	2004	3 yes
8-9	None	n/a	n/a	n/a	n/a
10-12	6 females	5 yes 1 no	4 father 1 grandfather 1 family friend	1 in 2002 2 in 2003 3 in 2004	5 yes 1 no
13-14	5 females 1 male	4 yes 2 no	1 grandfather 3 uncle 1 godfather 1 family friend 1 'friend'	6 in 2004	8 yes
15-17	6 females 3 males	5 yes 4 no	1 father 3 uncle 2 mentor 1 guardian 2 'friend'	2 in 2003 7 in 2004	9 yes

Cases referred to Child Safety Services within the Education Division (Ministry of Education, Youth and Employment) between 1st Jan. & 31st Dec 2004 regarding Sexual Abuse. Some of the cases were not reported solely for sexual abuse. The victims were aged between 4 & 16 at the time the offence happened.

Table 5: Cases referred to Child Safety Services during 2004

Type of abuse referred	Number of cases
Sexual	66
Sexual + Emotional	01
Sexual + Neglect	05
Sexual + Physical	03
Sexual + Emotional + Physical	01
Sexual + Neglect + Physical	05
Total	81 cases

During the year 2004, the Commissioner for Children received 8 reports of cases of abuse (the type of abuse is not specified in the Annual report¹⁶). The statistics of the Commissioner reveal relevant information on the social strata of society to assist and help abused minors and adults who are seeking support to protect these children. The Commissioner for Children during the same year received 38 reports concerning delays of court proceedings specifically dealing with children.

27 children who testified in court during 2004 in cases related to child abuse availed of the video conferencing system.¹⁷

The Vice Squad Unit within the Police Force deals with cases of domestic violence, child abuse, rapes, violent indecent assaults, indecent assaults, defilement of minors and prostitution. The Squad refers cases which require social work and psychological service to APPOGG Agency or professionals in their private practice. The following three tables enlist the work carried out by this Squad in relation to offenders and victims of alleged sexual assaults reported and arraigned in court in 2004.

Table 6: Police list of alleged sexual assault *offenders* reported in 2004 (total 85)

Gender of alleged offender	Offender Identified or not	Arrested or suspect	Relation with victim	Family relations
84 males	55 identified	31 arrested	27 related / known to the victim ¹⁸	6 family related
1 female	30 unknown	54 suspect	56 unknown to victim	79 not family related

¹⁶ Amongst other pertinent issues that are included in the Commissioner's report are: 6 cases of bullying; 3 cases of anti-social behaviour; 1 case of indecent pornographic material exhibited within reach of children.

¹⁷ Grech, R., (2005). *Vital Voices, Children giving evidence in court after experiencing sexual abuse: the second trauma*, Unpublished dissertation, Department of Social Policy and Social Work, University of Malta, 31. In her conclusion to the study Remenda Grech affirms that 'although the criminal justice system in Malta has implemented several important developments in the court processes to support children during their contact with the system, there are still many challenges where the system can be improved so that vulnerable witnesses will have a more positive experience of the justice system'.

¹⁸ Barman, driver (x3), Foster parents, friend/s (x5), father, grandfather, co-worker, sister's husband, ex-boyfriend, husband, tutor, teacher (x3), family friend (x2), uncle, employer (x2), Godfather, boyfriend.

Table 7: Police list of sexual assault *victims* reported in 2004 (total 39)

Age Group	Amount & gender	Family relations	Relationship with offender
4 years	1 Male	1 yes	Mother & Partner
8 years	2 Females	1 yes 1 no	Brother
9 years	2 Females	2 No	None
10 years	5 Females	1 yes 4 No	Grandfather
11 years	3 Females	3 No	None
12 years	2 Females	2 No	None
13 years	2 Males 8 Females	10 No	1 family-friend
14 years	2 Females	2 No	None
15 years	2 Females	2 No	None
16 years	1 Male 7 Females	8 No	None
18 years	2 Females	2 No	1 Tutor
<i>Total</i>	<i>4 males 35 females</i>	<i>3 family related</i>	<i>Listed above</i>

Table 8: Statistics of sexual abuse on children during year 2004 calculated by different entities.

Police Force	APPOGG Agency	Commissioner for Children	Education Division, Child Safety Services	Total ¹⁹ 2004
39	221	8	81	349

Table 9: List of sexual offence related cases arraigned in court by the Police Vice Squad during 2004

Case Classification	Pending Cases	Completed cases	Total amount of cases
Rape	2	0	2
Defilement of minors	12	2	14
Indecent assault	2	0	2

2. Child prostitution

No case of child prostitution have been reported to the police authorities in 2004 and none have been convicted in the same year for child prostitution.

No case of child prostitution has been reported to the National Social Work Agency APPOGG during the year 2004.

¹⁹ Due to the lack of a central registry, this total might include cases logged in by more than one entity.

3. *Child pornography*

a. **Child pornography in general**

Table 10: Cases regarding seized child pornographic images (all digital / internet related) arraigned in court by the Police Vice Squad assisted by the Cyber Crime Unit in 2004

Case classification	Pending cases in court	Decided cases	Total amount of cases arraigned in court
Persons found to be in possession of child pornographic images	7	6	13

b. **Child pornography on the Internet**

The Cyber Crime Unit within the Police Force²⁰ is an active member of the COSPOL²¹ group (Protection against Child Pornography). During 2004, twenty-seven (27) cases of child pornography over the internet came to the attention of the police. Of these, thirteen (13) resulted in Court action taken (mainly for distribution and/or possession) confer Table 10 above. Two (2) cases also involved the physical and sexual abuse of minors.

4. *Sex tourism*

No case of child sex tourism has been registered in 2004

a. **Sex tourism to your country**

There exists no data on sex tourist travelling to Malta or data on trafficked minors working in prostitution in Malta.

b. **Sex tourism abroad**

The Maltese Police in 2004 has never received any reports on Maltese suspected of engaging in sexual activities with minors abroad.

²⁰ The Cyber Crime Unit within the Police Force: Assists in the investigation of all crimes in which computer and computer systems are used as a target of an attack, and/or used as the medium to launch any attack on any entity. Collects and preserves evidence and present same evidence before judicial authorities; along with providing a 24 hour 7 days-a-week level of support to international law enforcement agencies.

²¹ The Main objective of COSPOL is to disrupt, detect and dismantle networks, or structures, used for the production or sharing/trading of child abusive images and to detect offenders, identify children and stop abuse.

5. Trafficking in children (sexual exploitation)

The Maltese Police in 2004 has never received any reports on children being trafficked for sexual exploitation.

C. Qualitative and quantitative data on disappearance of children

1. Runaway (national/international)

Table 11: List of national absentees registered by the Police Vice Squad. All of these are accounted for, and have been traced after a day or two of their absence.

Age Group	Amount & gender
0-12	7 males 13 females
13-18	27 males 54 females

2. Abduction by a third person (national/international)

According to the Central Authority²², no case has been filed in this respect since 1999, when records started being kept.

3. Parental abduction (national/international)

a. Parental abduction to your country (incoming)

According to the Central Authority, during the year 2004 there were two (2) new abducted cases of minors, aging 3 and 13, gender male and female respectively, brought from the United Kingdom to Malta. These abductions have aided in the development of informal cooperation between the local Central Authority, the Attorney's General Office, the Law Courts and the forces of law and order.

b. Parental abduction to another country (outgoing)

In 2004 there were five (5) new abducted cases, four of which were taken from Malta to the United Kingdom, aged 1, 4, 6, 8 all males, and one to Poland aged 1 also male.

²² Mr. Frank Mifsud, Central Authority, Director for Family Welfare within the Ministry for the Family and Social Solidarity. Information obtained from an interview held in February 2005 with the Senior Social Worker in charge of Child Abducted Cases within this department, Mr. Joseph L. Camilleri SSS.

4. Lost, injured or otherwise missing

No case of lost, injured or otherwise missing children has been reported in 2004.

5. Missing unaccompanied migrant children

No case of any missing unaccompanied migrant child has been reported in 2004.

D. Conclusion: the actual extent of the phenomenon of sexual exploitation and disappearance of children in your country

Awareness on the sexual exploitation of minors is growing. However, efforts by the Commissioner for Children and social agencies are hampered by the fact that the law regarding abuse is in urgent need of updating. In the past, services for abused children have been fragmented and lacked proper co-ordination. Recently, however, a co-ordinated multi-agency system of investigative and therapeutic services has been developed, although this is still inadequately equipped.

A complete review of the provisions on sexual offences is necessary. This can be carried out by a Law Committee on Sexual Offences to examine to what extent the offence of rape should focus on consent rather than force.

To the author's knowledge there exists no official systematic data gathering or national register in the social and health care sector combined, on sexually exploited children. It is organised on different levels, mostly decentralised, and is seldom shared between the different participants in the field, especially now guided and driven by the newly introduced Data Protection Act²³ and respective policies. This report attempted to obtain a figure of reported cases of sexually abused during 2004, estimated at 349 cases. Yet, as previously explained, some of the cases recorded could be double counted. A central registry in this respect is highly solicited, essential and practical.

At present, the law lacks structures that offer security to the victims. Besides, present penalties do not reflect the 'domestic' element in this kind of violence²⁴

²³ Subsidiary legislation to the Data Protection Act Chapter 440 of the Maltese Laws (Legal Notice 125 of 2004) Processing of Personal Data (Protection of Minors), states that where any information is derived by any teacher, member of a school administration, or any other person acting *in loco parentis* or in a professional capacity in relation to a minor, such information may be processed by any of the aforesaid persons if such processing is in the best interest of the minor. In such case the consent by the parents or other legal guardian of the minor shall not be required if this may be prejudicial to the best interest of the minor, and in such case no parent/legal guardian shall have access to any personal data held in relation to such minor.

²⁴ In March 2005, the Maltese Cabinet gave its backing to a Bill on domestic violence which aims to protect family members in the home. Although other legislation already protects victims of violence, this new legislation will offer particular protection to victims of violence by members of the same

– in the home, that is the place where people should find safety and security. Nor do the punishments reflect the fact that these acts are part of a repeated violation of the child's integrity.

Different to all other European states, abortion is not permissible in Malta under any circumstances, even if pregnancy resulted from rape. It is commonly known though that some Maltese do go abroad to have abortions. Children who become pregnant do receive assistance and support from both educational and social systems.

According to a report²⁵ issued by the National Council of Women of Malta on domestic violence, statistics show that out of 82% of children abused sexually, 19% are abused by members of the family. Only 5% are reported and only 5% of the perpetrators are prosecuted. 1 out of 7 reported cases of rape are within marriage, while 62% of the rapists are known by the victims. In 90% of the domestic violence cases, children are either in the same room or in the room next door. 90% of women who seek mental care have been abused. This reality calls for further thorough and systematic public awareness campaigns on the harm caused to offspring / siblings whilst assisting to scenes of domestic violence.

With regards to the paedophile 'grooming', the technique used to entice minors into sexual relations, is to be made a criminal offence. This has been recently stated by the Ministry for Investment, Industry and Information Technology. To date paedophiles cannot be prosecuted for grooming a minor and this is an added obstacle to the authorities trying to combat cyber-crime²⁶.

Unfortunately the lacuna of thorough local research on issues related to this study is felt by all stake holders working in the prevention, caring and law enforcement field. On-going national campaigns and prevention work carried out by governmental and non-governmental organisations instigate discussion and social awareness to an extent that the *taboo* surrounding such phenomena is ravaged and culprits are now more frequently brought to justice. Given that public awareness has increased considerably during these past few years so has the number of reported cases of child sexual abuse. However, there is no indication that the actual number of cases has actually increased, but rather an increase in the number of cases being reported and subsequently receiving assistance.

household or in relationship with one another. This legislation will further reinforce the relevance of the recently set up Family Court.

²⁵ <http://www.ncwmalta.com/infowomendetail.asp?i=26>

²⁶ Malta is in the process of setting up a national hotline to address the abuse of children over the internet. This will be an extension to the existing Support Line 179 which currently deals with various social problems related to children, domestic violence and other abuse. In addition, the Ministry for Investment, Industry and Information Technology will soon establish a National Cyber-Crime Task Force which will bring together all major stakeholders in the cyber-security field. This Task Force will analyse current laws and recommend proposed amendments in line with European and international developments.

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