

**UNIVERSITETI I EJK  
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SEE UNIVERSITY**

**FACULTY OF LAW**

Master of Legal sciences

**“Child care and protection, Analysis of Children’s Safety in  
the European Union”**

Master’s thesis in International Law

**Candidate**

**Arbëreta Shabani**

**Professor**

**Prof.Dr.Bekim Nuhija**

December, 2018

## Acknowledgements

I wish to express my sincere appreciation to all the people who supported me to make this thesis,

I would like to express my gratitude to my supervisor, Prof.Dr.**Bekim Nuhija** of the South East European University, for introducing me to the topic as well for the support on the way.

Furthermore, I must express my very profound gratitude to my parents and family for providing me with unfailing support and continuous encouragement throughout my years of study and through the process of researching and writing this thesis. This accomplishment would not have been possible without them. Thank you.

Author

[Arbëreta Shabani]

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## **LIST OF ABBREVIATIONS**

**UN** - United Nations

**ILO** - The International Labor Organization

**WHO** - The World Health Organization

**EU** - European Union

**UNICEF** - The United Nations Children's Fund

**CRC** - Convention on the Rights of the Child

**CPS** - Child protection system

**CPPC** - Community Partnerships for Protecting Children

**Triple P** - Positive Parenting Program

**UNCRC** - The United Nations Convention on the Rights of the Child

**GMI** - General Measures of implementation

**ECHR** - The European Convention on Human Rights

**TFEU** - The Treaty on the Functioning of the European Union

**COE** - The Council of Europe

**UDHR** - The Universal Declaration of Human Rights

**OCA** - The Office of the Children's Advocate

**DRC** - The United Nations Declaration of the Rights of the Child

**MAC** - The Minimum Age Convention

**ECAC** - The European Convention on the Adoption of Children

**CJEU** - The Court of Justice of the European Union

**ICESCR** - The International Covenant on Economic, Social and Cultural Rights

**ICCPR** - The International Covenant on Civil and Political Rights

**TEU** - The Treaty on European Union

**TFEU** - The Treaty on the Functioning of the European Union

## ABSTRACT

The purpose of this research paper is to shed light on the complex and multi-layered aspects of reconciliation of paid work and care for children, a much-debated issue in many European countries, and to inform policy and decision makers across the European Union, about the policy developments, also current childcare trends. European strategies, such as the *Lisbon Strategy*, *Europe 2020* and *Barcelona Summit targets*, set various targets and objectives regarding childcare and labor force participation rates and these, in turn, shape policy development. For the most families, childcare and protection is no longer a simplistic choice between care provided by a family member (most of the times the *mother*) and non-family care. Increasingly, child care involves multiple actors and elements. This partly results from the fact that child care packages offered in the EU countries combine various elements of labor market and parental policies, as well as a broad range of child care and protection settings. The rights of the child are also human rights. They are first universal, indiscrete, and also inviolable. *The Treaty on European Union (Lisbon Treaty)*, which came into force in 2009, includes an explicit commitment to promote the protection of the rights of the child in EU internal and external action (refer to **Annex 1 for an overview of EU Legal Instruments and Policy**). With these Guidelines, the European Union reaffirms its commitment to comprehensively protect and promote the rights of the child in its external human rights policy, in line with the provisions of **the UN Convention on the Rights of the Child and its Optional Protocols** and other *relevant protocols and international standards*. Children are sadly victims, of various forms of child labor, in particular its worst forms. The gender specific risks for girls and boys demand particular attention. Children worldwide are victims of sexual exploitation and abuse. Boys and girls can be victims of early and forced marriages, and most, girls may be subjected to experience harmful practices, such as female genital mutilation. A lot of children these days are deprived of quality education, currently *124 million* children are out-of-school, proper health care and social care. Children usually are in vulnerable situations, such as: children living in poverty, living in conflict and fragile situations, children with disabilities, children deprived of their liberty or in conflict with the law, migrant and refugee children (around the world). Since the adoption of the Guidelines in 2007, there have been numerous developments in relation to the rights of the child, globally as well as in the evolution of EU policy on children in the EU external action, thus making the present revision of the Guidelines necessary. **“Leave no one behind”**, one of the key principles underpinning **the 2030 Agenda for Sustainable Development**, this, implies that *the International Community and States* in particular, will strengthen efforts to ensure that all people around the world to reach the most vulnerable and marginalized and have equal opportunities.

**Keywords:** Child Care & Protection, Child Maltreatment, Level of Understanding, Laws and other treaties.

# CHAPTER I

## 1. Introduction

Children are our youngest and most defenseless members of society, and unfortunately often their voices are left unheard. Children's voices have not often found their way into such research. Concerns about their powers of communication and comprehension abilities have restricted children's participation. No childhood should ever be shattered by abuse or maltreatment. No young life should be lived in the shadow of fear. While it is not possible to prevent all violence, nor possible to guarantee that no child will ever be harmed by neglect or aggression or exploitation or predation, therefore it is our duty first as human being also as state, to do everything in our power as a Governments and as a society to prevent such harm. Thus, this begins by ensuring that children are safe and protected in all aspects of their lives where they live, learn, pray and play. The purpose of this paper is two-fold. Firstly, it seeks to examine and challenge the rationale for the omission of children's voices in studies that relate directly to children. Further, it seeks to examine the empirical evidence surrounding children's abilities. Secondly, it seeks to present an argument that questions the assumptions embedded in methodologies designed for use with adults which, when applied to research with children, may lead to ethical dilemmas. A person's age is but one facet of a range of variables that need to be taken into account when determining the competency of the respondent to recall accurately. Every child has the right to be safe from harm and fear!



Nevertheless, every year the lives, physical, mental and emotional well-being of millions of children around the world are threatened by maltreatment such as: abuse, neglect, violence and exploitation. Children must be at the heart of human development, they should be our highest priority, the first call on our resources. The investment case for education and healthcare

services for children is solidly established. Investing in the health, education and protection of a society's most disadvantaged and excluded children and families gives all children the opportunity to fulfill their potential, and thus leads to sustained growth and stability of countries. But this is not enough. Children make up more than 1/3 of the world's population. Investing in children is more like an obligation and opportunity to us. It is an *obligation*, because poverty, poor health and other deprivations undermine children's abilities to develop to their full potential. In contrary it is an *opportunity*, because the gains achieved, through better nutrition, primary health care, education and protection for children, are likely to be far greater and longer lasting than those in almost any other area of development. Despite these global commitments, however, millions of children still remain without the essential services needed to ensure survival, improve health and nutrition, allow access to safe water and filthiness and obtain a high-quality education. Violence against children is particularly alarming! Childhood is a unique window of opportunity. Children are more than just a "country's future", or the next generation of workers who will drive their country's economic growth and social development. They are human beings after all. With rights and needs that vary, depending on their age and stage of physical, neurological, intellectual and social development. Recognizing the different stages of childhood and identifying critical needs and concerns by children's stage of development is referred to as the lifecycle approach. In addressing of children's rights within development cooperation, a critical first step is to identify the stakeholders with a central role to play in implementing the principles and standards and to make these rights a reality for all children around world. Children's issues are sometimes viewed by development partners as an area where agreement and common approaches are easily achieved- in practice, however, they may prove to be politically and socially challenging. In some national contexts, negative attitudes and patterns of discrimination against ethnic, religious and cultural minority and indigenous children, or the right of children to have a say in decisions that affect them, can be culturally and politically sensitive.

### 1.1.1 What is Child Protection?

Child protection is "*the prevention of, and response to abuse, neglect, exploitation and violence against children*". Thus, child protection is not the protection of all children's rights, but refers instead to a part of these rights. A crisis requires urgent action. Effective emergency action can avoid the escalation of such an event into a disaster, which is seen as a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts that exceeds the ability of the affected community or society to cope using its own resources, and which therefore requires urgent action. Child care & protection refers to strategies and structures aimed at protecting children from *abuse, exploitation, neglect and violence*. This maltreatment of children **includes**: "*early marriage, child labor and other forms of exploitation, and all forms of abuse, including sexual abuse and physical violence against children in homes, schools and wider communities*", (United Nations



1989). “It is closely linked to the better care of children, which involves ensuring that more children grow up in safe and caring families, or, when this is not possible, have a range of high quality, alternative care choices open to them”, (United Nations 2010a). Violations of the child’s right to protection take place in every country and the same are very massive, under-recognized and under-reported barriers to child survival and development, in addition to being human rights violations. Children subjected to violence, exploitation, abuse and neglect are at risk of death, poor physical and mental health, HIV/AIDS infection, educational problems, displacement, homelessness, vagrancy and poor parenting skills later in life. Millions of children today have no access to education, work long hours under hazardous conditions and are forced to serve as soldiers in armed conflicts. They usually suffer targeted attacks on their schools and detention centers, where they endure inhumane conditions and assaults on their dignity. Young and immature, they are often easily exploited. In many cases, they are abused by the very individuals responsible for their care. We are working and hoping to help protect children around the world, so they can grow into adults without any problem.

- ***The Importance of child protection***

Every year the lives, the physical, mental and emotional well-being of millions of children around the world are threatened by maltreatment such as *abuse, neglect, violence and exploitation*. Studies from around the world show that approximately 20%, of women and 5-10% of men report having been sexually abused as children. Other studies show that between a quarter and a half of all children report severe and frequent physical abuse. In addition, it is estimated that, 215 million children are involved in child labor, which is a form of child exploitation. 115 million of them are involved in dangerous work. These are only some of the staggering figures that show the magnitude of child protection violations around the world. They are under recognized and under-reported, and constitute barriers to the fulfillment of children’s human rights. They also undermine children’s healthy development and survival<sup>1</sup>. Children need to be protected, because they are emotionally, physically and mentally immature and unable to adequately protect themselves. The younger a child is, the more care and protection he/she will need. For instance, during the first five years of life, children are particularly vulnerable and their survival and well-being depends primarily on their parents or other adult caregivers. As children grow their physical, cognitive and socio-emotional capabilities evolve and so does their maturity, but children at this stage are still not fully capable of protecting themselves.

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<sup>1</sup> The state of the world’s children: special edition; celebrating 20 years of the Convention on the Rights of the Child. New York: UNICEF, 2009. <http://www.unicef.org/> Retrieved in August 2012.

### 1.1.2 Why does child protection matter?

“The widespread failure to protect children is now considered as global crisis, with 0.5-1.5 billion children experiencing violence each year”, (*Pinheiro 2006*), 150 million girls and 73 million boys who are raped or are subject to sexual violence (*WHO 2000*), and 115 million children engaged in extremely harmful forms of work (*ILO 2010*). This global crisis represents a major violation of children’s rights, an unacceptable situation, which must be remedied urgently, no matter what the costs. In addition to impacting on the current well-being of children, the inadequate care and protection of children is also affecting the achievement of broader development objectives relating to child survival and health, education, economic growth and equity. Unfortunately many girls and boys die each year because they are abused, neglected or exploited. Vulnerable children that survive into adulthood can be at a significant disadvantage, with many experiencing developmental delays, gaps in their schooling and mental-physical health problems due to their maltreatment.

The stigma, discrimination and diminished life chances faced by children who are abused, exploited and neglected exacerbates inequity. Whilst the resilience of such children can carry with it some advantage for societies, in general, these girls and boys are not able to contribute to economies to their full potential. In addition to the damaging impacts on children themselves, the negative effects of child maltreatment on human capital, combined with the costs associated with responding to abuse and neglect, means that inadequate care and protection also hinders economic growth. The alarming impacts of child protection failures are likely to grow in significance unless something is done urgently. Truth to be told global trends such as climate change, migration and urbanization are all increasing children’s vulnerability and governments are not investing enough resources in building and maintaining comprehensive child protection systems. Children around the world want more support to enable them to grow up within caring, safe families and free from violence. It is therefore essential that *governments, UN agencies and other actors* engaged in the design of the framework that will replace the Millennium Development Goals which were foreseen in 2015:

1. *Include a goal on child care & protection. For example: (All children live a life free from all forms of violence: abuse, neglect, prostitution, forced labor etc. And are protected in conflicts and disasters, and thrive in a safe family environment).*
2. *Listen to the voices of children, including vulnerable and commonly excluded groups such as those without adequate care & protection, in debates around the design of the post 2015 development framework and in the implementation and monitoring of this framework.*
3. *Promote the equitable achievement of all other goals included in the post 2015 development framework through assessing progress within commonly excluded and discriminated against groups, including children without adequate care and protection.*

As the quote below indicates, child care and protection is essential for ensuring strong, flourishing societies, it is the foundation of child well-being that allows girls and boys to thrive, develop and contribute to their full potential. *“You are rebuilding the schools and the roads and the bridges, but you are not rebuilding us and we suffered too much. What is done in Liberia is like constructing a house without cement. It can’t hold for too long”...* (**A young woman in Liberia who as a child witnessed her father and brother being killed and is engaged in commercial sex work, cited in Plan and FHI 2009 p.54**). We must therefore all strive for a world where children can grow up safely in their families, and be free from violence, abuse, neglect and exploitation as this world will be a better place. If we achieve the goal outlined above, alongside targets in areas such as child abuse, early marriage, child labor, and avoiding unnecessary separation from families:

- *Girls will not anymore be forced into harmful early marriage, and also will be able to wait until they are at least 18 years old before they get married. This, combined with reduced sexual abuse, will in turn reduce maternal and infant mortality as fewer girls will get pregnant before their bodies are ready for such thing.*
- *Child mortality will fall because children are nurtured and loved within families and girls are not neglected in favor of their brothers.*
- *Children will not have to work long hours and/or in harmful or hazardous conditions, risking their well-being and health and will not be deprived of their education.*
- *Children will be able to learn in schools as they are not terrified of the threat of bullying or corporal punishment or too afraid to go to school because they might be raped by their educators.*
- *The country will be able to re-invest some of the resources that currently it spends on supporting victims of abuse or maltreatment.*
- *Societies will become more equitable as children’s chances in life are not seriously damaged by their lack of care and protection. It is seen for children’s rights to be free from inadequate care and protection and the same also to be achieved.*
- *Children will grow up in resilient communities that can withstand the shocks of disasters and conflicts, and protect them from violence, exploitation, abuse and neglect even in emergency situations.*
- *Girls and boys will be happier, safer and will be able to develop to their full potential because they grow up in caring and protective families and get the love and attention that it is human nature to crave.*

### 1.1.3 What is a child protection system?

In the second part of the 2000s, several agencies and organizations specialized in development and child protection focused their attention on the existence and the strengthening



of <<child protection systems>> (CPS). These actors reaffirmed the importance of addressing the protection needs of the most vulnerable groups. However, according to the analysis, protection of the rights of the children should not be limited only to actions aimed at specific groups. It is necessary to guarantee, globally also structurally, the existence and the quality of the services aimed at protecting the rights and the well-being of all children on the

scale of a given territory. The main idea of all this, is to increase the number of children benefiting from their rights, to provide them with better opportunities, to avoid all discriminations and to support the commitment also the collaboration of all the actors concerned on the scale of a state or of a territorial entity. A CPS is *‘a coherent set of actions and actors, in which the child is the starting point, and which aims to guarantee the rights and well-being of the child by constructing alliance within, and between protective environments’*. The notion of “child protection system” is given through a variety of definitions depending on the services, the organizations or the individuals whose task or mission is to take care of the children and their protection. A child protection system aims to address all forms of abuse, exploitation and neglect in a coordinated need across all social sectors, especially social welfare, education, health, security and justice, to support prevention and response protection to the related risk. A successful child protection system includes these key elements: “a legal framework, national strategy and a coordinating body, local protection services, a well-trained child welfare workforce, a strong focus on community and child participation, adequate resources and monitoring and data collection systems”, (*Save the Children 2011b; UNICEF 2008b*). Child protection systems have unique circle of organization (structures, functions, capacities, and other components). These are typically assembled in relation to a set of child protection goals. These systems have traditionally neither been the particular focus of child protection discourse nor that of child protection or action. Historically, analysis and programming in child protection have focused on particular issues. Among those that quickly come to our minds, we outline: violence, exploitation, abuse and neglect, alternative care, justice for children, trafficking, child labor, and child separation. While the result of vertical, issue-focused programming may be effective in serving the specific cohort of children reached, it has serious limitations. Focusing on issues in the absence of an understanding of how they relate to the overall system, and to an endless list of risks and assets, can result in ineffective programming, which is neither sustainable nor truly able to reach all the children who are in need of care and protection. *UNICEF* has initiated a kind of different process to move to a more systemic approach in its

child protection programming. A child protection system as an identified concept common to all child protection practitioner is now new. When one refers to a child protection system, the question that arises is: **what do we understand by child protection system?** - **Child protection systems** are a set of usually government run services designed to protect children and young people who are underage and the same to encourage family stability. UNICEF defines the ‘child protection system’ as: *the set of laws, policies, regulations and services needed across all social sectors, especially social welfare, education, health, security and justice to support prevention and response to protection, related risks.* These systems are part of social protection, and extend beyond it. At the level of prevention, their aim includes supporting and strengthening families to reduce social exclusion, and to lower the risk of separation, violence and exploitation. Responsibilities are often spread across government agencies, with services delivered by local authorities, non-state providers, and community groups, making coordination between sectors and levels, including routine referral systems, a necessary component of effective child protection systems. Give greater priority to child protection in efforts to improve governance.

Focus on:

- The development and the enforcement of comprehensive and realistic legislative and policy frameworks on child care and protection, which reflects the United Nations Convention on the Rights of the Child and other relevant global guidance.
- The delivery of child care and protection services ensuring these, are adequately resourced and also very well planned.
- Information management systems and oversight mechanisms to increase the accountability of the sector for child care and protection.
- Greater engagement of children and vulnerable families, and of an active and effective civil society, in developing and monitoring child protection response.
- Increase funding to child care and protection in emergencies and in fragile states, but also recognize that there is a global crisis in child protection in development contexts.
- Ensure that there are comprehensive laws and policies that include disaster risk and resilience plans which incorporate a focus on child care and protection.
- Ensure effective co-ordination between all parties working in emergency contexts and fragile states, and the mainstreaming of child protection into other areas such as health and education.
- Focus on prevention, and recognize the role of communities protecting children, which with communities and customary law likely to play a particularly significant role in fragile states.
- Focus on investing in safe and equitable education systems that meet the needs of children with inadequate care and protection.
- Invest in child protection sensitive social protection program which, reaches the most marginalized and vulnerable groups, which have strong linkages to complementary child care and protection services.

While there is no single agreed international definition of child care and protection systems various overlapping definitions have been formulated. According to *UNICEF*, child protection systems consist of the set of *laws, policies, regulations* needed across all social sectors, especially social welfare, education, health, security and justice, underpinning prevention and protection and including family support. A report commissioned by UNICEF indicates that child care and protection systems have structures, functions, capacities and other components tailored to a set of child protection goals. They also operate at different levels (from the formal to the informal), involving various participants, including children, the family, the community and the state and functioning simultaneously at one or more levels. World vision points out that each nation's child protection system is unique and made up of a coordinated set of formal and informal measures to prevent and remedy abuse, neglect, exploitation and other forms of violence towards children. Formal measures are decided or approved by the government and dictated by laws, regulations and policies, while informal elements are shaped by attitudes, values, rules of behavior and, social norms and customs<sup>2</sup>.

## 1.2 A STRENGTHS APPROACH TO CHILD-PROTECTION

Historically, child welfare systems (and other human services) emphasized efficient provisions of services with little attention to family systems and approached clients from a deficit model. "Traditional practices, focusing on what was wrong with the child itself or the family, resulted in a child welfare system that was severe and stigmatizing in its approach and often produced passive and resistant responses from clients", (*Waldfogel, 2000*). "Beginning in the early 1980s, strengths-based case management was first implemented in community mental health centers", (*Brun & Rapp, 2001*), and since then has been implemented in many other health and social service settings. Strengths-based practice has been widely promoted as a preferred approach for statutory child protection work, but its complexity and inconsistent implementation suggests that it may be hard to do. Thus, this pragmatic mixed methods study asked frontline workers whether and how they applied strengths-based and solution, ideas in their daily child protection practice and what supported and impeded their efforts are. "Contemporary strengths-based solution child care and protection practice originated in the middle of **last century** in two very distinct areas of mental health work. The first was strengths based case management", (*Marty, Rapp, & Carlson, 2001; C. Rapp, 1993; C. Rapp & Wintersteen, 1989; R. Rapp & Lane, 2012; Saleebey, 2012*). This was developed by social workers for the voluntary clients of mental health services. "The second was the brief therapeutic intervention called solution therapy", (*De Shazer, 1982; C. Franklin, Trepper, McCollum, & Gingerich, 2012; Shazer et al., 1986*). The same "solution work has been called a strengths-based approach", (*Bond, Woods, Humphrey, Symes, & Green, 2013; C. Rapp, Saleebey, & Sullivan, 2006*), and "over the last decade ideas

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<sup>2</sup> A Systems Approach to Child Protection: A World Vision Discussion Paper, B. Forbes, D. Luu, E. Oswald et T. Tutnjevic, Word Vision International, 2011, pp. 2-3.

from these two traditions have increasingly merged under the broad category of strengths-based practice”, (Gray, 2011; R. Jack, 2005; Lietz, 2011; Skrypek, Idzelis, & Pecora, 2012; Skrypek, Otteson, & Owen, 2010). Current strengths-based child care and protection models draw most heavily on the ideas of focused solution called therapy. According to **Mc.Cashen (2005) “the strengths approach is not a model for practice. It is an approach to practice based on a philosophy”**, the approach encourages the fusion of findings about successful practices with a positive philosophy to provoke solutions. The approach is compatible framework to aid understanding of transforming theories, such as critical theory, social constructionism, post-modern feminism and post-colonialism, which the same are currently influencing early childhood education pedagogy. The solutions based, focus on the strengths approach emphasizes working collaboratively to raise resilience and to gain positive change for the children who experience disempowerment or abuse. Strengths approaches have possible merit as an additional tool to assist educators to develop a discourse with children to enhance learning, a discourse that recognizes interests, needs and societal constraints. Strengths Approaches suggest that, in practice for empowerment to occur worker and client need to develop a discourse that recognizes and avoids the colonizing effect that discourse power can have. By which we mean applying strength approach to education. Therefore, implies that children are involved with the conversation of education in speaking as well as listening role. The literature review has shown that at the intersection of the key terms of child abuse and protection, teacher preparation and the strengths approach, there is an opportunity for new research and solutions to better prepare educators to protect children. This pragmatic mixed methods study asked frontline workers whether and how they applied strengths-based and solution ideas in their daily child care and protection practice and what supported and impeded their efforts are. Strengths based on solution- Child Protection Practice on the last decade has seen the development of strengths-based on solution-focused approaches for use by frontline child protection workers with mandated clients in statutory child welfare agencies. These are centered on the principles and techniques of solution-focused therapy, although are often referenced generically as 'strengths-based' and situated within the tradition of strengths based practice (SBP). Safety organized practice the goal is always child’s safety. Sign of safety is designed to create a shared focus and understanding among all stakeholders in child protection cases, both professional and family, it is designed to help everyone think their way into and through the case from the ‘biggest’ person (often someone like a director general, a judge or child psychiatrist) to the ‘smallest’ person (the child). However, completing signs of safety assessment and planning, even when it is done collaboratively between the parents and children and all the professionals involved in the case, is only a mean to an end. Big child protection systems, with their bureaucratic tendencies can often get means and ends confused, and thus the completion of assessment documents can become a highly prized, over-valued performance indicator. While consistency of assessment is a critical factor in good outcomes in child protection casework, it does not of itself equate to on the ground child safety. Completing the signs of safety means simply a process of creating a map of the circumstances surrounding a vulnerable child. As with all maps, the Signs of Safety map needs

always to be seen as a mechanism to arrive at the destination. That destination is rigorous, sustainable, everyday child safety in the actual home and in places in which the child lives.

### 1.3 THE CHILD AND ITS PROTECTION

#### Level of understanding and knowledge in the communities

In the absence of social and community mobilization on the matter of child rights in general and child care and protection in particular, the level of knowledge and understanding of the issue is far from the conventional idea of the child and its protection against the risks of exploitation, abuse and neglect. While the community offers a framework of solidarity and protection, it can also expose children to various forms of violence whether peer violence, gang violence, police brutality, physical and sexual abuse, abduction, trafficking, etc. Children relegated to the margins of society, including street children, are frequently targeted. “The problem is also being exacerbated by the media, which frequently play down acts of violence, together with new information and communication technologies”, (on-line or GSM intimidation). The World Health Organization draws special attention to media impact on violence among young people, referring to the conclusive findings of scientific studies in this area regarding an increase in immediate aggressive behavior, indicating that findings are less conclusive regarding the effect in the longer term and serious forms of violence<sup>3</sup>. In the absence of social and community mobilization on the matter of child rights in general and child care and protection in particular, the level of knowledge and understanding of the issue is far from the conventional idea of the child and its protection against the risks of exploitation, abuse and neglect. In addition, a child is further described in negative terminology. He/she is treated as: *“someone who knows nothing, someone who cannot do anything by himself, someone who is a fool because he does not know anything and cannot do anything unless guided by adults, someone who knows nothing about the problems in life, and so forth”*. This perception of the child also relates to the period of childhood. For decades, efforts to protect children from abuse and neglect have rested largely on the shoulders of public agencies. In 1995, a new initiative of the **Edna McConnell Clark Foundation, Community Partnerships for Protecting Children (CPPC)**, sought to test emerging assumptions about responsibility for safeguarding children at risk and new practices built on those premises. One of the fresh perspectives that this reform embraced was that children’s safety is directly connected to creating safety for their primary caretakers, usually the mother, who, in at least a third of the cases coming to the attention of child welfare agencies is, herself, a victim of the abuse.

The passage of a child to *‘no-longer-child’* is determined by his productive role and thus by this means his entry into the working world. A child changes status without becoming adult. This perception varies from one family to another, depending on the role and tasks allotted to the

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<sup>3</sup> World Health Organization (WHO), Geneva 2002, ISBN 92 4 154562 3- world report on violence and health, pg. 38/40.



child. **“Someone can empower him/her or set him/her to work earlier than the others, and so can the idea vary of what a child is”, (Macina town, MC)-** the children in the focus discussion groups also emphasized this, **saying: “as from 7 years old, there are no more games, we work with our parents”, (Diamarabougou, MK).** In addition to work, marriage is one of the social roles that have an influence on the perception of the end of childhood, particularly for girls: **“Many girls get married at 14 and also leave their parents by 13 or 14. Most girls are already with their husbands and having babies”-(Dougabougou, MK),** efforts to prevent child abuse have historically focused on directly improving the skills of parents who are at risk for or engaged in maltreatment. But, as experts increasingly recognize that negative forces within a community can overwhelm even well-intentioned parents, attention is shifting toward creating environments that facilitate a parent’s ability to do the right thing. The most sophisticated and widely used community prevention programs emphasize the reciprocal interplay between individual-family behavior and broader neighborhood, community, and cultural contexts. Child abuse prevention efforts have historically focused on developing and disseminating interventions that target individual parents<sup>3</sup>. Early work in the field placed primary emphasis on identifying parents at risk for, or engaged in abusive or neglectful behaviors. Once identified, these parents would be provided with knowledge, skill building opportunities, and assistance to overcome their personal limitations. Such strategies were considered the most direct and efficient path to preventing maltreatment. More recently, however, attention has shifted from directly improving the skills of parents to creating environments that facilitate a parent’s ability to do the right thing. A large concept of theory and empirical research suggests that intervention at the neighborhood level is likely to prevent child maltreatment within families. Community strategies to prevent child abuse and promote child care & protection have focused on creating supportive residential communities whose residents share a belief in collective responsibility to protect children from harm and on expanding the range of services and instrumental supports directly available to parents<sup>4</sup>. Community based efforts to prevent child abuse incorporate a range of strategies that place differential emphasis on the value of these two approaches. For purposes of this discussion, we examine five different community efforts that seek to reduce the frequency of child abuse and neglect: **Triple P-Positive Parenting Program, Strengthening Families, the Durham Family Initiative, Strong Communities, and the Community Partnerships for Protecting Children (CPPC).**

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<sup>4</sup> Ecological influences on the sequelae of child maltreatment- a review of the literature. Zielinski DS, Bradshaw CP-Child Maltreat. 2006 Feb; 11(1):49-62.

### 1.3.1 Theory of change and implementation

**Triple P (Positive Parenting Program)**, originally developed in Australia with the main purpose to assist parents of children with developmental delays or behavioral problems. It is increasingly viewed as a promising strategy to prevent child abuse. It is a behavioral family intervention, designed more like to improve the skills of the parents and their behavior by changing how parents view and react to their children. The Triple P program consists of a series of unified interventions designed to provide a common set of information and parenting practices, to those parents who face varying degrees of difficulty or challenges in caring for their children. Based on social learning theory, research on child and family behavior therapy, and developmental research on parenting in everyday context, each intervention seeks to reduce child behavior problems by teaching healthy parenting practices. Parents in every component are taught self-evaluation of performance, self-determination of goals, self-monitoring, and self-selection of change strategies. To understand more about this program, *Universal Triple P* is a media-based and social marketing strategy designed to educate community residents about the principles of positive parents and to offer them a set of simple techniques for addressing common child care issues (for example: safety, behavior management, discipline strategies, and securing basic health care). Information is mostly spread through the use of radio spots, local newspaper articles, newsletters distributed through the schools, mass mailings to local residents, presentations at community forums, and a widely publicized website. Access to this information is open to all residents willing and able to seek it out, for those parents interested in more “hands-on” assistance. Selected Triple P offers brief parenting advice and contact sessions that are available to parents through various primary care facilities such as well-child care, day care, and preschool settings and in other settings where parents may have routine contact with service providers and other professionals who regularly assist families. In addition to individual consultations, the Triple P also involves parenting seminars delivered within these primary care settings on such topics as the power of positive parenting, raising confident, competent children, and raising resilient children. The seminars are designed for the general parent population and provide parenting information as well as raise awareness of the overall initiative. In addition to its social marketing and general education component, Triple P seeks to change parenting standards by ensuring that when formal services are accessed by families, all providers in the community operate within a shared understanding of key values and practice principles. Toward this end, it offers formal training in the Triple P model to direct service personnel, working in a variety of clinical settings. Families whose parenting difficulties are complicated by other problems, such as domestic violence or mental health concerns, or who have not been adequately served by the standard services are offered Enhanced Triple P, a more intensive behavioral family intervention. Although, service provision at each level is supported by a variety of structured unique protocols, all of the direct services are framed by a set of common practice principles.

These include ensuring a safe and engaging environment for children, creating a positive learning environment, using assertive discipline, having realistic expectations, and taking care of one-self as a parent. Randomized trials of specific Triple P interventions have consistently demonstrated positive effects on parenting skills and child's behavior<sup>5</sup>. The community approach does not ignore the importance of more proximal levels of analysis and intervention, such as the family, nor does it ignore the necessity to attend more distal levels, such as the larger culture or the higher level of specific state and federal policies regarding funding streams and practices.

**The strengthening Families Program** is a 7-week-long intervention aimed to reduce substance use among 10 to 14 year olds and improve the parent-child relationship by teaching various communications, problem-solving, and perspective-taking skills to parents and adolescents. Participants are given instruction on various communication, problem solving, and perspective taking skills. The first hour of program sessions consists of separate parent and adolescent trainings. Among other topics, parents learn about appropriate disciplinary practices, how to manage strong emotions, and how to communicate effectively with their children. The adolescents learn skills for dealing with peer pressure (refusal skills) and other personal and social skills, including management of stress and strong emotions, and problem solving. In the subsequent hour of joint training, family members practice conflict resolution and communication skills, and engage in activities designed to improve family connection.

**Initiative Preventive System of Care- (known as The Durham Family)**, this article describes the initiative of the Durham family (DFI), who helps like an innovative effort to bring together child welfare and juvenile justice systems, to reach the goal of reducing the child abuse rate in Durham, North Carolina, by 50% within the next 10 years. DFI will follow principles of a preventive system of care (PSOC), which focuses on nurturing the healthy parent-child relationship. A community collaborative of government agency directors has signed a memorandum of agreement to implement the PSOC principles. The researchers will use multiple methods to evaluate DFI's efficacy.

**Strong Communities for Children**, proposed by the U.S. Advisory Board on Child Abuse and Neglect in 1993, derived from the neighborhood based child protection strategy. Strong Communities for Children is a comprehensive community wide initiative for the promotion of the family and the community's well-being, the prevention of child abuse and neglect. This organization involves the whole community through voluntary assistance by neighbors for one another, especially for families who have young children at their homes. The strategy entails the use of outreach workers to facilitate community engagement and leadership development in order to enable communities to accept responsibility for parent support and child safety. The outreach workers then build on the resources that they have cultivated to promote the creation of volunteer delivered support (e.g. occasional child care, food

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<sup>5</sup> Matthew Sanders, Carol Markie-Dadds, Karen Turner. Parenting Research and Practice Monograph. St. Lucia, Queensland, Australia: The Parenting and Family Support Centre at the University of Queensland- 2003. Theoretical, Scientific, and Clinical Foundations of the Triple P-Positive Parenting Program: A Population Approach to Promotion of Parenting Competence. No.1.

banks, financial counseling, respite care) for families of young children in settings not commonly identified as providers of family support service (e.g., fire stations, faith communities, libraries).

#### **1.4 The Concept of Child and Childhood**

Children and their childhood both were not given any special treatment in the bygone era. Later on they were treated as “small adults”, by which they were expected to earn for their own survival. They were shoved in the work houses and farms located in the underside of the big industrial cities. The known World Wars and the civil wars, raging in different parts of the world, wreaked the lives of the young children, as they had no protection from the damages of war. Welfare of the child and their protection was largely neglected and not very high on the agenda of governments, for very long time due to the fact that children had no voice, which means they were under control of their parents, and they weren’t treated as individuals having rights of their own. Initially the efforts to provide the welfare of the children during the childhood were undertaken and changed by the voluntary individuals and organizations. Later on, those who brought the issue of childhood and child welfare on the center stage at the global level were the International Organizations. Thanks to international organizations and legislations, nations taking a cue from them started taking steps to provide for the wellbeing of the child. Unfortunately till recently, in countries like India, the definition of a child as different legislation had different definition, common to childhood. This research traces the history of the welfare of the children during their childhood, to understand the origin, growth and development of the child welfare at the international and the national level. The research also examines the definition of a child, the policies, and the legislation for the well-being of the child. Thus, childhood has different phases. Those who are working **with**, and **for** children often refer to the lifecycle approach. This approach views the child throughout his/hers ‘lifecycle’ in the womb, at her/his birth, in infancy, during the first school years and finally in adolescence. It is very important for us to note that gender inequality is experienced in different ways throughout the lifecycle.

## 1.5 UNICEF'S Approach to Child Protection

The more we learn about the consequences of violence in children, the more clearly the measures that need to be addressed are made. As for the short and long term, exposure to childhood violence has extremely negative consequences for both mental and mental health. Evidence suggests that the whole society can be harmed if a child suffers in this form. Namely, this problem should be treated, as an economic and social problem, but also as a moral character. The first report, gives us a global perspective on this topic, UNICEF's 2006 Report on Violence Against Children shows the presence of this phenomenon. UNICEF uses the term '*child protection*' to refer to preventing and responding to violence, exploitation and abuse against children, including commercial sexual exploitation, trafficking, child labor and harmful traditional practices, such as female genital mutilation/cutting and child marriage. Children who are uniquely vulnerable to these abuses, such as when living without parental care, in conflict with the law and in armed conflict UNICEF's child protection program targets them the most. Violations of the child's right to protection take place in every country and are massive, under recognized and under reported barriers to child survival and development, in addition to being human rights violations. Children subjected to violence, exploitation, abuse and neglect are mostly at risk of death, poor physical and mental health, HIV/AIDS infection, educational problems, displacement, homelessness, vagrancy and poor parenting skills later in life. In keeping with UNICEF's prior work, known as: 'hidden in plain sight', a statistical analysis of violence against children and 'Ending violence against children: Six strategies for action'<sup>6</sup>, this theory of change addresses all forms of interpersonal violence (e.g. physical, sexual and emotional) against girls, boys and adolescents that occur in the home, in and on the way to school, in the community, in workplaces and through information and communication technologies such as mobile phones and the internet. UNICEF bases its understanding of violence against boys and girls on article 19 of the CRC which refers to "... all forms of mental and physical violence, abuse or injury, neglect or negligent treatment, exploitation or maltreatment, including here sexual abuse..." However, terms and definitions for specific forms of violence often widely vary and most of the times overlap, programming and posing challenges for research. Violence, for example may be defined by the perpetrator (e.g. the intimate partner violence or child maltreatment), by act (e.g. sexual violence), by fatality (e.g. child homicide) or by context (e.g. cyber bullying). One cannot reduce the large number of children living on the streets without also engaging with the problems at home or in school that could explain their situation. The same child, who faces the risk of being trafficked, may also be disabled in conflict with the law and also experience violence at home. Understanding is the key to underlying causes and to address this interconnectedness. The child protection systems seek to address the full spectrum of the risk factors in the lives of all children and their families too.

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<sup>6</sup> UNICEF, Ending Violence against Children: Six Strategies for Action. UNICEF, New York, 2014.  
[www.unicef.org/publications/index\\_74866.html.com](http://www.unicef.org/publications/index_74866.html.com)

Along with partners, including civil society parties, governments, non-governmental organizations, and also the private sectors, UNICEF promotes the strengthening of all the components of child protection systems (laws first of all, finances, protocols, standards, governance, human resources and monitoring services). Child care and protection systems may cut across part of social welfare, health, education and security sectors, but this only depends on the country context. UNICEF together with its partners supported the mapping and assessment of child protection systems. This work helped to build consensus among civil society and government on the goals of such systems, their priorities, strengths, weaknesses upon which they act. All this later, translates into improved laws, policies, standards, services and regulations protecting all the children around the world. The same it also leads to strengthen these systems with the human resources and financial necessary. The United Nations Children's Fund, over the past decade, has supported the informed understanding of **social norms** that result in abuse, violence and exploitation, and also has promoted to change in a number of countries. UNICEF engages in awareness and advocacy, raising and supports discussions, communication and educational programs for development strategies at national and community level, within villages across professional and religious groups and within diaspora communities, and all this just to promote positive norms to bring an end to the harmful practices.

When combined with effective legislation, policies, regulations and services, this process that focuses on community values and human rights leads to positive and lasting change such as the abandonment of female genital mutilation/cutting, decreases in child marriage and domestic violence. Changing social norms related to forms of violence, exploitation and abuse that are socially condoned is time and resource intensive. Yet, this work is crucial for sustained improvements in children's lives. This focus on the prevention and response to violence, exploitation and abuse cuts across the life cycle of the child. It is a critical part of realizing *the Millennium Development Goals*, to ensure that children grow up in a safe and supportive environment. This work not only applies in development contexts, but also in humanitarian settings and it is in line with the recommendations of the *United Nations Secretary-General's* study on violence against children rights (2006). The United Nations, report on the impact of armed conflict on children (1996). Though devastating, emergencies provide opportunities for the organization to work with governments and civil society, to renew and strengthen the laws, the policies, regulations, services and the practices that protect children from violence, exploitation and abuse, while also addressing the negative social norms underlying some forms of violence. UNICEF is committed to protecting children from the immediate and long-term effects of natural disasters and armed conflicts, which expose children to heightened risks of violence, abuse and exploitation. In such contexts, the same organization **supports:** children's caregivers and arranges for safe spaces for children to play, learn and receive support for their psychological and mental wellbeing, identifies, reunites and cares for children separated from their families and caregivers, supports holistic assistance for children and adults who have suffered gender-based violence, actively works to release children associated with armed forces or armed groups and supports their community re-integration, promotes integrated case

management of vulnerable children, helps to coordinate humanitarian actors working on child protection, gender-based violence, and mental health and psycho-social support of children, monitors, reports on, and responds to grave child rights violations, and actively works to put in place measures that reduce the risks of, and prevent children from being harmed. As programming must be grounded in robust data, and evidence to demonstrate results, UNICEF also supports research, data collection and analysis to broaden the evidence based on child protection. Data and evidence are also used to inform program and policy interventions, monitoring, and evaluation, to ensure that interventions are reaching their goals and having a positive impact on the lives of children. Based on what is said before we may conclude that, *the work of UNICEF and its partners includes:*

- International advocacy, (often with the use of International Human Rights mechanisms).
- National advocacy and initiating dialogue at all levels, from government to communities, families and children them self, (in order to promote attitudes and practices protective of children).
- Inclusion of child care and protection issues in national development plans.
- Law-based approaches, emphasizing the importance of knowing, understanding, accepting and enforcing legal standards in child care and protection.
- Community-based approaches that promote and strengthen the capacity of families and communities, to address child protection issues. Partnerships with governments, non-governmental and faith-based organizations, other United Nations organizations, professional associations, children and youth, and the media.



## CHAPTER II

### 2. THE COMMUNITY APPROACH TO POLICIES FOR CHILD CARE & PROTECTION

#### 2.1.1 The Community Partnerships for Protecting Children-CPPC

For decades now, efforts to protect children from abuse and neglect, have unbend largely on the shoulders of public agencies. In 1995 a new initiative of the *Edna McConnell Clark Foundation*, Community Partnerships for Protecting Children (CPPC), pursued to test emerging assumptions about responsibility for safeguarding children at risk and new practices built on those premises. One of the fresh perspectives that this reform accepted was that children's safety is directly connected to creating safety for their primary caretaker, usually the mother, who, in at least a third of the cases coming to the attention of child welfare agencies, is herself, a victim of abuse. While the initiative has received an extensive evaluation, as well as self-assessments from the four original pilot sites, there is only scant attention given in these reviews to the particular issues for families experiencing domestic violence<sup>7</sup>. This report seeks to identify the lessons learned about how to incorporate into this reform, recognition of the role domestic violence that plays in families encountering the child welfare system. As we consider the implications emerging from communities collaborations, it is important to admit that a snapshot of the communities at any single point in time is not enough to capture either the whole of their work, or the progress that may accrue over time. This report begins with a brief review of the initiative's components, followed by a discussion of emerging knowledge about the intersection of domestic violence and child maltreatment, so it can provide a context in which to explore the introduction of domestic violence issues in CPPC. Then we consider how, within each of the critical groups of the CPPC model, new information, new partners, new practices and new protocols, all related to co-occurrence, were taken up and with what effects. Throughout the discussion, will be identified the key lessons that emerge from this experiment and the recommendations for the future work that arises from them. When the Community Partnership initiative began, in the mid of 1990s, which it framed its reforms around four interdependent components. Among the specialized services, CPPC identified: substance abuse, domestic violence and mental-health services as critical. Yet, the CPPC recognized the challenges of integrating all three sets of stakeholders and services, at once to an already complex child welfare constituency, there by recommended that each community will select one as a priority. Of all the community partnerships involved, domestic violence advocates at some point in time, though, it took longer in some sites than in others to bring these stakeholders on board.

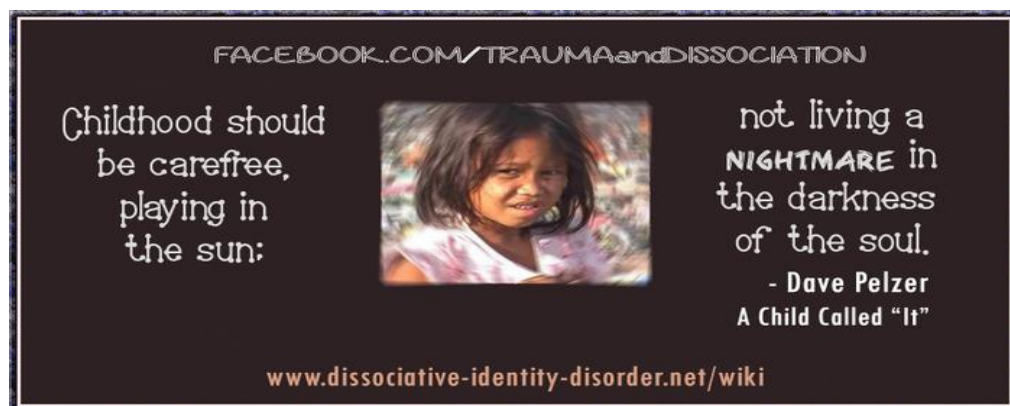
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<sup>7</sup> Barro, D, Budde S, Baker S, Nesmith, A, and Harden A. "Community Partnerships for Protecting Children: Phase II Outcome Evaluation"-Chapin Hall Working Paper, Chapin Hall Center for Children at the University of Chicago, 2005.

Barwinski S. "Community Partnerships for Protecting Children- Lessons Learned, "From the Field-For the Field" The Center for Community Partnerships in Child Welfare, Center for the Study of Social Policy, 2005.



Despite periods, of more or less intensity in the relationships over a decade, all of these communities continue to have working collaborations across these services. The CPPC had various successes in generating changes in some practices and some policies that recognized domestic violence as a real and compounding issue for many families encountering the public child protection system. Yet, these supervisors and investigators within CPS, the frontline workers in domestic violence shelters and collaborating service providers who pioneered more effective approaches to aiding families in which child maltreatment and domestic violence issues co-existed, were generally unable to institutionalize these new practices and protocols across their agencies. While some CPS domestic violence teams have continued, some even after their funding terminated, they are constantly struggling to ensure that their strategies are not threatened by other practices and policies that have yet to change.



### 2.1.2 European Union tools to promote the rights of the child

Although the European Union has a number of mechanisms for protecting rights dedicated to children, many young people are not aware of the existence of any specific services and resources they can turn to, beyond family, friends or teachers, if they are in difficulty. Thus, according to **Article 24 of the Charter of Fundamental Rights of the European Union**, children have the right to such protection and care as is necessary for their well-being (health). Their views must be taken into account on matters that concern them, and a child's best interest must be a primary consideration in any action taken related to them. Other *articles of the charter* devote specific articles to child protection, such as the prohibition of child labor. *The United Nations Convention on the Rights of the Child* has been ratified by all the EU member states. The European Union also has an obligation to promote the protection of the rights of the child, in line with the **Treaty on European Union**. In 2006, the European Commission proposed a strategy for protecting the rights of the child, and in 2011 was adopted the '**EU Agenda for the rights of the child**'. The purpose of the "EU Guidelines for the Promotion and Protection of the

Rights of the Child” (the “Guidelines”<sup>8</sup>), is to recall international standards on the rights of the child, also to provide practical guidance to officials of EU institutions and EU Member States in order to: a) strengthen their role in promoting and protecting the rights of all children in the EU external action, by encouraging and supporting the strengthening of partner countries’ own systems, and b) to further strengthen their cooperation with international and civil society organizations. To achieve its commitments on promoting and protecting the rights of the child, EU promotes *the General Measures of Implementation (GMI)* of the UNCRC as set out in its **General Comment No. 5**<sup>9</sup>. The GMI’s, are intended to promote the full enjoyment of all rights in the Convention by all children through legislation, budget allocations, the establishment of coordinating and monitoring bodies, governmental and independent, comprehensive data collection, awareness-raising and training, and the development and implementation of appropriate policies, services and programs. The GMI therefore acts as the very foundations for the realization of the rights of the child, by ensuring that the necessary structures and resources are in place through a systems-strengthening approach. In line with the critical theme of the Sustainable Development Goals (SDGs) these revised guidelines aim to **“leave no child behind”** by taking a rights based approach encompassing all human rights to the implementation of the GMI. The measures needed to achieve this goal are set out in the Operational Guidelines, part 5. The EU Guidelines for the Promotion and Protection of the Rights of the Child outline: “The EU reaffirms its determination to observe as a matter of priority in its external human rights policy the promotion and protection of all rights of the child, i.e. persons below the age of 18 years, taking into account the best interests of the child, and its right to protection from discrimination and participation in decision-making processes, founded on the principles of democracy, equality, non-discrimination, peace and social justice and the universality, indivisibility, interdependence and interrelatedness of all human rights, including the right to development”.

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<sup>8</sup> Refer to **Annex III** for a list of links to EU Guidelines, Commission Communications and Council Conclusions which complement the Guidelines on the Promotion and Protection of the Rights of the Child.

<sup>9</sup> United Nations Convention on the Rights of the Child, General Comment No. 5, General measures of implementation of the Convention (arts. 4, 42 and 44, para. 6) CRC/GC/2003/5, 27 November 2003.

### 2.1.3 Priorities of the European Union Contract

The EU has a broad range of tools and financing instruments to promote and defend the rights of the child. To address children's right effectively and ensure sustainable development, the EU needs to ensure a coherent and complementary use of its various mechanisms, which are:

- Political dialogues offer an opportunity to discuss bilateral, regional and international issues of mutual concern with the partner countries in a formal setting and also on a regular basis. Although, these dialogues are not focused exclusively on human rights, there are mechanisms in place, such as structured dialogues, to raise human rights issues including the rights of the child.
- Human rights dialogues are focused on human rights. Their main purpose (target) is to enable the EU as an organization, to share its concerns on human rights violations with other partner countries, to gather information and also to seek to improve the human rights situation in the partner country concerned.

In addition to dialogues at EU level, member states have also dialogues at national level with partner countries. Whenever relevant dialogues should cover the rights of the child, and in particular promote the various systemic elements which a country needs to strengthen in order to realize the rights of the child (*outlined in section 6 of the Operational Guidelines*, discussions should be based on the rights of the child, as situation analysis of the country concerned and to highlight the key violations and concerns children face nowadays.

- Statements are also key tools to raise awareness on the rights of the child, and of international norms and standards concerning their promotion and protection. They may provide opportunities to advance the implementation of the UNCRC (the United Nations Convention on the Rights of the Child and its 3 Optional Protocols).
- The rights of the child are also reflected and addressed through the EU Human Rights and Democracy Country Strategies. The European Union Delegations can prioritize certain issues, like how in many strategies the rights of the child are highlighted as a priority. Even if this is not the case, the EU recognizes that this is a cross cutting issue. Country strategies give the opportunity for an in depth analysis of the situation of children in a given country, and also to identify potential gaps and the necessary actions, and the mechanisms needed to ensure the protection of the rights of the child.
- The European Union uses its bilateral and multilateral co-operation to promote and protect the rights of the child, through the complementary use of EU's geographic and thematic funding instruments, in collaboration with the national authorities, the United Nations, civil society and other partners.

- The recent trade for all Strategy sets, an ambitious and comprehensive agenda, to make sure that economic growth goes hand-in-hand with the social justice, respect for human rights and high labor and with the environmental standards.

The European Union has explicit commitments to effectively promote and safeguard children's rights in socio-economic and development policies. An integral part of this is to enable children's involvement in the development, the implementation and monitoring of policies and actions that impact the realization of their own rights.

#### **2.1.4 Principles of EU is action (The UNCRC- United Nations Convention on the Rights of the Child)**

The European Union and its member States, since 2008, have been committed to applying comprehensive and integrated human rights, based approach in all areas of the EU external action, including EU development cooperation. *The 2009 Treaty on European Union (Treaty of Lisbon)* contains an explicit commitment to protect and promote the rights of the child and, in 2011 the EU High Representative for Foreign Affairs and together with the Security Policy announced the promotion of the rights of the child as one of the Union's three explicit foreign policy priorities.

These commitments are in line with the Convention on the Rights of the Child (CRC), which has been ratified by virtually every country in the world. They also reinforce the 15-year on-going partnership between the *European Commission and the United Nations Children's Fund (UNICEF)*, aimed at fulfilling the rights of the most vulnerable children in fundamental areas such as nutrition, health, education and access to water and sanitation.

Moreover, *in December 2012, the Council of the European Union adopted a Strategic Framework and an Action Plan on Human Rights and Democracy* for the EU member States, as well as for the European institutions that propose several outcomes and activities that are also in synergy with the work of UNICEF, in the area of gender, also child care and protection, especially addressing child marriage, female genital mutilation or cutting, birth registration, justice for children and children affected by armed conflict. Children's rights, form part of the human rights obligations, that the EU and its member states are obligated to respect under international and European agreements. While responsibility for realizing the rights contained in these treaties and instruments lies primarily with governments, donor countries can also play an important role in the effective, and the timely achievement of implementation of children's rights through programs of bilateral and multilateral development assistance. The fundamental mission of UNICEF is to promote the rights of every child, everywhere, in everything the organization does. Thanks to its global presence in nearly every country in the world, UNICEF is able to

reach places others cannot, and thus, is uniquely positioned to make a difference in the lives of children. UNICEF has more than 60 years' experience working for children, and is the only organization specifically named in the Convention on the Rights of the Child as a source of expert assistance and advice. This organization helps to strengthen laws and policies and to improve understanding of the convention at all levels of society, in advocating to protect children's rights, to help meet their basic needs, and to expand their opportunities to reach their full potential. Among other activities, this organization supports countries to ratify and implement the Convention and its Optional Protocols. UNICEF draws attention to the duties of governments, families, communities and individuals to respect those rights and provides support for them to do so. This organization also supports the Committee on the Rights of the Child, which monitors implementation of the main convention, and its' Optional Protocols. Also this organization facilitates broad consultations within countries to expand the accuracy, and impact of reports to the Committee. We must note that, the rights of the child are human rights before all. They are indivisible, universal and inalienable. The Treaty on European Union (Lisbon Treaty), which came into force in 2009, includes an explicit commitment to promote the protection of the rights of the child in EU internal and external action (*refer to Annex 1 for an overview of EU Legal Instruments and Policy*). The **United Nations Convention on the Rights of the Child (UNCRC)** is a legally binding international agreement setting out the **civil, political, economic, social and cultural rights** of every child, regardless of their *race, religion or abilities*. The United Nations (commonly abbreviated as the **CRC** or **UNCRC**) is a human rights treaty which sets out the civil, political, economic, social, health and cultural rights of the children. The convention defines a child as any human being under the age of eighteen, unless the age of majority is attained earlier under national legislation. Compliance is monitored by the UN Committee on the Rights of the Child, which is composed of members from countries around the world. Once a year, the Committee submits a report to the Third Committee of the United Nations General Assembly, which also hears a statement from the CRC Chair, and the Assembly adopts a Resolution on the Rights of the Child<sup>10</sup>. The convention deals with the child specific needs and rights. It requires that the, "*nations that ratify this convention are bound to it, by international law*"! Ratifying states must act in the best interests of the child. In all jurisdictions implementing the Convention requires compliance with child custody and guardianship laws, as that every child has basic rights, including the right to life, to their own name and identity, to be raised by their parents within a family or cultural grouping, and to have a relationship with both parents, even if they are separated. The convention *obliges* states to allow parents to exercise their parental responsibilities. The convention also acknowledges that, children have the right to express their opinions, and to have those opinions heard and acted upon when appropriate, to be protected from abuse or exploitation, to have their own privacy protected, and it requires that their lives not be subject to excessive interference. The convention also *obliges* signatory states, to provide separate legal representation for a child in any judicial dispute, concerning their care and asks that the child's view point be heard in such

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<sup>10</sup> Child Rights Information Network , **Convention on the Rights of the Child**. Retrieved 26 November, 2008.

cases. Children in vulnerable situations, such as children living in poverty, living in conflict with the law and fragile situations, with disabilities, children deprived of their liberty or are in conflict with the law, migrant and refugee children (around the world, nearly 50 million children have migrated across borders or been forcibly displaced, and children now comprise half of all refugees<sup>11</sup>), unaccompanied children and those without family, face particular risks and are exposed to discrimination, marginalization, institutionalization and exclusion. Since the adoption of the Guidelines in 2007, there have been numerous developments in relation to the rights of the child globally, as well as in the evolution of EU policy on children in the external action thus, making the present revision of the Guidelines necessary.

The Global Strategy for the European Union's Foreign and Security<sup>12</sup> policy highlights the importance of the Sustainable Development Goals, and the commitment to mainstream human rights across all policy sectors in the context of EU external action. In line with the multi-faceted approach to resilience, there is also a firm commitment to focus on deepening work on education, communication, culture and youth. The European Commission proposal for a new European Consensus on Development<sup>13</sup> also underlines this commitment to mainstreaming human rights and to aligning EU development cooperation policy with the *2030 Agenda*. Furthermore, the European Union committed to moving towards a rights based approach in its operations, with the adoption of the EU Strategic Framework and Action Plan on Human Rights and Democracy (2012)<sup>14</sup>, and Council conclusions on a rights based approach to development cooperation (May 2014)<sup>15</sup>. The purpose of these "EU Guidelines for the promotion & protection of the rights of the child" (the "Guidelines"<sup>16</sup>), is to recall international standards on the rights of the child and to provide practical guidance to officials of the EU institutions and EU member states in order to:

- (i) to strengthen their role in promoting and protecting the rights of all children in EU external action, by encouraging and supporting the strengthening of partner countries' own systems, and
- (ii) to strengthen their cooperation with international, and civil society organizations.

To achieve its commitments on promoting and protecting the rights of the child, the EU promotes the General Measures of Implementation (GMI) of the UNCRC as set out in its General Comment No. 5<sup>17</sup>. The GMI's are intended to promote the full enjoyment of all rights in

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<sup>11</sup> The growing crisis for refugee and migrant children, UNICEF (September 2016), pages 3 and 6.

<sup>12</sup> Global Strategy for the European Union's Foreign and Security policy <https://europa.eu/globalstrategy/en/global-strategy-foreign-and-security-policy-european-union>.

<sup>13</sup> Proposal for a new European Consensus on Development our world, our dignity, our future, COM (2016) 740 final, 22 November 2016.

<sup>14</sup> European Union Strategic Framework and Action Plan on Human Rights and Democracy, 11855/12-June 2012.

<sup>15</sup> Council conclusions on a rights based approach to development cooperation, 9987/14- May 2014. The Commission developed a tool-box to guide staff in implementing a rights-based approach, Commission Staff Working Document Tool Box A Rights-Based Approach, Encompassing all Human Rights for EU Development Cooperation SWD (2014-152 final) (Doc. 9489/14, 5 May 2014).

<sup>16</sup> Refer to **Annex III** for a list of links to European Union Guidelines, Commission Communications and Council Conclusions which complement the Guidelines on the Promotion & protection of the Rights of the Child.

<sup>17</sup> United Nations Convention on the Rights of the Child, General Comment No. 5, General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6) CRC/GC/2003/5, 27 November 2003.

the convention by all children through legislation, budget allocations, establishment of coordinating and monitoring bodies (governmental and independent), comprehensive data collection, awareness-raising and training, and the development and implementation of appropriate policies, services and programs. The GMI therefore act as the very foundations for the realization of the rights of the child by ensuring that the necessary structures and resources are in place through a system strengthening approach. The implementation of the UNCRC is guided by **4 general principles** set out below. These principles guide the interpretation and implementation of all the other articles in the Convention and form the very basis of a child rights approach. As well as other relevant articles in the Convention, the Optional Protocols, and the Committee's General Comments<sup>18</sup>, the European Union should take into consideration these four general principles in the design and implementation of its policy and actions on the rights of the child. **Article 2 (non-discrimination)** cites: "all children should be protected from all forms of discrimination on the basis of their and their parents' color, race, sex, political, language, religion, or other opinion, national, ethnic or social origin, property, disability, birth or other status". **Article 3:** "best interests of the child should be a primary consideration in all actions concerning a child". (Also refer to UNCRC General Comment 14<sup>19</sup>CRC/C/GC/14, 2013. **Article 6:** "right to life, survival and development: children have the right to life, and states must ensure to the maximum extent possible the survival and full development of a child". **Article 12:** "respect for the views of children: all children who are capable of forming their own views must be able to express those views freely in all matters affecting the child, with the views of the child being given due weight in accordance with the age and maturity of the child", (Also refer to UNCRC General Comment 12<sup>16</sup> CRC/C/GC/12, 2009), Optional Protocols<sup>20</sup> to the Convention, there are 3 Optional Protocols to the Convention: (a) **the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography** (with 173 state parties), (b) **the Optional Protocol on the Involvement of Children in Armed Conflict** (with 165 state parties) and (c) **the Optional Protocol on a Communication Procedure** (with 29 state parties). Together with other international and regional standards on the rights of the child, including those adopted by the Council of Europe, these instruments provide a solid foundation for the enjoyment of human rights by all children without discrimination.

They also act as a reference for promoting and monitoring progress in the realization of the rights of the child. Important progress has also been made with the growing ratification and implementation of the **International Labor Organization Convention No. 182** on the Worst Forms of Child Labor (180 state parties) and **ILO Convention No. 138** on the minimum age for admission to employment and work (with 169 state parties).

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<sup>18</sup> The Committee on the Rights of the Child is a body of independent experts that monitors the implementation of the UNCRC by its State parties. The Committee issues general comments to explain and provide guidance on the implementation of the UNCRC and its Optional Protocols. General Comments are not binding for States parties.

<sup>19</sup> The Convention and its Optional Protocols, general Comments are not binding for States parties.

<sup>20</sup> Optional Protocols to human rights treaties, are treaties in their own right, and are open to signature, accession or ratification by countries who are party to the main treaty.

## 2.2 CHILD MALTREATMENT

Before we can prevent child maltreatment first, we need to know how big the problem is, where it is, and who it affects. It's not enough to know that child maltreatment is affecting a certain group of the children in a certain area. We also need to know why? The few cases of abuse or neglect we see in the news everyday are only a small part of the problem. Many cases contrary to other efforts on children are not reported to police or social services at all. Child maltreatment has a negative effect on health. Abused children often suffer physical injuries including cuts, bruises, burns, and broken bones. In addition, maltreatment causes stress that can disrupt early brain development. Extreme stress can harm the development of the nervous and immune systems. As a result, children who are abused or neglected are at higher risk for health problems as adults. These problems lead you to alcoholism, depression, drug abuse, eating disorders, obesity, high-risk sexual behaviors, smoking, suicide, and certain chronic diseases. Some of the factors can increase the risk for abuse or neglect. The presence of these factors does



not always mean that maltreatment will occur. Children are never to blame for the harm others do to them. Abuse and neglect can occur in families where there is a great level of stress. The stress can result from a family with history of violence, drug or alcohol abuse, poverty, and chronic health problems. Families that do not have nearby

friends, relatives, and other social support are also at risk. Poverty, on-going community violence, and weak connections between neighbors are related to a higher risk for child abuse and neglect. The ultimate goal is to stop child maltreatment before it starts. Strategies that promote safe, stable, and nurturing relationships (SSNR's) and environments for children and families are the key, to protecting against maltreatment and other harmful childhood experiences. These prevention strategies include improving parent-child relationships by teaching positive parenting skills like: good communication, appropriate discipline, and response to children's physical and emotional needs. Child maltreatment has extensive immediate and long term consequences. Beyond death, physical injury and disability, violence can lead to stress that impairs brain development and damages the nervous and the immune systems. This in turn is associated with delayed cognitive development, poor school performance and dropout, mental health problems, suicide attempts, increased health-risk behavior, re-victimization and the perpetration of violence. The good news is that child maltreatment can be prevented through interventions that support parents and caregivers, promote non-violent norms and values, provide education and life skills training, strengthen families, income and economic security, offer high quality response and support services, create and sustain safe environments for children, and implement the same.



**Child maltreatment**

**=**

**Child abuse**

**Emotional –Abuse:**

**Is any act including confinement, isolation, verbal assault, humiliation or any other treatment which may diminish the sense of identity ,dignity and self-worth.**

**Physical-abuse:**

**Is any act where one person uses their body in order to inflict intentional harm or injury upon another person.**

**Sexual abuse:**

**Is unwanted sexual activity by perpetrators using force, making threats or taking advantage of the victims not able to give consent.**

### 2.2.1 Child abuse and neglect



Children make up the segment of society that is the most vulnerable, the most defenseless, and completely dependent on adults. It is always the fault of adults when children end up in areas of natural disasters, and catastrophes or zones of military combat operation, and become the hostages, and victims of physical, sexual, and emotional violence. In education today, as in years past and surely in years to come, child abuse and neglect is, and will be an overwhelming epidemic. Unfortunately, teachers at school are faced daily with the prospect of having to call human services to report an incident of child abuse or neglect. Study after study has been conducted and an overwhelming amount of them find it that, child abuse and neglect is a behavior that is handed down from generation to generation and only with education the behavior can be broken. Particularly, sexual abuses are among the world's most serious concerns, with millions of cases reported to various children's protective service organizations each year. Yet, it is also estimated that much abuse is underreported either because the victims are afraid to tell anyone what has happened, or the adults who observe or suspect the abuse are unsure of what to do. International schools have a moral, as well as legal duty to safeguard the welfare of their students, as well as those children using their facilities or involved with the programs and activities. Thus, our goal as new generation is to build and maintain a proactive environment that protects children by either preventing child abuse before it occurs or, by ensuring its earliest possible detection, intervention and reporting. Issues related to child abuse and neglect cross the national borders, affecting both developing and developed countries. However, data and legislation in force, regarding violence against children are often quite weak, mainly due to the discrepancies in the classification of child maltreatment, and the shortcomings in the research methodology that could produce valuable and comparable data at international level. In the Balkans area in particular there is no available and reliable data on the magnitude of this phenomenon in the national scale of the general population. The approach to a comprehensive child protection program must emerge from the needs of students/children and families in our schools and communities. International schools should be understood as evolving and dynamic eco-systems that have common characteristics and attributes. International schools are shaped by, and respond to these needs in various ways and through well-developed programs. Child care & protection is a broad term used to describe philosophies, policies, standards,

guidelines and also procedures to protect children from both intentional and unintentional harm. In this research the terms “*child care & protection*” applies to protection of children in international schools. Please note that, this definition also includes harm to self.

**Child Protection Policy**-is a statement of intent that demonstrates a commitment to protecting children from harm (to self and from others) and makes clear to all what is required in relation to the protection of children. It serves to create a safe and positive environment for children, and to demonstrate that the school is taking its duty and responsibility seriously. This research considers that schools will provide appropriate child safety classes, supported with a well-defined curriculum to increase children’s ability to understand abuse prevention. Child protection concerns include suspected, alleged, self-disclosed, or witnessed abuse of a child by anyone associated within, or outside the school which, must be investigated and followed by appropriate action.

**Child Abuse:** according to the World Health Organization constitutes to: “all forms of physical and emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child’s health, survival, development or dignity, in the context of a relationship of responsibility, trust or power”. A person may abuse a child by inflicting harm, or by failing to act to prevent harm. Children may be abused in a family or in an institutional (e.g. school) or community setting. Children also may be abused by individuals known to them, or more rarely, by a stranger. Often children may experience multiple forms of abuse simultaneously, further complicating the problem. Most child abuse is inflicted by someone the child knows, respects or trusts. International school communities have unique characteristics of which, school personnel must be aware in terms of the individuals who are around our children. School personnel should be knowledgeable of the potential reasons why children may not be able to talk about any victimization they might have experienced.

**Physical abuse:** (different from emotional and sexual), may involve hitting, punching, shaking, throwing, poisoning, burning or scalding, drowning, suffocating or otherwise causing intentional physical harm to a child. (These symptoms could also indicate harm to self, such as, cutting and suicide ideation). Signs of physical abuse include: (bruises, burns, sprains, dislocations, bites, cuts-improbable excuses given to explain injuries), injuries which have not received medical attention, injuries that occur to the body in places that are not normally exposed to falls, rough games, etc. repeated urinary infections or unexplained stomach pains, refusal to discuss injuries, withdrawal from physical contact, arms and legs kept covered in hot weather, fear of returning home or of parents being contacted, showing wariness or distrust of adults, self-destructive tendencies, being aggressive towards others, being very passive and compliant, chronic running away etc.). Unlike physical abuse, **emotional abuse** is the persistent ill treatment of a child, so as to cause severe and adverse effects on a child’s emotional development. This kind of abuse it may involve: conveying to children that they are worthless or unloved, that they are inadequate or valued only in so far as they meet the needs of another person, age or developmentally inappropriate expectations being imposed on children, causing children frequently to feel frightened, or the exploitation or corruption of children. Some level of emotional abuse is involved in all types of ill-treatment of a child, though it may also occur

alone. Signs of emotional abuse include: (physical, mental and emotional development is delayed, highly anxious, showing delayed speech or sudden speech disorder, fear of new situations, low self-esteem, inappropriate emotional responses to painful situations, extremes of passivity or aggression, drug or alcohol abuse, chronic running away, compulsive stealing, obsessions or phobias, sudden under-achievement or lack of concentration, attention-seeking behavior, persistent tiredness, lying). While on the other side, **sexual abuse** involves forcing or enticing a child 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 (i.e. rape) or non-penetrative acts. They may include: (non-contact activities, such as involving children in the production or viewing of pornographic material or encouraging children to behave in sexually inappropriate ways). Children involved in commercial sex work are victims of sexual abuse, whether they perceive themselves as victims or not. Signs of sexual abuse include (pain or irritation to the genital area, vaginal or penile discharge, difficulty with urination, infection, bleeding, STDs, fear of people or places, aggression, regressive behaviors, bed wetting or stranger anxiety, excessive masturbation, sexually provocative, stomach pains or discomfort walking or sitting, being unusually quiet and withdrawn or unusually aggressive, suffering from what seem physical ailments that can't be explained medically, showing fear or distrust of a particular adult, mentioning receiving special attention from an adult or a new "secret" friendship with an adult or young person, refusal to continue with school or usual social activities, age inappropriate sexualized behavior or language.

### 2.2.2 Cases of child neglect



Child neglect is more like a pattern of behavior or a social context that has a hole in the middle, where we should find the meeting of basic developmental needs. Childhood provides the easiest context in which to observe this, because the needs of infants exist within a much narrower range than those of older children and adolescents. Either in state institutions or at home, child neglect has proven to, been raised under the ECHR.

The obligations of the authorities in situations of parental child neglect are similar to those in the cases presented previously. On the one hand, the state needs to put in place effective mechanisms for child protection, while on the other, state authorities must take action for protecting children in cases of reported child neglect, or where there is enough evidence of child neglect at their disposal, be it in homes or in privately-run institutions. Cases of neglect in state institutions impose direct obligations on the authorities to protect children by ensuring that they receive

adequate (medical) care that the facilities where they are placed are adequate or the staff is well trained to deal with the needs of the children<sup>21</sup>. Local authorities to prevent neglect, is particularly important having considering its proximity to children and families as final beneficiaries of services. While national authorities establish common standards for the provision of neglect services, it is the responsibility of the regions and municipalities to adhere to these standards and provide a network of child-friendly mechanisms and services. This research draws attention to the urgent need for a broad and concise, child needs-based definition of neglect that focuses specifically on this highly vulnerable age group (children). Improved understandings of, and responses to child neglect have been held back by the lack of settlement about what constitutes neglect, and how best to be defined and same be measure it. While some progress has been made towards a conceptual definition of neglect in early childhood, also research is much needed to advance the development of a definition that is both conceptually sound and operational.



**Neglect** is the persistent failure to meet a child’s basic physical or physiological needs, likely to result in serious impairment of the child’s health or development. Some indicators of neglect are like: medical needs unattended, lack of supervision, consistent hunger, inappropriate dress, poor hygiene, inadequate nutrition, fatigue or listlessness, self-destructive, extreme loneliness, extreme need for affection, failure to grow, poor personal hygiene, frequent lateness or non-attendance at school, low self-esteem, poor social relationships, compulsive stealing, drug or alcohol abuse. Long term, the impact of unmitigated child abuse, can persist for a lifetime after the abuse has been committed. Some victims of abuse are resilient, and thus manage to function and survive. Much research has established the relationship between long-term child abuse and life-time health and well-being, especially if the children do not get appropriate support to help them cope with the trauma. The most important point to consider is that, children often are exposed to multiple forms of abuse and suffer a mass of symptoms. Furthermore, all forms of abuse have the potential for long-term impact on the victims, and can affect the victim's ability to function as a human being. Abuse challenges the self-value, self-esteem, and sense of worth of its victims, rendering them hopeless, helpless and unable to live a complete life, long term impact of child abuse, poor educational achievement, inability to complete responsibilities, inability to live according to plan and ability, inability to care for self, inability to coexist, cooperate or work with others, lack of self-confidence, prone to addiction, inability to express

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<sup>21</sup> ECTHR, *Nencheva and Others v. Bulgaria*, No. 48609/06, 18 June 2013.

love or accept love, inability to lead family, constant health problem, prone to mental health problems, low self-esteem, depression and anxiety, post-traumatic stress disorder (PTSD), attachment difficulties, eating disorders, poor peer relations, and self-injurious behavior (e.g., suicide attempts). A child that has been abused either physically, sexually, emotionally, or has been neglected, will most likely suffer from many long-term effects. Thus, children who have been abused are essentially scarred. These children are able to, with help, regain normal functioning but the scars will never go away. The emotions of these children may have trouble understanding basic cause and effect, have difficulty expressing feelings appropriately (especially anger, sadness, and frustration), also have difficulty in appropriately recognizing feelings in others.



### 2.2.3 What is Child Exploitation?

Have you ever thought about of a 10 year old boy or a girl being persecuted and being abducted in the middle of the night? Can you imagine that millions of worldwide children are forced by the leaders to kill their families? Throughout the human history, child exploitation has been one of the most serious problems of the planet. The problem is that children's exploitation has been increased and it is constantly increasing over the time. More than *250 million* children between the ages of 5 to 14, work every day, in the world. Furthermore, **the International Labor Organization (ILO)** believes that up to *1.2 million* children are trafficked annually all over the world. Most of the children who are exploited live in countries of the so called "**Third World**", such as: *Asia, Africa*, but also in *Europe and North America*. The work that can be carried out by a child would be qualified as exploitation that the child must work full-time at an early age. Also, when children with a lot of responsibilities, it is also treated as the exploitation of children. Today I'm here to talk about the exploitation of children around the world and try to prove why the action that is absolutely wrong things to do. The word "**exploit**" usually means to be used unfairly for someone's own advantage.

For example, by taking a film of a porno graphical, materials of the child in compromising situation, producer or director of that film would try selling films in order to get money. And we have to understand that it has been estimated that 25% of the exploiters are children. As I just defined what the word “exploit” means is, it is the action that being used unfairly for one’s own advantage, so some of the people could get benefits and high profits by selling films of porno graphical materials of the child, but what about the child who is discriminated and child who is not even treated as a human being? This is one of the unbearable issues for the government as well. And according to **the Universal Declaration of Human Rights article 5**, it is clearly stated that “*no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment*”. Due to these several evidences that I just stated in this second paragraph, I strongly believe that children also have the same rights to be treated as human beings. Then, what if they ask us about the different ranks between children and adults so that adults are way more significant than child?

According to the Universal Declaration of human rights **article 7<sup>22</sup>**, it is clearly stated that: “*All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this declaration and against any incitement to such discrimination.*” Child protection in the broad sense relates to all measures designed to ensure the exercise of children’s rights. In the narrow sense, it relates to the rights of children to be free from all forms of violence. Under international law, states must take measures to ensure children benefit from adequate protection and their rights to physical integrity and dignity are effectively observed. The duty of the country to protect may take various forms, depending on the specific risk of violence if a child is exposed to and the perpetrator thereof. Thus, states’ duties are more evident where children are under the authority and control of the state. For example when they are placed in public institutions, this happens when the risk of violence is high. The state’s duty to protect may prove more difficult in cases where children are exposed to violence by private perpetrators, such as their family members. This chapter analyses specific aspects of violence against children and the response of the international community. Unfortunately, there is a large market and interest in using children of all ages for cheap labor, sexual purposes, child pornography, and other purposes. Many individuals taking part in child exploitation do it because there is a large profit to be made, essentially selling the services of children, or the children themselves, to others. Others use children to create child pornography, or for personal sexual gratification. Laws regarding exploitation of children vary by state, and children are protected by national and international laws as well. Penalties for those convicted of child exploitation in any form are severe. This crime can be divided into two types of exploitation: **sexual and economic**.

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<sup>22</sup> The Universal Declaration of Human Rights (UDHR) , article 7 Paris on 10 December 1948 (General Assembly resolution 217 A), also see <https://www.un.org/en/universal-declaration-human-rights/>.

## 2.2.4 Trafficking of children



**Trafficking of children** (also known as “Child Exploitation” and “Child Labor”), is a form of human trafficking and is defined as the "*recruitment, transportation, transfer, harboring, and receipt*" of a child for the purpose of slavery, forced labor and exploitation. This definition is substantially wider than the same document's definition of "trafficking in persons". Article 3 of the Convention states that: children can also be trafficked for the purpose of adoption. Though statistics regarding the magnitude of child trafficking are difficult to obtain, the International Labor Organization estimates that 1.2 million children are trafficked each year. The trafficking of children has been internationally recognized as a serious crime that exists in every region of the world and which often has human rights implications. Yet, it is only within the past decade that the currency and consequences of this practice have risen to international prominence, due to a dramatic increase in research and public action. A variety of potential solutions have accordingly been suggested and implemented, which can be categorized as four types of action: *broad protection, prevention, law enforcement, and victim assistance*. The main international documents dealing with the trafficking of children are: a) the **1989 U.N. Convention on the Rights of the Child**, b) the **1999 I.L.O. Worst Forms of Child Labor Convention** and c) the **2000 U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children**. Under the European Union law, **Article 83** of the TFEU (the Treaty on the Functioning of the European Union), “identifies trafficking in human beings as a field where the EU Parliament and European Council have legislative powers”. **Article 5 (3) of the EU Charter of Fundamental Rights** contains an express prohibition of trafficking in human beings. The contribution of the EU is valued here, as this is an area with cross-border dimensions. **Directive 2011/36/EU**, on preventing and combating trafficking in human beings and protecting its victims, is the first instrument passed by the European Parliament and the Council based on **Article 83** of the TFEU<sup>23</sup>. Under **Article 2 (1)** of this directive, trafficking of children is defined as: “the recruitment, transportation, transfer, harboring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud,

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<sup>23</sup> **Directive 2011/36**-of the European Parliament and the Council of 15 April 2011, on preventing and combating trafficking in human beings and protecting its victims, OJ 2011 L 101/1.



of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments, or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation”. The purpose of the directive is to set out minimum rules for the definition and sanctioning of human trafficking, related offences (**Article 1**). The directive as a whole is relevant for children, and it also includes several child-specific provisions relating to assistance and support of child victims of trafficking and protection in criminal investigations (**Articles 13–16**)<sup>24</sup>. Specific support measures are to be taken pursuant to a specialist assessment of each individual victim (**Article 14 (1)**). States should appoint a guardian to represent the child’s best interests (**Article 14 (2)**), and provide support to the family of the child (**Article 14 (2)**). During criminal proceedings, children have the right to a representative, free legal counselling, and the right to be heard in adequate premises and by trained professionals (**Article 5 (1)-(3)**). Further protection measures include the possibility to conduct hearings without the presence of the public and the possibility to hear the child indirectly via communication technologies (**Article 5 (5)**)<sup>25</sup>.

### 2.2.5 Violence against children

The definition of violence towards children used in the above United Nations study is set out in **Article 19** of the UNCRC, and includes exposure of children to violence both inside and outside the home the same. It covers not only acts of violence involving adults and children but also those taking place between children. Most perpetrators of acts of violence towards children are known to their victims, and are in a position of trust: parents, relatives or members of their immediate circle, boyfriends/girlfriends, schoolmates, teachers, employers, child careers, ET<sup>26</sup>. Violence against children requires an integrated (systemic, holistic) approach. This approach, allows the factors of different degrees (cultural, psychological, pedagogical, behavioral, physical, emotional, political, socio-economic, etc.), to be addressed on the basis of common arguments. This means that all programs and actions aimed at preventing and protecting the children from violence, in the broader context of promoting children’s rights, should to operate across a range of disciplines and sectors. Unfortunately violence against children is a phenomenon happening worldwide, in forms of physical, psychological violence. Children are deprived of care, basic social services, health care and education, child abuse, neglect, exploitation, forced to beg, and being trafficked. Children are still one of the social groups that are more at risk, facing many problems that remain unresolved. Although, the consequences may vary according to the type and severity of the violence, and for that the short and long-term consequences for children are very often serious and destructive and are costly. The laws that protect children’s rights are not often effective. Although the United Nation’s Convention on the Rights of the Child (UNCRC) clearly

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<sup>24</sup> **Directive 2011/36-EU** of the European Parliament and of the Council of 15 April 2011, on preventing and combating trafficking in human beings and protecting its victims, OJ 2011 L 101/1.

<sup>25</sup> See FRA (2015b), p. 79.

<sup>26</sup> Report of the independent expert for the United Nations study on violence against children, OP. cit, p-9.

articulates, in **Article 19**, that the state's responsibility to protect children from all forms of violence, it is widely acknowledged that, globally little of that obligation has been translated into practice. Furthermore, until recently, there was no coordinated global effort to consolidate the information on children's experiences of violence against them. The purpose of this research is to generate credible information that will enable the creation of effective interventions for the prevention of violence against children. The study aims to understand how, and why violence against children continues to occur, so that the information generated can be used to design programs, develop policies, and inspire further similar research towards creating a meaningful response to the problem. This study, assumes that most violence against children, within the domestic domain, is the consequence of children's low status in the social hierarchy of power. In other words, violence is inflicted on children mainly because they are immature, and less so because of their actions. For example, an adult male/female who commits the same mistake as a child would not be beaten, but the same being a child would. Thus, this study analyses violence within the context of this power-based more on adult-child relationship. Although, it avoids simple cause and effect linkages, such as alcohol, jealousy, miss-behavior, and poverty as the causes of violence even though it recognizes that they can act as triggers for violence. What do you understand by the term **"violence against children"**?

**..."Violence is when they treat you badly so you feel bad all the time".**

**A 13-year-old girl, Apac**

**..."Tying children with a rope and the child sleeps there for three or more days without eating".**

**A 12-year-old boy, Kasese**

**..."Treating children badly. Giving a child heavy work and also beating and tying the child, the hands and legs with a rope then beating him".**

**A 15-year-old boy, Apac**

This definition embodies four critical ideas that resonate with the approach of this study. First, it incorporates the concept of “power” and thus, implies analysis of the transaction in terms of a relationship. Second, it includes the use of actual force, as well as the threatened force, the latter characterizing the bulk of the violence perpetrated against children. Third, it includes the acts that lead to psychological harm, male/female development, and deprivation, all of which are critical concerns when understanding the impact of violence on children. Finally, this conception of violence closely approximates what children understand by violence, even though they may not use similar words. Punishing children has become normalized nowadays. Many adults use it as their primary method for teaching children how to behave. Most adults (parents) talk with pride about how they within their communities punish their children to control their behavior. We must insist that children play a central and a meaningful role in all the efforts, aimed at addressing violence against them.

They must be protagonists for their own cause and their experience, views and ideas must form an integral part of any intervention aimed at preventing violence against them. We must learn new ways of listening to them and learning from them. Develop comprehensive child-centric legislation<sup>27</sup> that would legally protect children from all forms of violence, including physical, sexual, and economic violence, as well as many forms of emotional violence. The legislation should include all provisions of the UNCRC, and prescribe clear action when these rights are denied to children. It should ensure that sufficient resources and mechanisms are in place to respond to children who need to access the protection provided in this legislation. No other forms of violence has the social legitimacy or tacit consent associated with violence against children. In every part of society, within every political view, from the educated and the affluent, to the illiterate and the impoverished, the tolerance of violence against children is pervasive. A large section of the adult population sees children as instruments of their elders’ will, as right holders in waiting, as having to pay the price of obedience, and subservience for their reliance on adult support. This power based construction of the adult-child relationship has become the engine that perpetuates violence against children. We live in a society where more than 90% of the children consulted from diverse backgrounds said they have experienced violence at the hands of people who are supposed to be the guardians of their rights. A third of these children reported that, they experience violence at least once a week, and a half of those who experience it regularly. Yet, unfortunately there is no public outcry, or a clearly organized movement to change this reality. Parents and educators, caretakers, continue to violate children despite deep in their hearts knowing that it is not teaching the child anything except fear and shame.

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<sup>27</sup> While the Children Act, Cap 59 is a step in the right direction, it needs to be strengthened to address preventative aspects of violence against children and particularly violence against children in schools. Several other bills pending, including Domestic Relations Bill should incorporate children’s concerns about violence against them. Sexual Offences Bill should ensure that sexual violence against children, including boys, is treated as a specific offence, as opposed to an assault!

## CHAPTER III

### 3. THE RIGHTS OF THE CHILD AT INTERNATIONAL LEVEL

In referring to ‘European children rights law, the focus is on primary sources of law (treaties, conventions, secondary legislation and case law), introduced by the Council of Europe (COE) and the European Union (EU). Where relevant, reference is made to other European sources that influence the development of European children’s rights law, including key policy documents, guidelines or other non-binding, known as soft law instruments. Children are holders of rights, rather than just objects of protection. They are beneficiaries of all human, fundamental rights and subjects of special regulations, given their specific characteristics. Much European case laws derive from litigation initiated by parents or other legal representatives of children, given the limited legal capacity of children. While this research aims to illustrate how the law accommodates the specific interests and needs of children, it also illustrates the importance of parents or guardians, or other legal representatives and makes reference, where appropriate, to where rights and responsibilities are most prominently vested in children’s careers. In such instances, the United Nations Convention on the Rights of the Child (UNCRC)<sup>28</sup>, approach is adopted namely that parental responsibilities need to be exercised with the best interests of the child as their primary concern, and in a manner consistent with the evolving capacities of the child. Child rights are protected under international human rights law, the set of international rules, established by treaty or custom, on the basis of which individuals and groups can expect, and claim certain behavior or benefits from governments without discrimination. Numerous instruments have been adopted at global and regional levels, to protect the children form against various forms of violence. Membership in the treaties should be strongly encouraged. Once ratified, they have to be effectively implemented and monitored, and national laws, sub-legal acts, policies, protocols, regulations, plans and programs. In addition to the Universal Declaration of Human Rights, which forms a key pillar of the work of the United Nations, the main international treaty sources include the:

1. *International Covenant on Civil and Political Rights (1966).*
2. *International Covenant on Economic, Social and Cultural Rights (1966).*
3. *Convention on the Prevention and Punishment of the Crime of Genocide (1948).*
4. *Convention on the Elimination of All Forms of Racial Discrimination (1965).*
5. *Convention on the Elimination of All Forms of Discrimination against Women (1979).*
6. *Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (1984).*
7. *Convention on the Rights of the Child (1989).*

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<sup>28</sup> UN, General Assembly (1989), Convention on the Rights of the Child, 20 November 1989.

The main regional instruments are: the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950), the American Declaration of the Rights and Duties of Man (1948), the Convention on Human Rights (1969) and the African Charter on Human and Peoples' Rights (1981)<sup>29</sup>.

### **3.1 Child Care and protection- (Legislation)**

Legislation is most effective when it is followed by education and training to enable consumers to understand the purpose of the new policy serves. Such communication actions should be part of an overall child safety promotion plan which involves all stakeholders, including business, non-governmental organizations, and professional groups such as pediatricians, pediatric surgeons, emergency physicians, public health professionals, teachers, architects, designers, urban planners, engineers and consumer organizations. Given the fragmented infrastructures for child safety communications and policy, the first priority should be: to create a sense of urgency among potential partners and stakeholders within these countries, to make a commitment to reduce the leading killer of children. The national and regional departments of health are the most suitable public agencies to take the lead in this. At the European level, much can be done to foster this process by giving guidance and direction to member states in this respect. Promoting efficient exchange of good practices, adopting legislation to promote implementation of proven prevention measures, facilitating European collaboration and concerted actions such as joint campaigning should be undertaken. The leading cause of death and disability to children can be significantly reduced in Europe only if, member states, the European Parliament, the European Commission, industry and child safety organizations work together and make a joint commitment to address this issue. Enacting the following recommendations would create the way ahead for children in Europe, and begin to give them their rights to safety. We already know that human rights are inalienable rights possessed by every human being, but how can we access these rights? Where can we find evidence that these rights have been formally recognized by states? And how are these rights implemented? It goes without saying that, human rights protection and understandings are ultimately most reliant on developments and mechanisms at the national level. The laws, policies, procedures and mechanisms in place at the national level are the key for the enjoyment of human rights in each country. It is therefore crucial that human rights are part of the national constitutional and legal systems, that justice professionals are trained about applying human rights standards, and human rights violations are condemned and sanctioned. National standards have a more direct impact, and national procedures are more accessible than

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<sup>29</sup> The Montpellier Panel, Growth with Resilience: Opportunities in African agriculture for Impact, London, 2012.

those at the regional and international levels. As *Eleanor Roosevelt* observed: “*Where, after all, do universal human rights begin*”? In small places, close to home, so close and so small that they cannot be seen on any map of the world. Yet, they are the world of the individual person: the neighborhood he/she lives in, the school or college he/she attends, the factory, farm or office where he/she works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination.

Unless these rights have meaning there, they have little meaning anywhere, at the international level, states have come together to draw up certain agreements on the subject of human rights. These agreements establish objective standards of behavior for states, imposing on them certain duties towards individuals. They can be of two kinds: legally binding or non-binding. A *binding* document, often called a Treaty, Convention or Covenant, represents a voluntary commitment by states to implement human rights at the national level.

States individually commit to being bound by these standards through ratification or accession (simply signing the document does not make it binding, although it represents the willingness to facilitate this). States can make reservations or declarations in line with **the 1979 Vienna Convention on the Law of Treaties**, which exempt them from certain provisions in the document, the idea being to get as many of them as possible to sign. After all, it is better to have a state promising to comply with some human rights provisions than with none! This mechanism, however, can sometimes be abused and used as a pretext for denying basic human rights, allowing a state to "escape" international scrutiny in certain areas. Human rights have, however, also permeated binding law at the national level. International human rights norms have inspired states to enshrine such standards into national constitutions and other legislation. These may also provide avenues for redress for human rights violations at the national level. By contrast, a non-binding instrument is basically just a declaration or political settlement by states to the effect that, all attempts will be made to meet a set of rights but without any legal obligation to do so. This usually means, in practice, that there are no official (or legal) implementation mechanisms, although there may be strong political commitments to have them. Meetings of the United Nations General Assembly, or UN conferences held on specific issues often result in a United Nations declaration, or non-binding document also referred to as "soft law". All states, simply by being members of the United Nations or by taking part in the conference, are considered to be in agreement with the declaration issued. The recognition of human rights should also, at the national level, be the result of an agreement between a state and its civilians. When human rights are recognized at the national level, they become primarily a political commitment of a state towards its people. As well as recognizing the fundamental rights of individuals, some human rights instruments recognize the rights of specific groups. These special protections are in place because of previous cases of discrimination against groups, and because of the disadvantaged and vulnerable position that some groups occupy in society. The special protection does not provide new human rights as such, but rather seeks to ensure that the human rights of the UDHR are effectively accessible to everyone. It is therefore incorrect to

pretend that people from minorities have more rights than people from majorities, if there are special rights for minorities it is simply to guarantee them equality of opportunities in accessing civil, political, social, economic or cultural rights. Examples of groups that have received this kind of special protection are: MINORITIES, REFUGEES, WOMEN, and **CHILDREN!** Their main protection is given at the UN level with the Convention on the Rights of the Child (CRC) of 1989, the most widely ratified convention (not ratified only by the United States and Somalia).

**According to this, the Convention's four core principles are:**

1. Non-discrimination (a commitment to upholding the best interests of the child),
2. The right to life,
3. Survival and development,
4. Respect for the views of the child.

➤ **Child care & protection (legislation in some other areas)**

Different and specific is the African level, therefore, *the African Charter on the Rights and Welfare of the Child* provides basic children's rights, taking into account the unique factors of the continent's situation. This Charter it came into force in 1999. The Covenant of the Rights of the Child in Islam was adopted by the Organization of Islamic Conference in 2004. The ASEAN Commission on the Promotion and Protection of the Rights of Women and Children was inaugurated in April 2010. The Council of Europe, Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse came into **force on 1 July 2010**. This Convention is the first instrument to establish the various forms of sexual abuse of children as criminal offences, including such abuse committed in the home or family. As we can see from above, international and regional instruments generally uphold the same minimum standards, but they may differ in their focus, or in raising regionally focused concerns. For example, the concern with internally displaced persons was spearheaded in the African region before the issue really emerged as a matter for UN concern, similarly, the mechanism of visiting places of detention in an effort to prevent torture, was first established at the European level before an Optional Protocol allowed for the same mechanism under the UN Convention Against Torture. These examples show how regional and international norms and mechanisms can help accelerates the promotion and protection of human rights. In Europe, policies and laws occur at various levels including municipal, national and EU-wide.

### 3.1.1 The Council of Europe-Development of Children's Rights Law

Children are increasingly both victims and refugees from war and hostilities, thus this research aims to provide information of help to children's rights advocates, in the better care and protection of the rights of children and refugee and displaced children. **The United Nations Convention on the Rights of the Child (CRC)** raises important questions of interpretation, and it is crucial to understand how the full range of human rights and humanitarian principles can be used to best effect. The CRC is important for children in war situations, because it includes elements of international humanitarian law, in particular, the obligation on State parties to take all feasible measures to ensure that persons under the age of fifteen, do not take a direct part in hostilities, and refrain from recruiting persons under fifteen. These, and related provisions are considered, together with other international standards, such as those in the 1949 Geneva Conventions and the 1977 Additional Protocols. The fifteen year age limit was controversial during negotiations, as it was the qualifying language of obligation. Attempts to secure a higher age failed, and other concerns remain, such as the overall applicability of the CRC, and its relationship with the other international instruments. The authors argued about that, it might provide an informal point of entry for international humanitarian obligations, particularly for States which have not ratified the Additional Protocols. Also note that certain rights with respect to deprivation of liberty, education, or the cultural, linguistic and religious rights of indigenous minorities, are more extensive in the CRC, than in the Geneva Conventions and Protocols, whereas other international human rights instruments include provisions that remain in force in war time, and offer even greater protection.

The CRC also offers potential for the protection of refugee children. Its breadth of application means that it is not dependent upon lawful or other status, and it offers greater protection in several important instances, such as economic, social, cultural, civil and political rights, the right to a name and a nationality immediately after birth, and the right to preservation of identity. In other circumstances, however, higher standards in other treaties must be relied on. It concludes by recommending that, non-governmental organizations have an important role to play, if the proposed Committee on the Rights of the Child is to be effective. Non-governmental organizations are well placed to provide data on how children are affected by policy, and on their needs that they should not miss the opportunity.



### **3.1.2 THE CRC -United Nations Convention on the Rights of the Child**

As the most universally ratified human rights treaty, the CRC represents a legitimate framework, and agenda for action, for mutual accountability, and dialogue among development cooperation actors. With respect for human rights, child rights and fundamental freedoms having become core principles of development cooperation, the norms and standards enshrined in the CRC provide useful guidance for development programs aimed at reducing inequity and promoting inclusive and sustainable growth<sup>30</sup>. While protocols are legally committed to realize their provisions, the CRC calls on societies, private individuals, donors and other non-state actors to comply with its provisions, states are the primary duty bearers obliged to respect, to protect and to fulfill children's rights. It is therefore the responsibility of development cooperation to support states to effectively realize the commitments of the CRC. The CRC is the most comprehensive international human rights agreement in existence in that it addresses the whole spectrum of rights as categorized below! In spite of limited data and research, available studies reveal an alarming prevalence of violence against children with disabilities from higher vulnerability to physical and emotional violence when they are young to greater risks of sexual violence as they reach puberty. Indeed, children and adolescents with disabilities are 3 to 4 times more likely to experience physical, sexual violence and neglect than other children, and they are at significantly increased risk of experiencing sexual violence: up to 68% of girls and 30% of boys with intellectual or developmental disabilities will be sexually abused before reaching their 18<sup>th</sup> birthday.

The new global development agenda includes for the first time a specific target to end all forms of violence against all children. The new agenda provides a shared sense of purpose and a renewed motivation to worldwide efforts while leaving no child behind. This is also an obligation that states have undertaken by ratifying international human rights treaties. The Convention on the Rights of the Child recognizes that all children, especially children with disabilities, are entitled to protection from all forms of violence. Countries are required to take all appropriate measures to ensure the protection of the rights of children without discrimination of any kind. The CRC establishes the right of children to be protected from all forms of violence and imposes a responsibility on governments to fulfil this right for every single child, without discrimination. Children can only be protected effectively when they understand their own right to care, and protection from violence and have access to effective mechanisms to be heard. It is particularly difficult for a child to report an incidence of abuse in countries where there is no tradition of children speaking up on their own behalf. The problems are intensified in the context of sexual abuse, particularly in countries where topics related to sex are seldom discussed, or where there is a profound stigma attached to sexual activity. In these cases, unfortunately the child may have no language through which to describe what has happened.

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<sup>30</sup> Committee on the Rights of the Child, General Comment No. 10- Children's rights in juvenile justice, the 44 session, 15 January–2 February 2007.

### 3.1.3 Child Protection and Care ACT

1. The act recognizes that the family is the preferred environment firstly for the care and upbringing of children and for the responsibility for protection of children rests primarily with the parents. However, it also stipulates that the need for the necessary support services, or alternative environments when the best interest of the child is not being met by the family unit.
2. The Office of the Children's Advocate, the Children's Register and Office of the Children's Registry were all established under this Act. The OCA was established with the purpose of *protecting and enforcing the rights of children*. The children's Advocate is appointed by the Governor General. The Children's Register different from the other consists of such information as supplied by persons, such as health professionals, school faculty, social workers, and anyone who makes a report to the Registry regarding suspected ill-treatment of a child.
3. The act it outlines the circumstances under which a child may be removed from his/her family, including abuse, neglect and the parents' inability to take care of the child, or control the child if he/she is exhibiting negative behavior.
4. The same stipulates the guidelines for placing children in the care of the state, their rights thereafter, and circumstances under which they may be transferred, or removed from these facilities.
5. It outlines the ages at which a child may gain employment, and specific terms of said employment. For instance, a child may begin working at 13, "no person shall employ a child who has attained the age of 13 years, but who has not attained the age of 15 years, in the performance of any work... (other than): (a) such light work as, the minister responsible for labor considers appropriate for the employment of any child of the age referred to... and, (b) specifying the number of hours during which, and the conditions under which such child may be so employed".
6. The Act makes it clear that, no child under the age of 12 years can be guilty of an offence, 'age of criminal responsibility.'

It also sets out how those over this age who run afoul of the law are to be treated in the justice system-**Children's Court**. Throughout the Act, children are placed at the

center. The child will be listened to, and represented by a lawyer and protected at all time. This law introduces for the first time in our legal history a secure and therapeutic center. It will allow the Head of the Department to detain minors with deviant behavior, and order that they are placed in this therapeutic center, in order to undergo therapy for a period that will be determined by the court. All actions will be subject to the Court's scrutiny and approval. The law dedicates a



*'Title'* on the rights of minors in alternative care. Apart from all the other rights included in the European Convention on Human Rights, and the Maltese Constitution, **Article 63** of this Act delineates and makes particular emphasis on various innovative rights, such as: *"the right to be consulted and informed on various matters"*.

Most notably, this act makes it clear that over, and above all the existing rights enjoyed by minors, they will also be protected by the rights enshrined in the United Nations Convention on the Rights of the Child. This is quite innovative in nature<sup>31</sup>.

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<sup>31</sup> CCP-Children's rights **Title VII-Article 63**.

## CHAPTER IV

### 4. CHALLENGES FACING CHILDREN IN EUROPE

#### 4.1 Children's Rights and The EU Treaties (Conventions)

It was not until the late 19<sup>th</sup> century, that nascent children's rights' protection movement countered the widely held view that children were mainly quasi-property, and economic assets. In the United States, the progressive movement challenged courts' reluctance to interfere in family matters, promoted broad child welfare reforms, and was successful in having laws passed to regulate child labor, and provide for compulsory education. It also raised the awareness of children's issues, and also established a juvenile court system. Another push for children's rights occurred in the *1960s and 1970s*, when children were viewed by some advocates as victims of discrimination or, as an oppressed group. In the international context, the growth of children's rights in international and transnational law which, has been identified as a striking change in the post-war legal landscape<sup>32</sup>. The purpose of this overview is to describe some of the provisions of certain major international legal instruments on children's rights that form part of that landscape.

#### ➤ International Global Documentation:

#### ❖ *Declaration of the Rights of the Child 1959*<sup>33</sup>

*The U.N. Declaration of the Rights of the Child (DRC)* builds upon rights that had been set forth in a *League of Nations Declaration of 1924*. The Preamble notes that, children need “special safeguards and care, including appropriate legal protection, before as well as after birth”, reiterates the 1924 Declaration's pledge that: “mankind owes to the child the best it has to give”, and specifically calls upon voluntary organizations and local authorities to strive for the observance of children's rights<sup>34</sup>. One of the key principles in the DRC is that, a child is to enjoy “special care and protection”, as well as “opportunities and facilities, by law and by other means”, for healthy and normal physical, mental, moral, spiritual, and social development, “in conditions of freedom and dignity”. The “paramount consideration” in enacting laws for this purpose is “the best interests of the child<sup>35</sup>”, a standard echoed throughout legal instruments on children's rights. Among other DRC principles, a child is entitled to a name and nationality, to adequate nutrition, housing, recreation, and medical services, to an education, and, for the

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<sup>32</sup> Stephen R. Arnott, *Family Law: Autonomy, Standing, and Children's Rights*, 33 *William Mitchell Law Review* (2007).

Arnott notes that “the very term ‘children's rights’ is both broad and loose”, *id.* at 808.

<sup>33</sup> The U.N. Declaration of the Rights of the Child comprises a Preamble and ten principles. G.A. Res. 1386 (XIV), 14 U.N. GAOR Supp. (No. 16) at 19, U.N. Doc. A/4354. For an online text, see the Office of the U.N. High Commissioner for Human Rights, Web site, <http://www.unhcr.ch/html/menu3/b/25.htm> (unofficial source).

<sup>34</sup> Geraldine Van Bueren- *The International Law on the Rights of the Child 10-11* (Dordrecht/Boston/London, Martinus Nijhoff Publishers, 1995, 35 *International Studies in Human Rights*).

<sup>35</sup> DRC, principle 2, *supra* note 2.

handicapped, to “special treatment, education and care”<sup>36</sup>. Other principles are on protection against neglect, cruelty and exploitation, trafficking, underage labor, and discrimination.

### ❖ *The Minimum Age Convention 1973*<sup>37</sup>

The aim of the *Minimum Age Convention (MAC)* is to establish a general instrument on the subject of the minimum age of employment with a view to achieving the total abolition of child labor (Preamble). Thus, each state party is to, “pursue a national policy designed to ensure the effective abolition of child labor and to raise progressively the minimum age for admission to employment to a level consistent with the fullest physical and mental development of young persons” (**article 1**)<sup>38</sup>. State parties must specify a minimum age for admission to employment or work, subject to certain exceptions set forth in the MAC. That minimum may not be less than the age of completion of compulsory schooling and, in any case, less than 15 years, but it may initially be set at 14 year, if a state’s economy and educational facilities are, insufficiently developed (**article 2**)<sup>39</sup>. Exceptions to the age limits may also be permitted for light work or for such purposes as participation in artistic performances (**articles 7 and 8**)<sup>40</sup>. If the employment may be hazardous to a young person’s health, safety, or morals, the minimum age is generally not to be less than 18 years (**article 3(1)**)<sup>41</sup>.

### ❖ *U.N. Convention on the Rights of the Child 1989*

*The Convention on the Rights of the Child (CRC)* is the most comprehensive document on the rights of children<sup>42</sup>. Based purely on the number of substantive rights it sets forth, as

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<sup>36</sup> The 1924 Declaration stated children “must be the first to receive relief”- the DRC specifies more pragmatically that they are to be “among the first”, to receive protection and relief (principle 8). Van Bueren, supra note 3, at 11.

<sup>37</sup> The Minimum Age Convention, comprising a Preamble and 18 articles, was adopted by the 58th Session of the General Conference of the International Labor Organization on June 26-1973, and entered into force on June 19, 1976(I.L.O. No. 138). For an online text, see: the Office of the U.N. High Commissioner of Human Rights (OHCHR) Web site: <http://www2.ohchr.org/english/law/ageconvention.htm> -(last visited July 25, 2007,unofficial source).

<sup>38</sup> Convention concerning Minimum Age for Admission to Employment (Entry into force: 19 Jun 1976) Adoption: Geneva, 58th ILC session (26 Jun 1973) - Status: Up-to-date instrument (Fundamental Convention).Convention may be denounced: 19 Jun 2026 - 19 Jun 2027, **ARTICLE 1**.

<sup>39</sup> Convention concerning Minimum Age for Admission to Employment (Entry into force: 19 Jun 1976) Adoption: Geneva, 58th ILC session (26 Jun 1973), **Article 2**.

<sup>40</sup> Convention concerning Minimum Age for Admission to Employment (Entry into force: 19 Jun 1976) Adoption: Geneva, 58th ILC session (26 Jun 1973), **Article 7 & 8**.

<sup>41</sup> Convention concerning Minimum Age for Admission to Employment (Entry into force: 19 Jun 1976) Adoption: Geneva, 58th ILC session (26 Jun 1973), **Article 3(1)**.

<sup>42</sup> The Convention on the Rights of the Child, with a Preamble and 54 articles, was adopted by the U.N. General Assembly on November 20, 1989, and entered into force on September 2, 1990. G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N-For an online text, see the Web site, <http://www.ohchr.org/english/law/crc.html> , it includes the 1995 amendment to article 43, paragraph 2 (G.A. Res. 50/155 (Dec. 21, 1995), which entered into force on November 18, 2002. For the status of signatures, ratifications, and accessions, see the OHCHR Web site, <http://www.ohchr.org/english/bodies/ratification/1.html>. The United States (and Somalia) has signed but not ratified the CRC, it insisted that ratification of the two CRC Protocols on Sex Trafficking and on child soldiers (see below), not be considered a legal assumption by the United States of CRC obligations. Both Protocols permit CRC signatories to sign and ratify the Protocols without having ratified the CRC, under article 13(1) in each document. Inclusion of such a provision has been characterized as an attempt to obtain U.S. support for the

distinct from implementation measures, it is the longest U.N. human rights treaty in force and unusual in that it not only addresses the granting and implementation of rights in peacetime, but also the treatment of children in situations of armed conflict. The CRC is also significant because it enshrines, “for the first time in binding international law, the principles upon which adoption is based, viewed from the child’s perspective<sup>43</sup>. The CRC is primarily concerned with four aspects of children’s rights (“**the four ‘P’s’**”):

1. Participation by children in decisions affecting them;
2. Protection of children against discrimination and all forms of neglect and exploitation;
3. Prevention of harm to them; and
4. Provision of assistance to children for their basic needs<sup>44</sup>.

For the purposes of the CRC, a child is defined as: “every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier” (**article 1**). Key accomplishments of the CRC have been described as five-fold. It creates new rights for children under international law that previously had not existed, such as the child’s right to preserve his/her identity (**articles 7 and 8**), the rights of vulnerable children like refugees to special protection (**articles 20 and 22**), and indigenous children’s right to practice their culture (**articles 8 and 30**). In some instances, this innovation takes the form of child-specific versions of existing rights, such as those in regard to freedom of expression (**article 13**), and the last, the right to a fair trial (**article 40**). In addition, the CRC enshrines in a global treaty rights that hitherto had only been found in case law under regional human rights treaties (e.g., children’s right to be heard in proceedings that affect them),(**article 12**). The CRC has also replaced non-binding recommendations with binding standards (e.g., safeguards in adoption procedures and with regard to the rights of disabled children), (**articles 21 and 23**). New obligations are imposed on state parties, in regard to the protection of children, in such areas as banning traditional practices prejudicial to children’s health and offering rehabilitative measures for victims of neglect, abuse, and exploitation (**articles 28(3) and 39**). Finally, the CRC sets forth an express ground obligating state parties not to discriminate against children’s enjoyment of CRC rights<sup>45</sup>.

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Protocol. The United States ratified the Protocols on December 23, 2002. See Cris.R. Revaz, the Optional Protocols to the UN Convention on the Rights of the Child on Sex Trafficking and Child Soldiers, 9 Human Rights Brief 13 (Fall 2001). For an in depth analysis of Part I of the Convention (articles 1-41), see Sharon Detrick, A Commentary on the United Nations Convention on the Rights of the Child (The Hague/Boston/London, Martinus Nijhoff Publishers, 1999), also see Convention on the Rights of the Child, Amnesty.

<sup>43</sup> Van Bueren, *supra* note 3, at 16, 101.

<sup>44</sup> Id. at 15. Van Bueren calls these “the four ‘P’s’”; other scholars refer to the Convention as being concerned with the 3 types of children’s rights, called the three ‘P’s’: provision, protection, and participation. See, for example, Jean Koh Peters- How Children Are Heard in Child Protective Proceedings, in the United States and Around the World in 2005: Survey Findings, Initial Observations, and Areas for Further Study (Special Issue on Legal Representation of Children), 6 Nevada Law Journal 971 -Spring 2006.

<sup>45</sup> Van Bueren, *supra* note 3, at 16, Ursula Kilkelly, The Best of Both Worlds for Children’s Rights?

Interpreting the European Convention on Human Rights in the Light of the UN Convention on the Rights of the Child, Human Rights Quarterly 311 (2001), available at [http://muse.jhu.edu/journals/human\\_rights\\_quarterly/v023/23.2kilkelly.pdf](http://muse.jhu.edu/journals/human_rights_quarterly/v023/23.2kilkelly.pdf).

The right to participate in proceedings, it is argued: “together with the principles of non-discrimination in **Article 2** and provision for the child’s best interests in **Article 3**, from the guiding principles of the Convention, which reflect the vision of respect and autonomy which the drafters wished to create for all children”<sup>46</sup>.

❖ *Optional Protocols to the CRC on Sex Trafficking, Armed Conflict*

The United Nations adopted two protocols to the CRC on May 25, 2000: the **Optional Protocol to the CRC on the Sale of Children, Child Prostitution, and Child Pornography 2000 (Sex Trafficking Protocol)**, and the **Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (Child Soldiers Protocol)**.

-*The Sex Trafficking Protocol*<sup>47</sup> (STP): addresses the problem of sex trafficking, one among many purposes for which children are bought and sold, including, in addition, forced labor, adoption, participation in armed conflicts, marriage, and organ trade. The preamble refers to achieving “the purposes of the CRC”, and to the need for state parties to implement specific provisions, among them CRC **articles 34 and 35** on broad protections against child trafficking, sexual exploitation, and abuse. The preamble also reflects CRC language in regard to protecting children from economic exploitation and performance of hazardous or harmful work<sup>48</sup>. In addition, it recognizes “that a number of particularly vulnerable groups, including girl children, are at greater risk of sexual exploitation” and, are disproportionately represented among the sexually exploited, and expresses concern over “the growing availability of child pornography on the internet and other evolving technologies”. The STP defines and prohibits the sale of children, child prostitution, and child pornography, thus it obliges all state parties to make certain acts punishable under their criminal law, sets forth the bases for the state parties to assert jurisdiction over actionable practices, and strengthens their ability to pursue extradition of offenders. The protocol also provides for protection of and, assistance to the victimized children in the criminal justice process, the best interests of the child being the guiding principle in the children’s judicial treatment<sup>49</sup>. For purposes of prevention and redress of offenses, the victims must have access to procedures to seek compensation for damages from those legally responsible (**article 9(4)**).

The same also has provisions on strengthening international cooperation in regard to sex trafficking, involving children and on reporting requirements for State parties (**article 12**).

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<sup>46</sup> Kilkelly, *supra* note 10.

<sup>47</sup> The sex trafficking protocol comprises a preamble and 17 articles. G.A. Res. A/RES/54/263 of 25 May 2000. It entered into force on January 18, 2002. For an online text, see further the website, (last visited July 2007).

The status of ratification and reservation is available on the same website-<http://www.unhchr.ch/html/menu2/dopchild.html>.

<sup>48</sup> Revaz, *supra* note 7.

<sup>49</sup> *Id.*

In contrary to the first Convention, the Child Soldiers Protocol<sup>50</sup> reaffirms in its preamble that: “the rights of children require special protection, notes the harmful and widespread impact of armed conflict on children, and condemns their being targeted in such situations”. It also refers to inclusion as a war crime in the *Rome Statute of the International Criminal Court*: “the conscripting, or enlisting children under the age of fifteen years, or using them to participate actively in hostilities in both international and non-international armed conflicts”. The preamble takes note of the definition of a child in **article 1** of the CRC, and expresses the conviction “that, raising the age of possible recruitment will contribute effectively to implementing the principle of the best interests of the child as a primary consideration in all actions concerning children”<sup>51</sup>. The Child Soldiers Protocol extends the minimum age requirement for direct participation in armed conflict, and conscription to 18, (**articles 1 and 2**, respectively) and forbids rebel or other non-governmental armed forces “under any circumstances”, to recruit or to use in hostilities persons under that age (**article 4**). “It does not prescribe the age of 18 minimum for voluntary recruitment, but requires state parties to raise the minimum age for it from 15”, (as set out in **article 38, paragraph 3**, of the CRC; i.e., to 16 years of age), and “to deposit a binding declaration setting forth the minimum age permitted for voluntary recruitment and describing safeguards adopted to ensure voluntariness” (**article 3(1-3)**, in part)<sup>52</sup>. The Child Soldiers Protocol requires state parties to take “all feasible measures to ensure” the demobilization, or release from service of children recruited into armed conflict, or used in hostilities and, when necessary, to accord all appropriate assistance” for the children’s rehabilitation and social reintegration (**article 6(1) and (3)**).

➤ **Specific Provisions in Other International and Regional Instruments:**

❖ *Universal Declaration of Human Rights 1948*<sup>53</sup>

*The Universal Declaration of Human Rights* contains two articles that specifically refer to children that is **Article 25(2)**, which states: “motherhood and childhood are entitled to special care and assistance. All children whether born in or out of wedlock should enjoy the same social

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<sup>50</sup> The Child Soldiers Protocol, comprising a Preamble and 13 articles, entered into force on February 12, 2002. G.A. Res. A/RES/54/263 of 25 May 2000. For an online text, see the OHCHR Web site, <http://www.ohchr.org/english/law/crc-conflict.html>. The status of ratifications and reservations to the Child Soldiers Protocol is also available via hyperlinks on the same Web site.

<sup>51</sup> Id.

<sup>52</sup> According to **article 3(5)**, “the requirement to raise the age in paragraph 1 of the present article does not apply to schools operated by or under the control of the armed forces of the States Parties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child”. See also Revaz, *supra* note 13.

<sup>53</sup> The Universal Declaration of Human Rights, with a Preamble and 30 articles, was adopted by the UN General Assembly on December 10, 1948. G.A. Res. 217 A (III), U.N. Doc. A/810 at 71 (Dec. 10, 1948). For an online text, see the UN Web site, <http://www.un.org/Overview/rights.html> (unofficial source).



protection”<sup>54</sup>. **And article 26**, calls for the right to education for all, and deals both with access to and the aims of education.

Thus, education is to be free, at least in the elementary and fundamental stages. Elementary education is to be compulsory, and education should be “directed to the full development of the human personality and to, the strengthening of respect for human rights and fundamental freedoms”. Nevertheless “parents have a completely prior right to choose the kind of education that shall be given to their children”.

### ❖ *International Covenant on Economic, Social and Cultural Rights 1966*<sup>55</sup>

The preamble of *the International Covenant on Economic, Social and Cultural Rights (ICESCR)*, in so far as it recognizes the indivisibility of human rights, is applicable to children’s rights as well. Thus, it notes that: “recognition of the inherent dignity, and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”, and that “the same rights derive from the inherent dignity of the human person”<sup>56</sup>. Specific references to children’s rights are found in articles **10 and 12**. **Under article 10**, “the widest possible protection and assistance should be accorded to the family, particularly for its establishment, and while it is responsible for the care and education of dependent children” (item 1, in part). It further stipulates that: “special measures of protection and assistance”, should be taken on behalf of the young without any discrimination, that they should be protected from economic and social exploitation, that employing them in morally or medically harmful, or dangerous work, or in work likely to hamper their normal development should be punishable by the law, and that age limits should be set below which the paid employment of child labor is prohibited and punishable by the same law (item 3). **Article 12** addresses the right of all, to “enjoyment of the highest attainable standard of physical and mental health, to be fully realized by, among other measures”, state parties’ providing “for the reduction of the still birth-rate, and of infant mortality and for the healthy development of the child” (item 2(a)). The same convention, also, provides for “the right of everyone to education” (**article 13(1)**) and the same stipulates that: “primary education should be compulsory and available free to all children” (**article 13(2a)**).

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<sup>54</sup> This gives no recognition, however, to the role of fatherhood, and the “twinning of the exclusive role of women and children continues to resound throughout international law”. Van Bueren, *supra* note 3 at 18.

<sup>55</sup> The International Covenant on Economic, Social and Cultural Rights, with a Preamble and 31 articles, was adopted by the U.N. General Assembly on December 16, 1996, and entered into force on January 3, 1976. G.A. Res. 2200A (XXI), 21 U.N.GAOR, 21st Sess., Supp. (No. 16) at 49, U.N. Doc. A/6316 (Dec. 16, 1966), 993 U.N.T.S. 3. For an online text, see the Web site, <http://www.ohchr.org/english/law/cescr.html>.

<sup>56</sup> *Id.* See also Van Bueren, *supra* note 3, at 19.

## ❖ *International Covenant on Civil and Political Rights 1966*<sup>57</sup>

*The International Covenant on Civil and Political Rights (ICCPR)* contains general provisions from which children around the world are entitled to benefit as well as certain specific provisions on safeguards for children in the administration of justice, and as members of a family unit. Thus, **article 2** obliges state parties: “to respect and to ensure to all individuals within its territory, and subject to its jurisdiction” the rights recognized in the convention, “without distinction of any kind”, to adopt laws who give effect to those rights, and to provide effective remedies where there are violations.

**Article 14 (1)** incorporates a more specific reference to rights of the young: “any judgement rendered in a criminal case, or in a suit at law must be made public except where the interest of juvenile persons otherwise requires, or the proceedings concern matrimonial disputes or the guardianship of children”. Furthermore, criminal proceedings “should take account of the (juveniles) under age and the desirability of promoting their rehabilitation”, (**article 14(4)**) and the penal system should segregate juvenile offenders from adults, and accord them treatment “appropriate to their age and legal status” (**article 10(3)**)<sup>58</sup>. Like the ICESCR, also the ICCPR recognizes the family as “entitled to societal and state protection” (**article 23(1)**), and so the state parties are “to respect the liberty of parents, to ensure their children’s religious and moral education in conformity with their own convictions” (**article 18(4)**). If a marriage is dissolved, provision must be made for the protection of any **children (article 23(4))**. **Article 24** of the ICCPR is specifically devoted to children. It stipulates that: “every child should have, without any discrimination as to race, color, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his/her status as a minor, on the part of his/her family, society and the State”. It, further prescribes that every child must be registered immediately after birth and have a name, and that every child has the right to acquire a nationality.

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<sup>57</sup> The International Covenant on Civil and Political Rights, with a Preamble and 53 articles, was adopted by the U.N. General Assembly on December 16, 1966, and entered into force on March 23, 1976. G.A. Res. 2200A (XXI), 21 U.N. GAOR, 21st Sess. Supp. (No. 16) at 52, U.N. Doc. A/6316 (Dec. 16, 1966), 999 U.N.T.S. 171. For an online text, see the OHCHR Web site, <http://www.ohchr.org/english/law/ccpr.html>.

<sup>58</sup> Van Bueren, *supra* note 3, at 20. Notes that the Covenant prohibits imposition of the death penalty for crimes committed by persons under the age of 18, as the result of an initiative from Japan, citing to U.N. Doc. A/C.3/L 650.

❖ *European Convention on Human Rights 1950*<sup>59</sup>

*The Convention for the Protection of Human Rights and Fundamental Freedoms*, also known as the European Convention on Human Rights (ECHR), in other words it's the first international human rights treaty to establish supervisory and enforcement machinery, obliges state parties to “secure everyone within their jurisdiction”, the rights and freedoms it sets forth (**article 1**). The ECHR uses throughout the term “*everyone*” (or, where appropriate, “no one”): as a result, children have successfully brought suit either on their own behalf or, as co-applicants with their parents<sup>60</sup>. Specific references to the young are found in two articles of the ECHR and concern legal proceedings. **Article 5(1) (d)**, on the lawful procedures for depriving a minor of his/her liberty, permits the lawful detention of a minor for the purpose of educational supervision, or for bringing him/her before the competent legal authority. **Article 6 (1)** stipulates that, everyone is entitled to a fair and public hearing and that judgment will be pronounced publicly, but the hearing may be held in private only when required by the interests of juveniles, or the protection of the parties' private life.

*Protocol No. 7* to the ECHR provides that: while spouses enjoy equality of rights and responsibilities in their relations with their children, this does not prevent states “from taking such measures as are necessary in the interests of the children”, (**article 5**)<sup>61</sup>.

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<sup>59</sup> The Convention for the Protection of Human Rights and Fundamental Freedoms, C.E.T.S. No. 005, with a Preamble and 59 articles, was adopted on November 4, 1950, and entered into force on September 3, 1953. There have been 11 Protocols to the Convention, but as from November 1, 1998, Protocol 9 was repealed and Protocol 10 lost its purpose. For an online text as amended by Protocol 11 (E.T.S. No. 155, in force November 1, 1998), see the Council of Europe Web site, <http://conventions.coe.int/Treaty/en/Treaties/Html/005.html>. Other documents, such as the status of ratifications and an explanatory report, are also available through links provided on the same Web site, at <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=005&CL=ENG>.

<sup>60</sup> Van Bueren, *supra* note 3, at 22. She mentions several cases in fn. 153 and discusses them elsewhere in the text.

<sup>61</sup> *Id.* at 22, n. 154

➤ **Child Protection and Placement Agreements (treaties) :**

❖ ***Hague Convention on Jurisdiction, for the protection of the children, 1996***<sup>62</sup>

*The Hague Convention on Jurisdiction, (applicable law, recognition, enforcement and co-operation in respect of parental responsibility and measures for the protection of the children), the 1996 Convention* which covers a wide range of civil child protection measures, “from orders concerning parental responsibility and contact to public measures of protection or care, and from matters of representation to the protection of children’s property”<sup>63</sup>. The preamble confirms that: “the best interests of the child are to be a primary consideration for everyone”.

**Article 2**, stipulates that the Convention is applicable: “to children from the moment of their birth until they reach the age of 18 years”<sup>64</sup>. The 1996s Convention provides a structure to resolve disputes over contact and custody issues when parents are separated and living in different countries, and has uniform rules to determine which country’s authorities are competent to take the necessary protection measures. Provisions on recognition and enforcement ensure that primacy should be given to decisions taken by the authorities of the country where the child has his/her habitual residence, reinforcing provisions of the 1980 Hague Convention. There are also provisions on cooperation procedures to better protect unaccompanied minors who cross borders, and are in vulnerable situations, and children placed in alternative care across frontiers. The latter, includes arrangements such as foster care, and the Islamic law institution of *Kafala*, a functional equivalent of adoption falling outside the scope of the 1993 Intercountry Adoption Convention<sup>65</sup>.

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<sup>62</sup> The 1996 Convention was adopted on October 19, 1996, and entered into force January 1, 2002. I.L.M. 1391, 1396 (1996).

It comprises a brief Preamble and 63 articles. For an online text, see the Hague Conference on Private International Law (HCCH) Web site, [http://hcch.e-vision.nl/index\\_en.php?act=conventions.text&cid=70](http://hcch.e-vision.nl/index_en.php?act=conventions.text&cid=70). Also see How Children’s Voices Are Heard in Protective Proceedings, Representing Children Worldwide (RCW) (2005), available at <http://www.law.yale.edu/rcw> (the study covers 250 jurisdictions), and Gloria Folger De Hart, The Relationship Between the 1980 Child Abduction Convention and the 1996 Protection Convention, 33:1 Journal of International Law and Politics (2000), available at <http://www3.law.nyu.edu/journals/jilp/issues/33/pdf/33f.pdf> (PDF). The entire issue of the JILP is devoted to the 1980 Convention, marking its 20<sup>th</sup> anniversary.

<sup>63</sup> The Hague Convention of 1996 on the International Protection of Children, see HCCH Web site: <http://hcch.e-vision.nl/upload/outline34e.pdf>.

<sup>64</sup> Convention of 19 October 1996 on Jurisdiction, Applicable Law and Recognition of Decrees Relating to Adoptions, Hague No. 13, with a brief Preamble and 24 articles, was concluded on November 15, 1965, and entered into force on October 23, 1978.

<sup>65</sup> The Hague Convention on Jurisdiction, Applicable Law and Recognition of Decrees Relating to Adoptions, Hague No. 13, with a brief Preamble and 24 articles, was concluded on November 15, 1965, and entered into force on October 23, 1978. In accordance with its article 23, it will cease to have effect on October 23, 2008. For an online text, see the Web site: [http://hcch.e-vision.nl/index\\_en.php?act=conventions.text&cid=7](http://hcch.e-vision.nl/index_en.php?act=conventions.text&cid=7).

### ❖ *Hague Convention on Jurisdiction, etc., Relating to Adoptions 1965*<sup>66</sup>

*The Hague Convention on Jurisdiction, Applicable Law and Recognition of Decrees Relating to Adoptions (1965 Convention)*, the first Hague Convention on the issue, apparently has no contracting parties at present. The Convention is applicable “to all international adoptions, not only where a child originated from another country, but also to adoptions where the only international aspect is the foreign nationality of the child”<sup>67</sup>. The same convention it has been characterized as incorporating 4 important provisions. The authorities are not to grant an adoption “unless it will be in the interest of the child”. Before granting an adoption, the authorities should conduct “a thorough inquiry” relating to the adopter/s, the child, and the child’s family. The inquiry should be carried out “as far as possible, in cooperation with public or private organizations, qualified in the field of inter-country adoptions”, and with the help of specially trained or qualified social workers (**article 6**). Furthermore, the national law of the child is to be applied in decisions pertaining to consent and consultation issues, rather than that of the adopter, family, or spouse (**article 5, paragraph 1**)<sup>68</sup>. The 1965 Convention, also allows state parties to make a declaration at the time of signature, ratification, or accession but revocable at any time, specifying provisions of domestic law prohibiting adoptions founded upon certain specified grounds, e.g., (the existence of a previous adoption of the child, or the age of the adopter and that of the child),(**article 13**).

### ❖ *European Convention on the Adoption of Children 1967*<sup>69</sup>

*The European Convention on the Adoption of Children (ECAC)* applies to the legal adoption of children under the age of 18, not currently or previously married, and not deemed in law to have come of age earlier (**article 3**). Its provisions are only minimum standard. State parties may adopt provisions more favorable to the adopted child (article 16<sup>70</sup>). The Convention ensures that, national child protection laws apply not only to adoptions of children from the state parties, but also to those of children from other states. The essential provisions are on adoption practices, that each state party should undertake to incorporate in national legislation. Under them, adoption must be granted by a judicial, or administrative authority in order to be valid (**article 7**), and the competent authority should not grant an adoption unless it “will be in the interest of the child” (**article 8(1)**). The authority is to make appropriate inquiries into such matters as the child’s views, with respect to the adoption and the

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<sup>66</sup> Id.

<sup>67</sup> Van Bueren, *supra* note 3, at 98.

<sup>68</sup> Id.

<sup>69</sup> The European Convention on the Adoption of Children was opened for signature on April 24, 1967, and entered into force on April 26, 1968. C.E.T.S.No.058.

It comprises a Preamble and 28 articles. For an online text see: <http://conventions.coe.int/Treaty/en/treaties/html/058.html>.

It Links to a chart of signatures and ratifications and other information are available via the same Web site at <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=058&CL=ENG>.

<sup>70</sup> Van Bueren, *supra* note 3, at 99.

mutual suitability of the child and the adopter itself (**article 9**). After the adoption, the child should generally be able to acquire the adopter's surname and be treated as having rights of succession (**article 10 (3) and (5)**).

State parties must prohibit any improper financial advantage arising from a child being given up for adoption (**article 15**). Four supplementary provisions, requiring only the state parties consideration, stipulate, *inter alia*, that provision be made to enable adoption to be completed without the adopter's identity being disclosed to the child's family (**article 20(1)**), and to require or permit adoption proceedings to take place in camera (**article 20(2)**). Children are not accorded the right to know the identity of their former parents<sup>71</sup>.

❖ *Hague Convention on the Protection of Children in Intercountry Adoption 1993*<sup>72</sup>

The Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption (1993 Convention) has three stated aims:

1. To establish safeguards, to ensure that inter country adoptions are in the best interest of the child, and in accordance with the child's fundamental rights;
2. To establish a system of safeguards, to avoid abuses such as trafficking in children;
3. To secure recognition in State parties of adoptions made in accordance with the Convention (**article 1**).

The underlying principle of the 1993 Convention is that: "although it is difficult to define the best interests of the child, the child's interests should always take priority over those of the prospective adopters", but the application of this principle has proved problematic<sup>73</sup>. The 1993 Convention asserts that authorities must ensure, taking into account the age and degree of maturity of the child, that he/she has been counseled and informed of the effects of the adoption and of his/her consent to the adoption, where such consent is required, and that consideration has been given to the child's wishes and opinions, that the child's consent to the adoption has been given freely, in the required legal form, and in writing, and that consent has not been induced by payment or compensation of any kind (**article 4(d)**). Information on the child's origin, in particular the identity of the parents as well as the medical history, should be preserved, but access by the child to that information is permitted only in so far as it is allowed by the law of the state where it is held (**article 30**).

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<sup>71</sup> Summary of the Treaty, the COE Web site, <http://conventions.coe.int/Treaty/en/Summaries/Html/058.html>  
Van Bueren, *supra* note 3, at 99.

<sup>72</sup> The Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption, comprising a Preamble and 48 articles, was concluded on May 29, 1993, and entered into force on May 1, 1995. For an online text, see the HCCH Web site, [http://www.hcch.net/index\\_en.php?act=conventions.text&cid=69](http://www.hcch.net/index_en.php?act=conventions.text&cid=69). Also see Hans Van Loon, Hague Convention of 29 May 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption, *The International Journal of Children's Rights* (1995), available at [http://www.iss-ssi.org/Resource\\_Centre/Tronc\\_Ci/thcvloon](http://www.iss-ssi.org/Resource_Centre/Tronc_Ci/thcvloon).

<sup>73</sup> Van Bueren, *supra* note 3, at 99-100.

Personal data gathered or transmitted under the 1993 Convention's provisions is to be used "only for the purposes for which they were gathered or transmitted", without prejudice to article 30 (article 31)<sup>74</sup>

❖ *Hague Convention on the Civil Aspects of International Child Abduction 1980*<sup>75</sup>

*The Hague Convention on the Civil Aspects of International Child Abduction (1980 Convention)*-governs issues related to parental kidnapping or the removal of children under the age of 16 across international borders and involving the jurisdiction of different countries' courts. Its stated objectives are to secure the prompt return of children wrongfully removed to, or retained in any contracting state and to ensure that the rights of custody and of access under the law of one contracting state are effectively respected in the other contracting states (article 1). Removal or retention of a child is deemed wrongful if: a) "it is in breach of custody rights attributed to a person, an institution, or any other body, either jointly or alone, under the law of the state, in which the child was habitually resident immediately before the removal or retention"; and b) "at the time of removal or retention those rights were exercised, or would have been but for the removal or retention", (article 3, paragraph 1).

❖ *The European Convention Concerning the Custody of Children 1980*<sup>76</sup>

*The European Convention on the Recognition and Enforcement of Decisions Concerning the Custody of Children (the Luxembourg Convention)*, seeks more to protect the rights of custody and access to children in the international context. It calls upon the central authorities designated by state parties to provide: "free, prompt, non-bureaucratic assistance", in determining the whereabouts and restoring custody of an improperly removed child<sup>77</sup>.

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<sup>74</sup> Van Bueren, *supra* note 3, at 122, notes that the 1993 Convention's approach reinforces that taken in the IAC guaranteeing the secrecy of the adoption "where called for." Also refers to the non-binding 1986, Declaration on Social and Legal Principles relating to the Protection and Welfare of Children with Special Reference to Foster Placement and Adoption Nationally and Internationally, which states: "the need of a foster or an adopted child to know about his/ her background should be recognized by persons responsible for the child's care unless this is contrary to the child's best interests.

<sup>75</sup> The Hague Convention on the Civil Aspects of International Child Abduction, Hague No. 28, was adopted by Hague Conference on Private International Law on October 25, 1980, and entered into force on December 1, 1983. For an online text, see the HCCH Web site: [http://hcch.e-vision.nl/index\\_en.php?act=conventions.text&cid=24](http://hcch.e-vision.nl/index_en.php?act=conventions.text&cid=24). For an online description of the Convention and links to other sites and information, see the U.S. Department of State Bureau of Consular Affairs Web site, [http://travel.state.gov/family/abduction/hague\\_issues](http://travel.state.gov/family/abduction/hague_issues). For a list of "Party Countries and Effective Dates with U.S." see: [http://travel.state.gov/family/abduction/hague\\_issues/hague\\_issues\\_1487.html](http://travel.state.gov/family/abduction/hague_issues/hague_issues_1487.html).

Also see: Gloria Folger De Hart, *The Relationship Between the 1980 Child Abduction Convention and the 1996 Protection Convention*, available at <http://www3.law.nyu.edu/journals/jilp/issues/33/pdf/33f.pdf> (PDF). The entire JILP issue is on the 1980 Convention.

<sup>76</sup> The European Convention on the Recognition and Enforcement of Decisions Concerning the Custody of Children, comprising a Preamble and 30 articles, was concluded in Luxembourg on May 20, 1980. E.T.S. No. 105. For an online text, see the COE Web site: <http://conventions.coe.int/Treaty/EN/Treaties/Html/105.html>.

<sup>77</sup> Detrick, *supra* note 7, at 208.

They must also avoid prejudice to the interests of the child, or of the applicant in restoring child custody, among other requirements. Like the 1980 Convention, the Luxembourg Convention defines a child as being under the age of 16 (**article 1(a)**). Also, under both instruments, the right of action lies with the custody holder<sup>78</sup>. The Luxembourg Convention uses the term “improper removal”, to refer to “the removal of a child across an international frontier in breach of a decision relating to his custody”, given in a state party and enforceable in that state (**article 1(d)**), in contrast to the 1980 Convention’s term “wrongful removal or retention” of a child, and the CRC’s term “the illicit transfer and non-return of children abroad”, (**article 11**)<sup>79</sup>.

## **4.2 The Amsterdam Treaty**

The Amsterdam treaty marks a new departure for disabled citizens in European countries. As a result of extensive campaign work by disability NGO’s, disabled people are now visible in the treaties. The non-discrimination clause, the provisions on social policy, the title on employment, the declaration on internal market legislation will all have practical consequences for disabled people throughout the Union. But how can we use the treaty to the greatest effect at European and national level to advance the human rights of disabled people? How can we inform peers and allies about the scope of the treaty, its potential and its limitations for disabled citizens? This guide provides a valuable insight into the agreement. As such, it forms a crucial part of a training pack designed to inform and empower our membership and also stimulate reflection on our goals for future campaign work and indeed the next intergovernmental conference.

## **4.3 Role of the European Courts, in interpreting and enforcing European Children’s Rights**

### ***4.3.1. Children’s rights***

In the context of juvenile justice proceedings concern children accused of, prosecuted for, or sentenced for having committed criminal offences, as well as children who participate in justice, or related proceedings as victims or witnesses. The position of children in the context of juvenile justice is regulated by general human rights provisions, relevant to both adults and children. This chapter presents an overview of the European norms relevant to children involved in judicial and alternative proceedings. It addresses fair trial guarantees, including effective participation and access to a lawyer, the rights of detained young offenders, including pre-trial

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<sup>78</sup> This is because children are rarely in a position to initiate legal proceedings in situations of child abduction. Van Bueren, *supra* note 3, at 90-92.

<sup>79</sup> Detrick, *supra* note 7, at 208-209.



detention (substantive and procedural safeguards), conditions of detention and protection against ill-treatment, and the protection of child witnesses and victims. Protection aspects are especially relevant for non-adversarial, alternative proceedings, which should be used whenever these may best serve the child's best interests<sup>80</sup>.

In the case of children, objectives of criminal justice, such as social integration, education and prevention of re-offending, are basic principles that are valued<sup>81</sup>. **The Court of Justice of the European Union** issues decisions "regarding many types of legal actions". In children's rights cases, the CJEU has so far mainly reviewed preliminary references, (**Article 267 of the TFEU**)<sup>82</sup>. These are procedures where a national court, or tribunal asks the CJEU for an interpretation of primary EU law (i.e. treaties) or secondary EU law (i.e. decisions and legislation), that is of relevance to a national case pending before that national court or tribunal. Until recent years, the CJEU had only adjudicated a few children's rights cases. With the adoption of more explicit children's rights legislative measures, and a more prominent children's rights agenda, however, it is likely that children's rights will feature more regularly on the CJEU's listings in the future. The CJEU has delivered most of its judgments concerning children's rights in the context of free movement, and the EU citizenship areas in which the EU has enjoyed long-standing competence. Here the CJEU has expressly acknowledged that children enjoy the benefits associated with EU citizenship in their own right, there by extending independent residence as well as both social and educational entitlement to children, on grounds of EU nationality. The CJEU supported its decision by reference to Article 17 of the CRC, which encourages signatory states to develop appropriate guidelines for the protection of children from media-generated information and material injurious to their well-being<sup>83</sup>. Requirements of proportionality apply, however, with regard to the examination procedures established to protect children, which should be readily accessible, and possible to complete within a reasonable period<sup>84</sup>. In other cases, the CJEU has alluded to general children's rights principles also encapsulated in CRC provisions (such as the child's best interests and the right to be heard) to inform its judgments, particularly in the context of cross-border child abduction cases<sup>85</sup>. That aside, the EU has traditionally been circumspect in attaching decisive force to the CRC, particularly in more politically sensitive areas such as immigration control<sup>86</sup>, although this is changing in recent jurisprudence, as discussed in the chapters that follow. Since the adoption of the EU Charter of Fundamental Rights, CJEU references to its articles on children's rights often resonate with references to the CRC, given the similarity between provisions.

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<sup>80</sup> Council of Europe, Committee of Ministers (2010), Guidelines on child friendly justice, 17 November 2010, para. 24.

<sup>81</sup> Further see: Council of Europe, Committee of Ministers (2008), Recommendation CM/Rec (2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders, subject to sanctions or measures, 5 November 2008, Part I.

<sup>82</sup> The only exception is an action for annulment: CJEU, C-540/03, European Parliament. Council of the European Union, 27 June 2006.

<sup>83</sup> CJEU, C-244/06, Dynamic Medien, Vertriebs GmbH V. Avides Media AG, 14 February 2008, paras. 42 and 52.

<sup>84</sup> *Ibid.*, paras. 49 and 50.

<sup>85</sup> CJEU, C-491/10 PPU, Joseba Andoni Aguirre Zarraga v. Simone Pelz (22 December 2010). See further Chapter V.

<sup>86</sup> CJEU, C-540/03, European Parliament. Council of the European Union, 27 June 2006.

#### 4.4 The European Union Constitution

The Children's Rights Alliance is a coalition of over 100 organizations worldwide working to secure the rights of children, by campaigning for the full implementation of the UN Convention on the Rights of the Child (UNCRC). One of the founding objectives of the Alliance back in 1995 was, to seek constitutional reform for children, and the Alliance has engaged in extensive advocacy on this issue, in particular over the past seven years. *On 19 September 2012*, the Government published the **31<sup>st</sup> amendment to the Constitution (Children) Bill 2012**, **which** contains the text of a proposed amendment to strengthen children's rights within the *Constitution of Ireland*<sup>87</sup>. The Alliance warmly welcomes the amendment wording, and is calling for a **YES** vote on referendum polling day, Saturday 10 November 2012.

The Alliance is joining Barnardos, ISPCC and Campaign for Children to work as Yes for Children, a national campaign for a YES vote. We believe this referendum is an historic opportunity for the People of Ireland to ensure that this generation of children, and future generations, are better protected, respected and heard<sup>88</sup>. (Bunreacht na hÉireann), known as the **Constitution of Ireland** – which was enacted in 1937. It is the fundamental law of the State: “all our laws, policies and services must be compatible with the Constitution”. The Constitution underpins the interaction between the State and its citizens, including children and gives direction to the Oireachtas and the courts on how to balance competing rights and interests. The Constitution also aims to reflect our societal values. It comprises 50 Articles that can only be changed by referendum! Constitutional rights can be expanded upon by the High Court and the Supreme Court, through their interpretation of constitutional law. At present, “children do have rights under the Constitution, they are granted some of the same rights as other individuals living in the State, such as the entitlement to acquire citizenship” (**Articles 2 and 9**), and in appropriate circumstances, children are entitled to the Fundamental Rights set out in Articles 40 to 44<sup>89</sup>, as well as certain un enumerated rights that are not listed in this constitution but that have been read into it by the Courts. In addition to these rights, there are two constitutional rights specifically related to children: “the right to free primary education”, (Article 42.4), and “the ability of the State to intervene when parents fail their child”, (Article 42.5). However, there is a lack of child-specific rights within the Constitution to address children's needs that are different from, and additional to, those of adults. Child specific rights or children's rights are human rights for all children and young people under the age of 18. They take into account the vulnerable situation of children, in that they are largely dependent on adults for their care, and are also often powerless

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<sup>87</sup> The 31<sup>st</sup> Amendment to the Constitution (Children), Bill-2012 and the Explanatory Memo are available on: [www.childrensrights.ie](http://www.childrensrights.ie), or on the referendum website of the Department of Children and Youth Affairs [www.childrensreferendum.ie](http://www.childrensreferendum.ie). The Children's Rights Alliance has also produced a Children's Referendum: A Legal and Policy Overview, September 2012 which is available on the same website.

<sup>88</sup> YES, for Children is a national campaign led by Barnardos-Children's Rights Alliance, ISPCC and Campaign for Children calling for a YES vote in the children's referendum. See: [www.yesforchildren.ie](http://www.yesforchildren.ie).

<sup>89</sup> In the Article 26 and the Adoption (No. 2), Bill 1987 (1989) IR 656 the Court found that a child is entitled, where appropriate, to the rights contained in Articles 40 to 44.

to justify their own rights. Acknowledgement of the need for constitutional reform for children is not new. It was first discussed in the Oireachtas over 30 years ago. Since then, calls have been repeated in a series of official reports, and Court cases have served to highlight the inadequacy of the current constitutional recognition afforded to the rights of children. In addition, in the wake of the Ryan Report, the Roscommon Child Care Case and the recent Child Death report, the public has voiced their desire that we put in place more effective child protection system. The amendment equally applies to “all children”, and not just to citizens. However, the wording does not include an explicit or general, prohibition on discrimination. Article 2 of the UN Convention on the Rights of the Child **obliges** the state to ensure that the child is not discriminated against on the basis of “the child’s or his or her parent’s or legal guardian’s race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status”. The wording does make clear elsewhere, (**Article 42A.2.1**) that children of unmarried and married people should be treated **equal**.

## **5. WHAT NEXT FOR THE EU CHILDREN’S POLICY?**

### **European Union: the development of children’s rights law and the covered areas of protection**

Protecting the children is first, and foremost about upholding European values of respect for human rights, dignity and solidarity. It is also about enforcing European Union law, and respecting the Charter of Fundamental Rights of the European Union, and the international human rights law on the rights of the child. Thus, protecting all children in migration, regardless of status and at all stages of migration, is a priority. The European Union, together with its member states, has been active on this front for many years now. The existing EU policies and legislation provide a solid framework for the protection of the rights of the child in migration covering all aspects, including reception conditions, the treatment of their applications and integration. The Action Plan on unaccompanied minors (2010-2014)<sup>90</sup>, has been instrumental in increasing awareness about the protection needs of unaccompanied children in migration, and in promoting protective actions<sup>91</sup>. The European Agenda on Migration<sup>92</sup> and the communication on the state of play of its implementation<sup>93</sup> have most recently addressed the protection of children in migration. The Commission’s Recommendation: "Investing in children - breaking the Cycle of Disadvantage", has provided guidance with a view to reducing child

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<sup>90</sup> COM (2010) 213 final.

<sup>91</sup> A Staff Working Document reporting on the implementation of the Action Plan since 2012 is presented together with this Communication, SWD (2017)129.

<sup>92</sup> COM (2015) 240 final.

<sup>93</sup> COM (2016) 85 final.

poverty, and improving child wellbeing, through mainstream and targeted measures<sup>94</sup> as a result, there is a wealth of knowledge and good practice in the member states on the protection of children in migration.

Under the EU law, the nature and scope of children's rights differs largely according to the nationality of the child, and the child's parents, and according to whether the child is migrating with his/her parents or independently. The migration of EU nationals is regulated by various legal instruments. The rights granted to EU nationals are far reaching and the same aim is to stimulate optimum mobility across the EU. On the past, children's rights developed in the EU in a piecemeal fashion. Historically, European child law was largely aimed at addressing specific child related aspects of broader economic and politically driven initiatives, for example in the field of consumer protection, and the free movement of persons<sup>95</sup>. However, more recently, children's rights have been addressed as part of a more coordinated EU agenda, based on three key milestones:

1. the introduction of the Charter of Fundamental Rights of the European Union;
2. the entry into force of the Treaty of Lisbon in December 2009;
3. the adoption of the European Commission Communication on a special place for children in EU external action, and of the Council EU Guidelines for the promotion and protection of the rights of the child.

The first milestone was the introduction of the EU Charter of Fundamental Rights in 2000<sup>96</sup>. With the entry into force of the Treaty of Lisbon, on 1 December 2009, the Charter enjoys the same legal status as the EU treaties (**Article 6** of the Treaty on European Union (TEU))<sup>97</sup>. It obliges the EU and its member states to protect the rights enshrined in it, when implementing the EU law. The European Union Charter of Fundamental Rights contains the first detailed references to children's rights at the EU constitutional level, including through the recognition of children's right to receive free compulsory education (**Article 14 (2)**), a prohibition of discrimination on grounds of age (**Article 21**), and a prohibition of exploitative child labor (**Article 32**). Significantly, the Charter contains a dedicated provision on children's rights (**Article 24**).

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<sup>94</sup> Commission Recommendation 2013/112/EU, of 20.02.2013, "Investing in children: breaking the cycle of disadvantage" (OJ L 59 of 2.03.2013, p. 59).

<sup>95</sup> For example: Directive 2004/38/EC.

<sup>96</sup> EU (2012), Charter of Fundamental Rights of the European Union, OJ 2012 C 326.

<sup>97</sup> See consolidated versions of European Communities (2012), Treaty on European Union (TEU) and Treaty on the Functioning of the European Union (TFEU), OJ 2012 C 326.

This articulates three key children’s rights principles:

1. the right to express their views freely in accordance with their age and maturity (**Article 24 (1)**);
2. the right to have their best interests taken as a primary consideration in all actions relating to them (**Article 24 (2)**);
3. the right to maintain on a regular basis a personal relationship and direct contact with both parents (**Article 24 (3)**).

The second key milestone was the Lisbon Treaty, which, as noted above, entered into force on 1 December 2009<sup>98</sup>. This instrument made important institutional, procedural and constitutional changes to the EU by amending the TEU and the former European Community Treaty (now the Treaty on the Functioning of the European Union (TFEU)). These changes enhanced the EU’s potential to advance children’s rights, not least by identifying, the “protection of the rights of the child”, as a general stated objective of the EU (**Article 3 (3)** of the TEU, and as an important aspect of the EU’s external relations policy (**Article 3 (5)** of the TEU). More specific references to children are included within the TFEU as well, enabling the EU to enact legislative measures aimed at combating sexual exploitation and human trafficking (**Article 79 (2) (d)**, and **Article 83 (1)**).

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<sup>98</sup> European Union (2007), Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, OJ 2007 C 306, pp. 1–271.

## CHAPTER V

### 5.1 Protection of Rights of the children in the Republic of North Macedonia

An exemplary goal of the existence of man, his present and his future, are related to children, creatures that devise and re-new life. Life begins in this world bare, unique with the beauty in it. An original way to step into life, in the unknown and in the future that only youth can beautify it, is the future. World day for prevention of violence against children – November 19<sup>th</sup>, is marked in 88 countries, and this year “Megjashi” will alarm for deteriorating situation with violence against children. Special emphasis will be placed on preventing addiction and misuse of narcotic substances. In the Republic of North Macedonia the number of cases of pedophilia and domestic rape has increased, but according to Megjashi, many of the victims do not present these cases because the perpetrators are mostly close relatives or friends of the victim. The message of the little *Bushavko* from the trademark of the “**Megjashi**”, *PDAS from Skopje*, has the same meaning, which it says: “We are the future!” And the future in the Republic of Macedonia is fatefully connected to life, health and development of about 600 thousand citizens up to 18 years of age who have status of a child and represent the youth of this country, the most beautiful part of the country, society, our joy, happiness, renewal and future. Quiet simplicity for a significant part of our essence, the existence of one country with a striking history, culture, art and toughness in the perseverance of space through the centuries and at the same time such indifference and carelessness, as it has never been proved for its sole and lasting treasure, **the children**. Man/women created values, gained wealth, lost it or not, he/she was left by himself/herself, but the children were always his/hers, a mirror of its existence and its future. Healthy offspring is the wealth of everyone, even of this country. Somewhere in the wishes and priorities of each individual have lost, some of us in selfishness to live better, achieve more in the professional development, to be rich and famous. We forgot about our youngest and their true one’s development needs, our branches and young tendrils. Mistakes in the development of young generations have lasting consequences on the development of our future. **Have we done anything about this system?** Protection of children's rights, in ensuring their development, about the future, we have just made a few steps and stopped, if they want and respect us, we will, whether they stay with us or leave. This analytical perception of the conditions in building the protection of children are not meant to respond to a wide range of issues related to protecting children, but to encourage debate how to detect problems with which children face today, and contribute to the selection of appropriate solutions, and measures for enriching the rights of children for more complete regulation child protection system that will respect the problems and will support the interests of children in their best interests for development.

In essence, age is not a criterion *per se* for seclusion. Instead, always when age-years are used as a criterion, any other characteristic that is thought to be deeply linked and age-dependent is reflected. In short, years of age are used as an indicator of many other features that are presumed to be related to age. So for example: If the right to vote is won at the age of 18, it is assumed that people who reach this age have reached the maturity necessary to understand what their role is in the voting process. In this example, years of age are indicative of the individual's political maturity. Adoption of age as a special basis aims to challenge age-specific differences and to include observations of human rights institutions, primarily of the courts. If this is the case, such differences have no real purpose, ie they are not proportionate and necessary for the achievement of such purpose, there for they are discriminatory and should be eliminated. Even a form of practicing the age classification is the call to protect the interests of members of the group of ages. Often such rules protect the interests of children and young people. So it is called protective legislation. So for example, the rule that children up to the age of theirs are forbidden to buy alcoholic beverages, is legitimate to protect the interests of children first of all, also to protect their health. Children are protected from the possibility of being a victim of abuse because they are unable to understand what the consequences may be for the use of alcohol. Also, rules in the field of labor relations for the protection of children and young people, whether through detention or through special protection at work, can easily be justified under the proportionality test. As an example, stopping children to work until they complete compulsory education aims at protecting their interests because they are supposed to have no capacity to work and at the same time be fully focused on the educational process. Also, the ban on young workers under the age of 18 to work in places where there is a cut, or where toxic substances are emitted, or work something that is obviously above their physical or psychological capacity, is aimed at protecting their health. Such rules are not considered as discriminatory because the protection of the health of children or young workers is a legitimate aim which is achieved precisely through the use of age classifications. The age necessary for the marriage bond is intended to protect exactly the persons who associate the marriage. Namely, marriage results in a large number of serious obligations to spouses themselves in their mutual relationship, as well as obligations to juveniles of obligations that they are unable to understand or fulfill. Such obligations are, for example, the obligation to hold a spouse or children. Children and young people are also excluded from a range of other rights, such as the right to drive vehicles under the specified age or the right to vote.

## 5.2 Harmonization of the legislation in the field of child protection

The Constitution of the Republic of North Macedonia and the implementation of decentralization for transfer certain competencies of the local self-government, is accomplished without preceding objectives, interests, measures are determined the functioning of the child protection system.

### 5.2.1. Rights of the Child (Family Law)

The amendments to *the Family Law* stipulate the rights to the child, to be supported by his parents, taken care of, be protected for his life and health, to be fit for independent life and work, with provided optimal conditions for his upbringing, education and vocational training and all that conditioned "depending on the conditions of the family". Parents have the same obligations from the previous paragraph as the right and duty to their underage children, regardless of the conditions in the family. Then, when the parent can not fulfill his/her obligations to the children will assistance from state services and institutions for providing protection that were sought of children. By determining the right of the child, which fulfills as an obligation determined as the right and the duty of the parent, it is unclear what the purpose is for to be sure that the protection of children to be achieved by the establishment of such a right. The same is the case with determining the right of the child to maintain personal relationships and direct contact with the parent with whom he/she does not live and be represented by their parents or caregivers, which emphasizes the illogicality of the solutions built, in contrast to the existing ones in the same articles of the said one law, as the right and the duty of the parent. Bearing in mind that the Constitution and the Family Law make a difference between the terms "**minor children**" and "**children**", determining the obligations for the parents towards the minor children and the obligations of the children towards the elderly and feeble parents, constitutional provisions do not condition the rights and duties of the the parent to the juvenile children with the family conditions, but determine it that the state specifically protects children and minors. By establishing the right of the child to maintain personal and immediate contacts with the parent with whom he/she does not live, how to satisfy the dignity of the the legislator in the implementation of the ratified international documents. The realization of personal relations and direct contacts of the children with parents is not a consequence of the unwritten right of the child to contact his parent, but above all the effects of the measures and activities of the competent institution, to mediate in the miss-understandings of the parents, to them they overcome the mutual hostile relations, which will enable the personal relations of the child with both parents. In the context of the rights of the child, it is ensured that the child has the right to be represented by their parents or guardians, ie determined the right that the child can not use it personally and because of his/her minority exercises with the established obligation of the parent to represent the juvenile kid.



The way in which caring for and protecting children under conditions of child care a society at risk, as we are today, that is, the new conditions of managing and achieving work obligations, affect the way of the fulfillment of family responsibilities in general, and especially the children, because of that it is necessary to ensure their safety at the time of absence of parents from home, outside home and at the later hours of the day. In the area of family legislation, and in the interest of protecting the safety of children, it is necessary to build solutions that would create an obligation for the parent must not allow:

- A minor child under the age of 10 years to be unattended an adult;
- A minor child resides outside the home in the time from 22:00 to 5:00 h;
- A minor child who has not reached the age of 15 years to participate directly in the child armed clashes; and
- To take care of the honor and reputation of the minor child.

Although the United Nations Convention on the Rights of the Child has been ratified, and the Convention for which the ILO Recommendation was adopted, for the worst types of child exploitation in 2001, in the family law regulations are not taken all necessary and usual measures for the implementation of these conventions, that is, solutions are not incorporated as an obligation of the parent for protecting children from hurting and neglecting, abusing and harassment, including sexual harassment, economic exploitation the child while in his care, both from family members and from all others that can harm the development of the child's personality<sup>99</sup>. Child protection is regulated by a special law, as an organized activity based on the rights of the children, as well as the rights and obligations of the parents and the state for family planning, providing conditions and living a standard that matches the physical, mental, emotional, moral, and social development of children and the obligations of the state in creating conditions for conducting a humane population policy, providing appropriate material assistance to parents according to the capabilities of the state for support, raising, care and protection of children and organizing and ensuring the development of institutions and child protection services. Harmonization of the legal regulations, the new constitutional provisions, has not changed the conceptual setup of the new Law on protecting the children, adopted at the end of 2000, according to which this protection is exercised by providing certain rights and forms for the protection of children. Children's rights under this law are:

- ◆ Child allowance;
- ◆ Special allowance;
- ◆ Help for newborn equipment; and
- ◆ Co-Payments.

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<sup>99</sup> Report on the calls for children on the SOS phone line for children from the PDAS "Megjashi", Skopje.

Child allowance is provided as a child's right to cover part of the child, the costs of raising and developing the child, as a monetary compensation for:

- a child up to 15 years of age in the amount of 4.60% of the average salary paid per worker in the Republic of North Macedonia in the first half of the previous year; and
- a child aged 15 to 18 years in the amount of 7.30% of the average salary paid per worker in the Republic of North Macedonia in the first half of the previous year.

### **5.2.2. Forms for Child Protection**

Forms for organized protection of children for care and upbringing children, education and socialization of the youngest children and for help, above all, to the employed family, in accordance with this Law, are:

- ◆ Care and education of pre-school children;
- ◆ Children's recreation and recreation; and
- ◆ Other form of protection.

Social rights for children in the legislation in the Republic of North Macedonia are regulated in several legal regulations, which are in the competence of the more state authorities. Creating measures and activities for their achievement has no basis in a single national policy that has been established according to the needs for the children and the interests for their development and possibilities for financial support of the state in the longer or short term. The individual approach to the regulation of social rights for children of every state authority with all that follows the adoption of these rights does not contribute to the creation of a lasting social protection policy of children, with measures and activities that provide the best interests of child. The amendments and supplements to the legal regulations in the area of protection of children, which carry out the decentralization of competences, from the government of the local self-government, in conditions of a completely undefined system of financing all the obligations that the local government will undertake with these regulations, it is realistic to expect problems in the protection of children. In the early 90s, with rationalization measures, the non-economic activities are accomplished and the centralization of the competences of the government, which reduced the decision making power of the local government. From the implementation of these measures can be drawn conclusions in the creation of the current decentralization of competencies in the activities. With those measures, taking of certain activities in the protection of children, is ascertained lagging behind the development of activities that have the nature of the mandatory account of others, despite the needs for them with a lack of funds for their funding. Accordingly, the activities aimed at achieving the special care for children, in the scope, and quality of the children implementation of the measures depends mainly on the material conditions in the budget and against activities with established obligation of compulsory in

implementation, will encounter problems in the implementation of protection of children. Hence, the skepticism about the decentralization of power in regulation of the social rights system for the protection of children, the Republic of North Macedonia is a small state and the exercise of the competences of the government must be a system of centralized and decentralized solutions that will leave enough space to influence the development of the activities of immediate interest for the citizens, and thus the local one's self-government.

### 5.3 Institutions and rights of social welfare for juvenile recipients, 2017

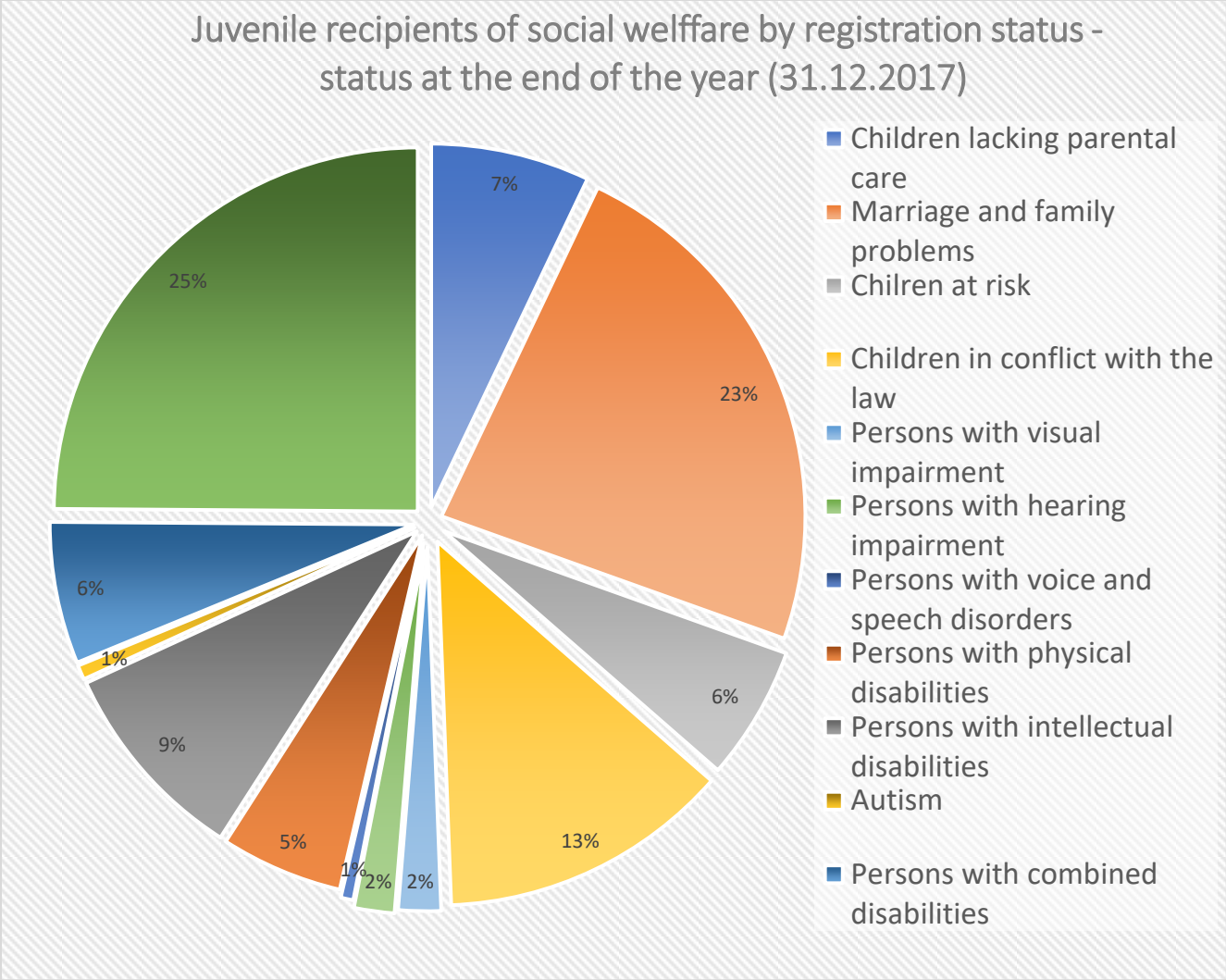
#### Child Abuse- Republic of North Macedonia<sup>100</sup>

The Republic of North Macedonia as a member of the European Council, in the framework of relevant Conventions, referring to the protection of children, their freedoms and rights, annually publishes report statistics, with the help of which we have an overview of the number of institutes provide protection of children's social rights. This report provides us with age-and-gender data sharing for 2017, ranging from the youngest age to the elderly who use these rights. The report generally includes all municipalities in the Republic of North Macedonia. In cooperation with International Organizations, one of which we also have UNDP, North Macedonia as competitive for European Union member to a considerable extent has reached the children in need, to provide somehow, social minimum survival and maintenance needs! According to the data of the State Statistical Office, the total number of juvenile recipients of social welfare in 2017 was 14 758. Of the total rights of social welfare for juvenile recipients, social work services had the largest share at 49.5% recipients.

The following tables show a significant number of the users. **Table no.1**

<b>Juvenile recipients of social well-fare by registration status - status at the end of the year (31.12.2017)</b>											
Children lacking parental care	Marriage and family problems	Children at risk	Children in conflict with the law	Persons with visual impairment	Persons with hearing impairment	Persons with voice and speech disorders	Persons with physical disabilities	Persons with intellectual disabilities	Autism	Persons with combined disabilities	Others
1062	3515	896	1950	285	270	84	817	1364	97	948	3740

<sup>100</sup> State Statistical Office Skopje, Dame Gruev 4, 20.06.2018 Year LVI /No: 2.1.18.24.  
<http://www.stat.gov.mk/pdf/2018/2.1.18.24.pdf>.

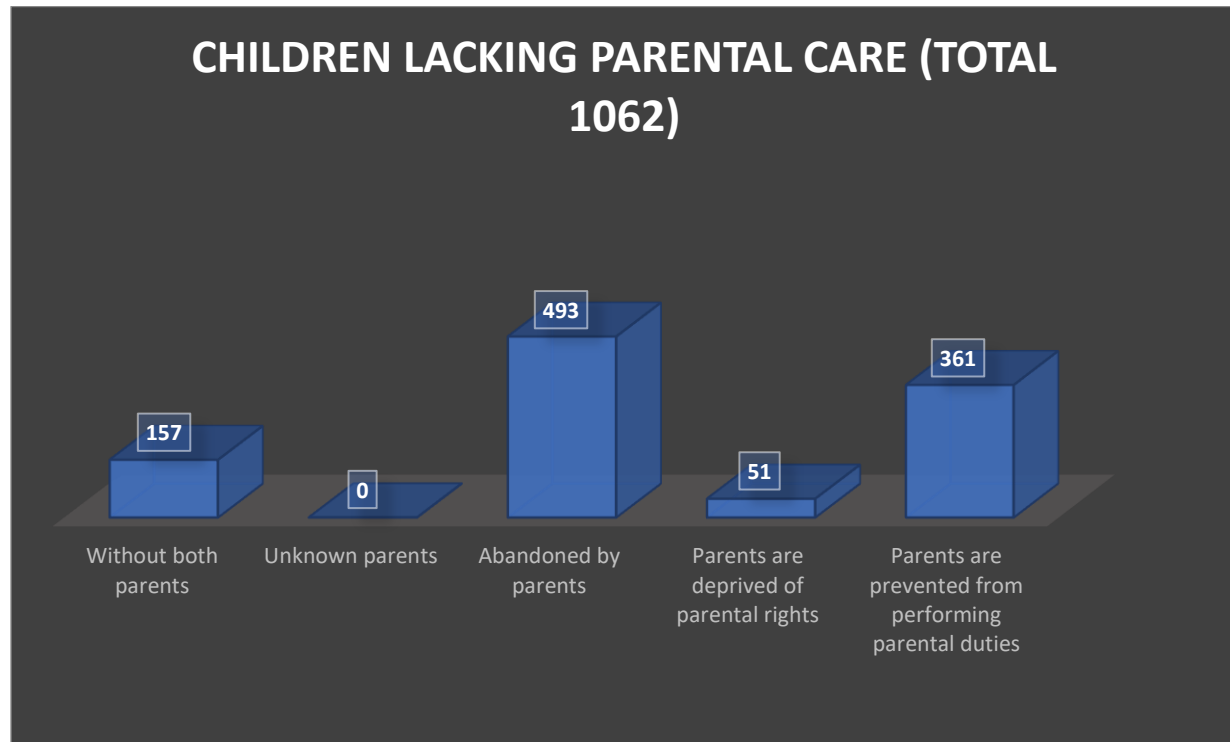


**Table No. 1**

The table in question outlines the percentage of beneficiaries of the benefits that our social institutions provide by the end of 2017. It emphasizes that out of a total of 3740 users, 7% of them are Children Lacking Parental Care, 23% of them are children that come from Marriage and Family Problems, 6% of them are Children at Risk, 13% of them are Children with Conflict with the Law, 2% of children with Persons with visual impairment, 2% Persons with hearing impairment, 1% in our table reflects on persons with voice and speech disorders 5% refers to Persons with Physical Disabilities, 9% for Persons with Intellectual Disabilities, 1% refers to children with Autism, 6% to Children with Persons with Combined Disabilities, and 25% recently refers to, the children with various diseases categorized in (Others).

**Table no. 2**

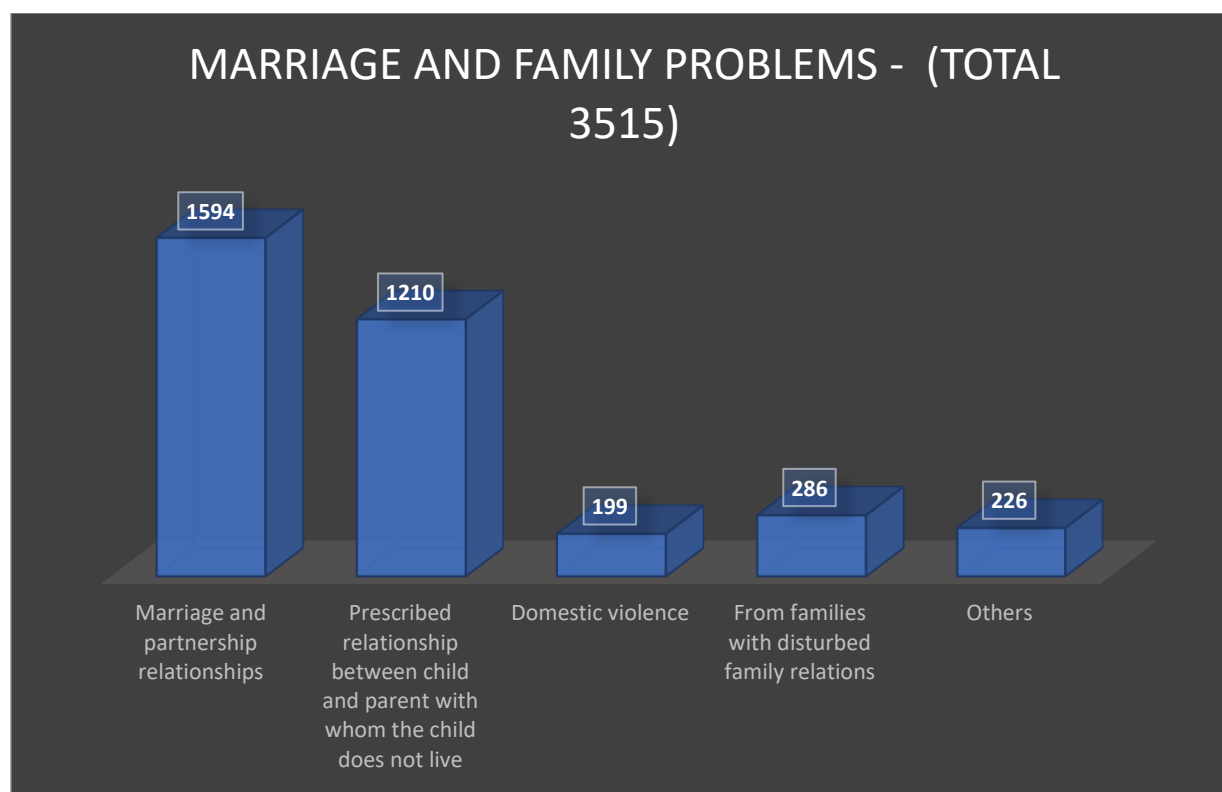
Juvenile recipients of social well-fare by registration status - status at the end of the year (31.12.2017)				
<b>Children lacking parental care (total 1062)</b>				
Without both parents	Unknown parents	Abandoned by parents	Parents are deprived of parental rights	Parents are prevented from performing parental duties
157	0	493	51	361



**Table No. 2** - Based on the statistics given in Table 2, there is an increase in the number of children abandoned by their parents (493), compared to the number that refers to children without parents (157), children who don't know who their parents are (/), parents whose parental rights have been removed (51), and whose parents have been deprived of the right to exercise parental duties (361).

**Table No.3**

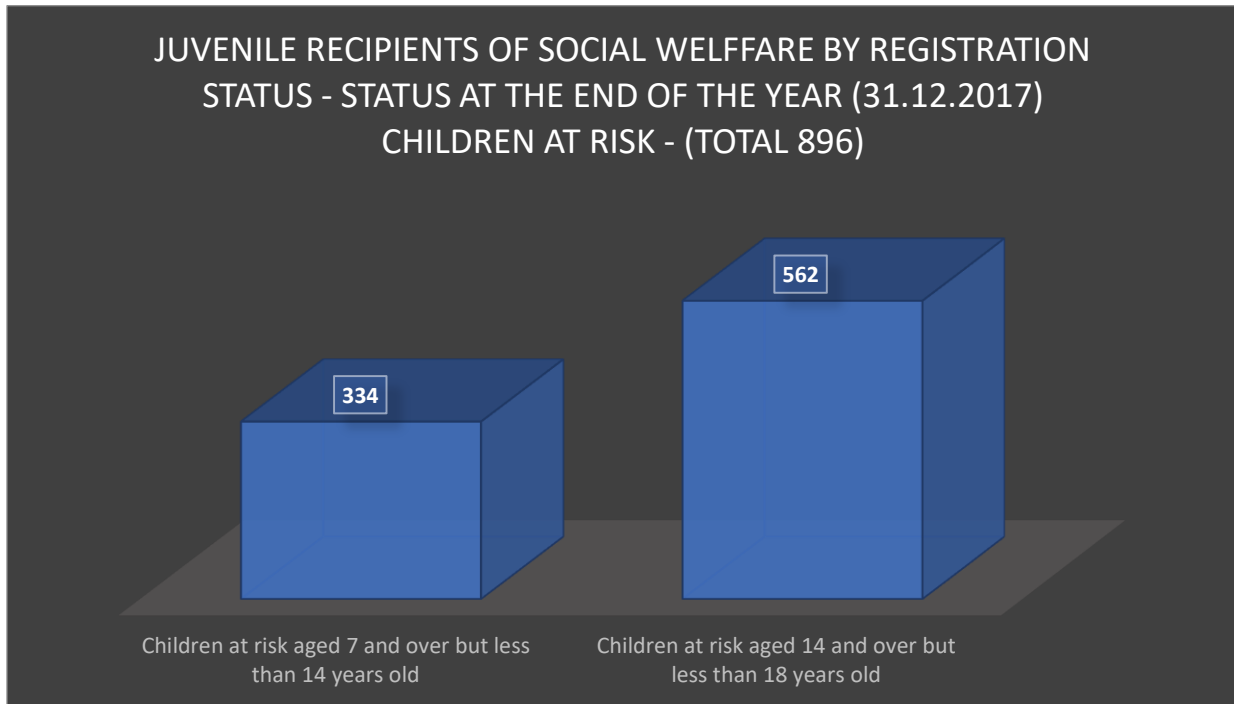
<b>Juvenile recipients of social well-fare by registration status - status at the end of the year (31.12.2017)</b> <b>Marriage and family problems - (total 3515)</b>				
Marriage and partnership relationships	Prescribed relationship between child and parent with whom the child does not live	Domestic violence	From families with disturbed family relations	Others
1594	1210	199	286	226



**Table No.3** - for 2017 has a significant number of children living in a family with marital problems (1594), out of a total of 3515. Considerable numbers also reflect the relationship between parents and children, where children live separately (1210). Even in the Republic of Macedonia, like any other country, Domestic Violence prevails, which in rare cases occur to appear in the competent bodies, and as a result, in our annual report this number is much smaller compared to cases that occur more and more day by day (199). (286) reflects the number of children who come from families with inadequate family relationships among themselves. While a considerable number, 226 belongs to the various cases accumulated as OTHERS.

**Table No.4**

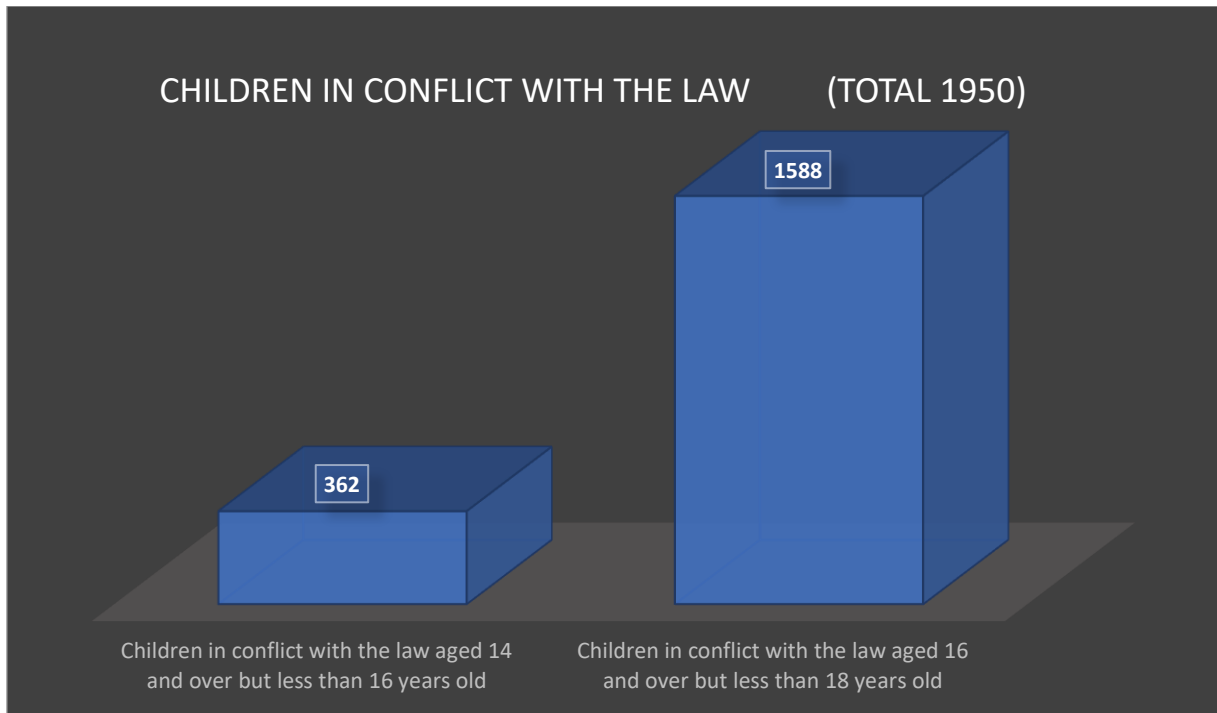
<b>Juvenile recipients of social well-fare by registration status - status at the end of the year (31.12.2017) Children at risk - (total 896)</b>	
Children at risk aged 7 and over but less than 14 years old	Children at risk aged 14 and over but less than 18 years old
334	562



**Table No.4** - The 2017 report for a total of 896, taking into account the age of 7-14 years, 14-18 years, reflects a rise in risk for children aged 14-18 giving thus number 562, and for children ages 7-18, number of significant 33.

**Table No.5**

<b>Juvenile recipients of social well-fare by registration status - status at the end of the year (31.12.2017)</b>	
<b>Children in conflict with the law (total 1950)</b>	
Children in conflict with the law aged 14 and over but less than 16 years old	Children in conflict with the law aged 16 and over but less than 18 years old
362	1588

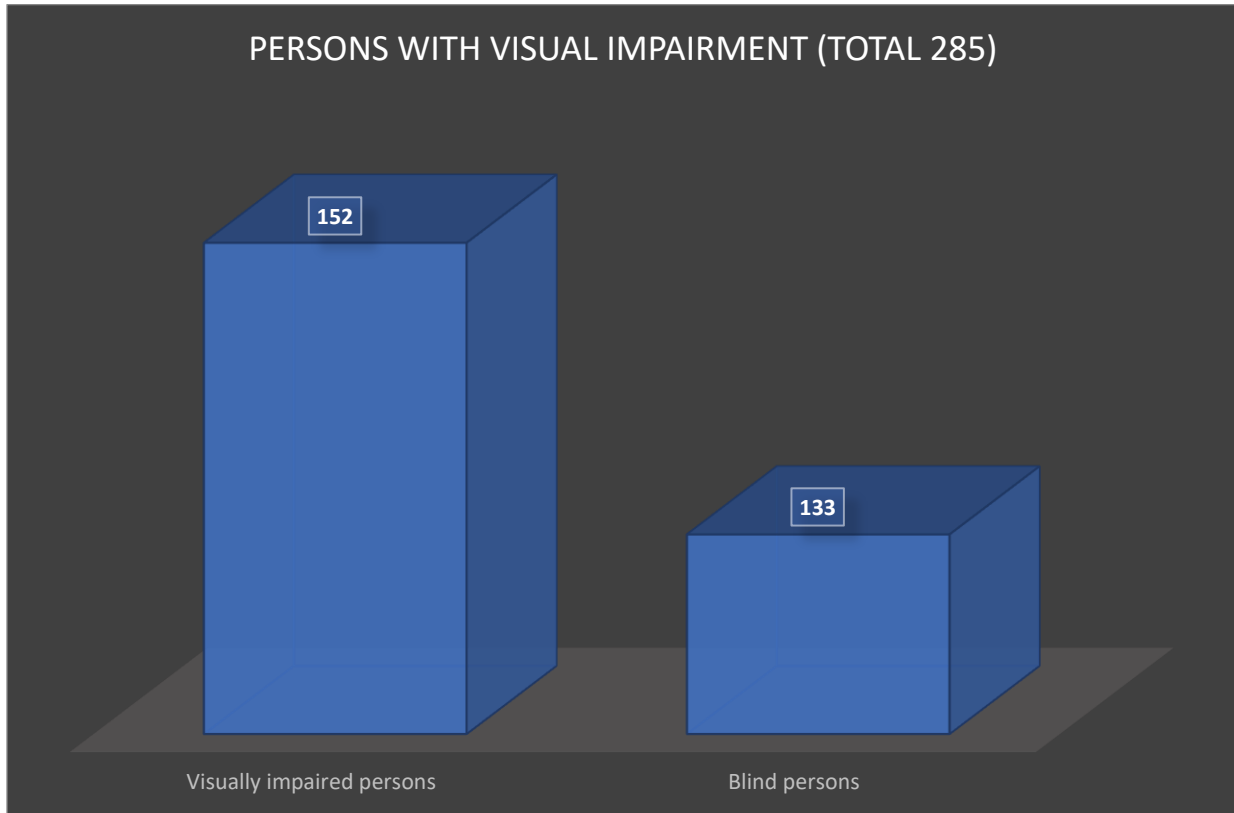


**Table No.5-** Children in Conflict with the Law (1950) suggests that children aged 16-18 years (1588) are at risk, compared to children aged 14-16 who reflect (362).



**Table No.6**

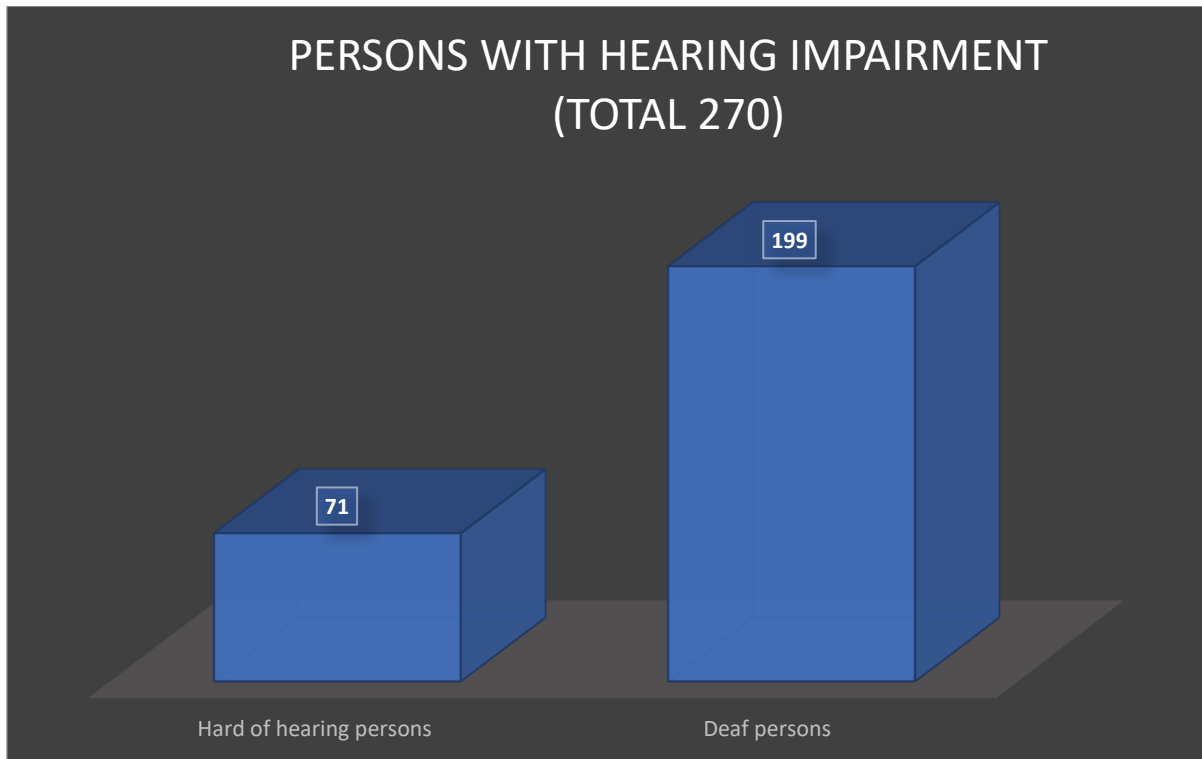
<b>Juvenile recipients of social well-fare by registration status - status at the end of the year(31.12.2017)</b>	
<b>Persons with visual impairment (total 285)</b>	
Visually impaired persons	Blind persons
152	133



**Table No. 6** -Statistics for 2017 in the Republic of Macedonia reflect a considerable number of people who have visual problems. Out of a total of 285, 152 belong to the group who have difficulty seeing (Visually impaired persons), while the sum of 133 refers to people with disabilities (blind persons).

**Table No.7**

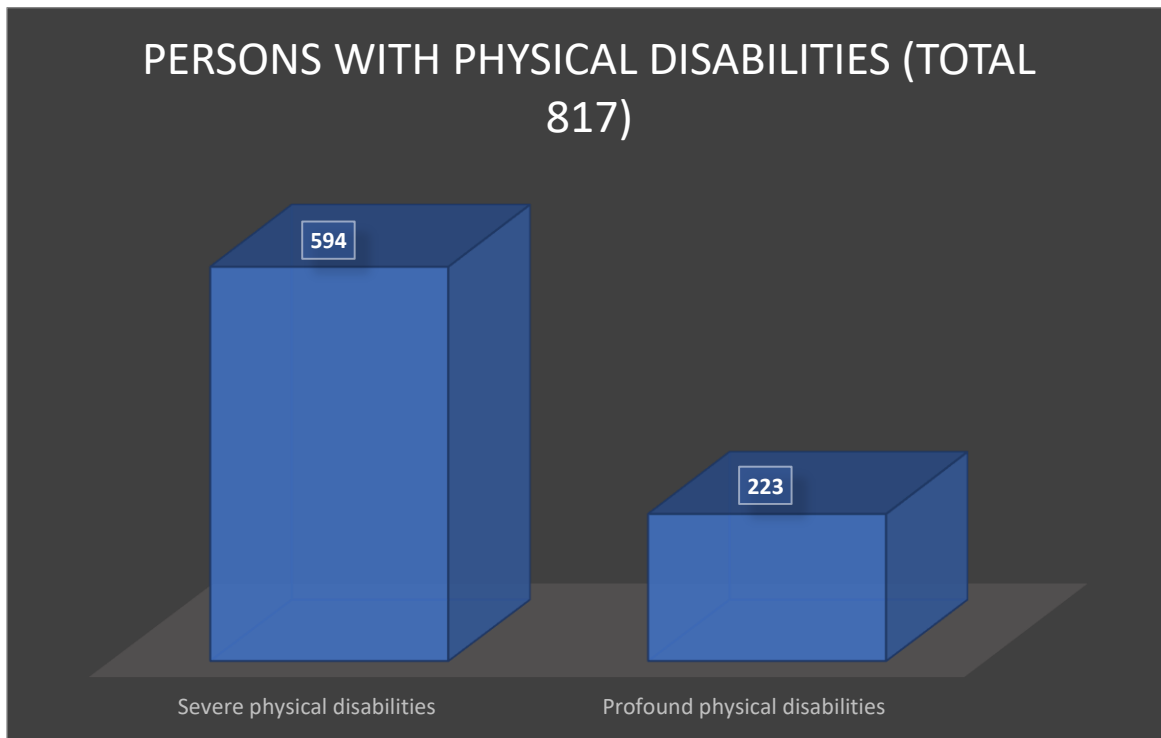
<b>Juvenile recipients of social well-fare by registration status - status at the end of the year (31.12.2017)</b>	
<b>Persons with hearing impairment (total 270)</b>	
Hard of hearing persons	Deaf persons
71	199



**Table No.7** - In total, the 270 statistics fund points out that 71 people belong to the group with hearing difficulties, and 199 of them belong to the group who have hearing impaired (deaf persons).

**TableNo.8**

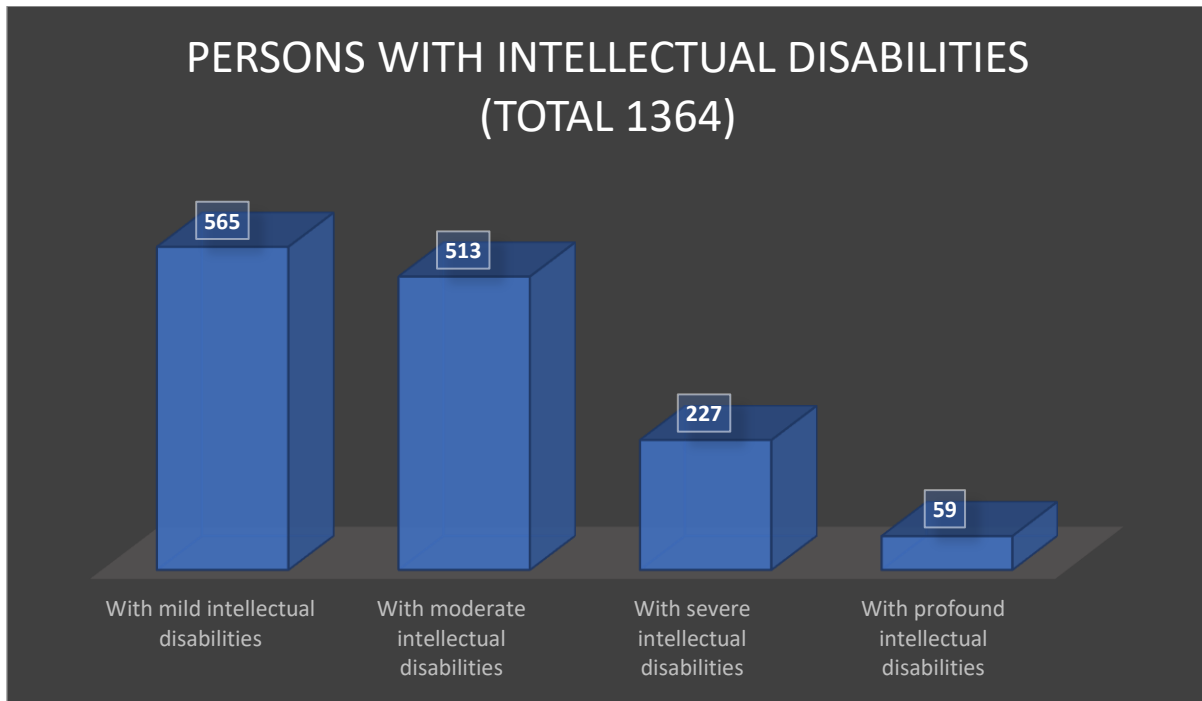
<b>Juvenile recipients of social well-fare by registration status - status at the end of the year (31.12.2017)</b>	
<b>Persons with physical disabilities (total 817)</b>	
Severe physical disabilities	Profound physical disabilities
594	223



**Table No.8** - The limited physical Skills Group represents a significant number of 817 people, of whom 594 belong to the group with severe physical disabilities, and 223 belong to people with totally physical disabilities.

**Table No.9**

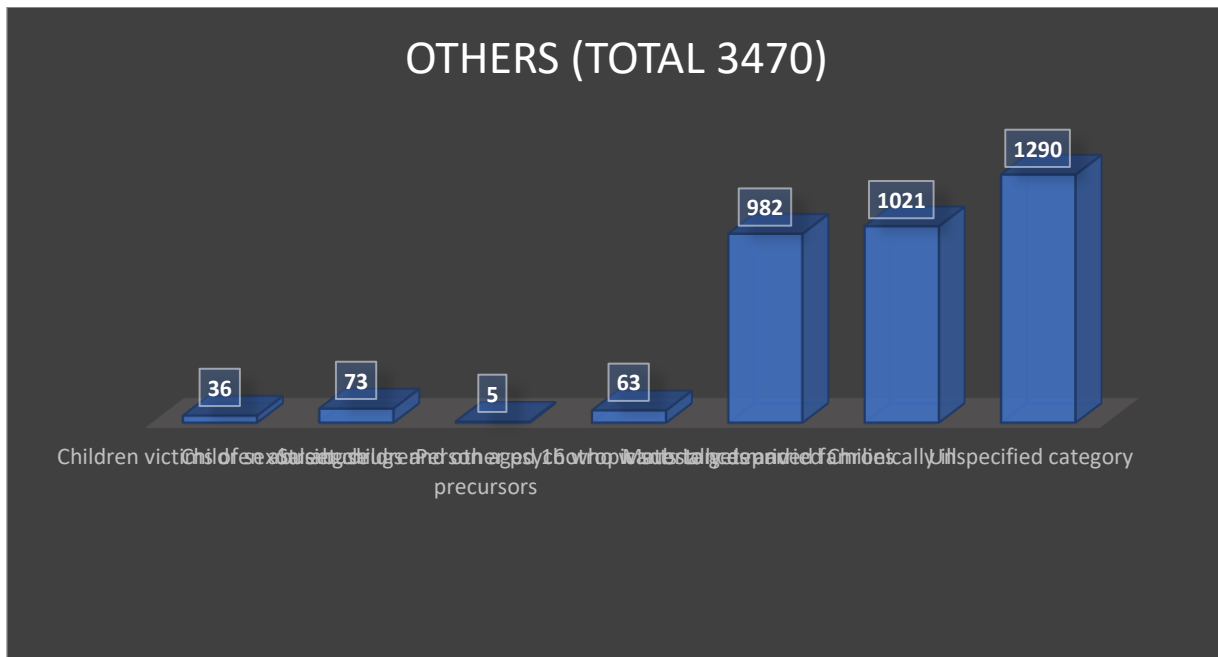
<b>Juvenile recipients of social well-tare by registration status - status at the end of the year (31.12.2017)</b>			
<b>Persons with intellectual disabilities (total 1364)</b>			
With mild intellectual disabilities	With moderate intellectual disabilities	With severe intellectual disabilities	With profound intellectual disabilities
565	513	227	59



**Table No.9-** During the year 2017 in the Republic of North Macedonia we have an increase of 1364 persons belonging to the group with intellectual disabilities, of whom 565 belongs to the group with mild intellectual disabilities, 513 of them belong to the group with moderate intellectual disabilities, 227 belong to with severe intellectual disabilities, and recently 59 belong children with profound intellectual disabilities.

**Table No.10**

<b>Juvenile recipients of social well-fare by registration status - status at the end of the year (31.12.2017) - Others (total 3470)</b>						
Children victims of sexual abuse	Street children	Children abusing drugs and other psychotropic substances and precursors	Person aged 16 who wants to get married	Materially deprived families	Chronically ill	Unspecified category
36	73	5	63	982	1021	1290



**Table No.10-** Based on statistics for 2017, for persons (children) who are considered as beneficiaries of social rights who, in accordance with conventions and laws, are offered to relevant institutions, are organized in this form; out of total 3470, 36 have children who are victims of sexual abuse, 73 rank children who are considered as street children (without shelter), 5 of them are children who consume different substances - drugs, psychopathic subsidies etc. 63 out of the above totals are the 16-year-old children who require permission for marriage bonds from the relevant institutions. A considerable number emphasizes children who come from families physically damaged-982, 1021 gives us the number of children with chronic diseases, and 1290 children who belong to other unspecified categories.

### **Additional: Concluding Remarks and recommendations**

The Republic of North Macedonia as a competitor of the European Union has taken into consideration the protection of the freedoms and rights of children, by adopting them, good and material in cooperation with international organizations and relevant social institutions. Contrary to the past years in the surface, the difference between the increase and the reduction of cases where children are subjected to various abuses (sexual, physical, psychological), vocational education at a considerable degree, etc., is seen. Unfortunately, even abusive cases are not present enough today. To improve the current state of affairs, I think it is necessary to consider some of the changes that would have an impact on raising awareness. Changes concerning the education of children starting from pre-primary, elementary schools and so on, I would have proposed going on the field (to analyze the institutions, how they function, have the means to raise a child, what they actually lack, what they need to meet the minimum requirements, cooperation international implementation of pay-per-view curricula, change of curricula, implementation of professional counseling on various topics related to education and child growth. It would be good for our government to provide vocational training for pedagogues who play a significant role in the development of a child, taking into account the time that children go to schools or other institutions. Compared to other states, the level of education in us varies considerably. I would like to emphasize that our state needs exchange of ideas and curricula-agendas with other states on which the level of vocational education is extremely, highly developed. (Here is also the idea of international co-operation - exchanging ideas and trainings from other educators who would share their ideas, about how they work with children, what teaching methods they use, how they manage the material goods that the state offers and so on, and none of the children should feel left out, like their parents, as well as those who are not fortunate enough to state public-social institutions where no child feels alone and it is left in the streets). I hope this work does little to affect the raising of the awareness of the parents, as well as those who dream to form their family and to raise their children with all the possible benefits. Fortunately, the state at the present time offers good matrices that are capable of growing under average conditions, where we hope that the following years will be even better and there aren't going to increase the cases highlighted above. We will not have children who will be maltreated, either physically, sexually or psychologically. Institutions will have a high level of education, streets won't be filled with abandoned kids, also provide basic training appears to be effective.

➤ **Some examples from different countries setting up new systems for the protection of children's freedoms and rights**

Given the relatively large body of literature documenting the adverse impacts of institutionalization on children's developmental outcomes and well-being, it is essential that countries work towards reducing the number of children in alternative care (particularly institutional care), and, when possible, reunite children with their families. In order to do so, reliable estimates of the numbers of children living in such settings are essential. However, many countries still lack functional administrative systems for enumerating children living outside of family care. Many countries are in the earliest stage of reforming the care sector. Reformers face challenges as they develop public policy to expand family based care and shrink institutional care. To mention a few: installing the keystone component of care reform, a system to monitor and support children post-institutionalization, enabling children to grow up where they belong, in families, meeting children's basic needs where they should live, in their own communities, meeting children's basic needs where many actually live, in institutions, strengthening the social service workforce, and elevating the political priority of poor and vulnerable children through evidence-based advocacy. Care reform must be sold in the political marketplace. Evidence-based, tactical advocacy is the key to reforming care policy and winning the public resources needed to gear-up programs for the care, protection and development of vulnerable children.

- There are an estimated 7000 childcare institutions across **Indonesia** caring for up to half a million children. The vast majority of these institutions were set up privately, particularly by faith based organizations, while the government owns and runs fewer than 40. While many receive some financial support from the government, most do not come under any type of supervision or monitoring. Despite an overt emphasis on supporting orphans, almost 90% of children in the institutions surveyed still had at least one parent, while more than 56% had both parents. The great majority of these children were neither parentless nor were they abandoned by their families. Instead they were placed in the institutions by their families primarily as a result of the economic situation in which they found themselves<sup>101</sup>.

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<sup>101</sup> Someone that matters. The quality of care in childcare institutions in Indonesia. Martin, F., and Sudrajat, T. (2007). Save the Children UK. <http://resourcecentre.savethechildren.se/library/someone-matters-quality-care-childcareinstitutions-indonesia>.

➤ **All Children Count: A Baseline Study of Children in Institutional Care in Malawi.**

Most children reported being happy because they had access to services not available at home, despite expressing a sense of loss for family and community. Nonetheless, frequent problems such as limited contact with families, a lack of management committees as required under government regulations, poorly trained staff and a lack of regular complaint systems, as well as specific children's rights violations were identified as needing to be addressed. Most children reported that the care they received was better than they had enjoyed before entering the institution. Children said that they had received many things, listing items such as clothes, toys, shelter, body lotion, blankets, shoes, slippers, soap and suitcases. Some also slept on good beds and mattresses, which were not available at home because of poverty<sup>102</sup>.

➤ **Childhood adversity, mental ill-health and aggressive behavior in an African orphanage: Changes in response to trauma-focused therapy.**

The authors interviewed all children in a Tanzanian orphanage before and six months after the implementation of a new instructional system. To improve the living conditions of the children a new instructional system was implemented that placed a ban on any violent punishment by caregivers and introduced positive parenting strategies. Furthermore, all children with a posttraumatic stress disorder (PTSD) received KIDNET, a child-friendly version of narrative exposure therapy. A time period of six months allowed the caretakers to get used to the new strategies and the children to profit from the changes, but also to recover from PTSD. The new instructional system included training sessions for the caretakers that aimed for a better understanding towards the children and for a positive relationship between caretaker and child in order to reduce violent punishment and to foster secure bonding. After the workshop a special needs teacher supervised the implementation of the new system for 6 months. All caretakers were informed that any use of physical punishment and other forms of maltreatment, such as punishing children by sleeping on the floor, would lead to instant dismissal. Moreover, all boys and girls of 12 years or older were also informed about this ban and about zero tolerance of violence, also among peers, and received sex education, including information on HIV/AIDS<sup>103</sup>.

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<sup>102</sup> UNICEF Malawi (2011). The Ministry of Gender, Children, and Community Development of Malawi- Centre for Social Research (CSR) of the University of Malawi. See, <http://www.bettercarenetwork.org/library/the-continuum-of-care/residential-care/all-childrencount-a-baseline-study-of-children-in-institutional-care-in-malaw>.

<sup>103</sup> Hermenau, K. Hecker, T. Ruf, M. Schauer, E. Elbert, T. & Schauer, M. (2011). Child and Adolescent Psychiatry and Mental Health, 5(1), 1. See, <http://capmh.biomedcentral.com/articles/10.1186/1753-2000-5-29>.



- In **Ontario**, the province funds municipal service system managers for child care and early years, programs and services. These 47 local service system managers, known as Consolidated Municipal Service Managers (CMSMs) and District Social Services Administration Boards (DSSABs), have the authority to determine funding priorities within their local early years and child care system, provided they comply with provincial legislation, policies, and guidelines. The province also funds 74 First Nations and three transfer payment agencies to support child care on reserve. Licensed child care is provided in centers and homes, and is delivered by a mix of non-profit, for-profit, and municipally-operated programs. Child care programs are also operated directly by First Nations. The provincial government sets overall policy, legislation, and regulation for the child care and early year sector. The Ministry of Education licenses child care centers and home child care agencies that contract with home child care providers, conducts inspections, and investigates complaints about licensed and unlicensed child care<sup>104</sup>.

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<sup>104</sup> Ontario's Renewed Early Years & Child Care Policy Framework (2017). ISSN 2561-3227 (PDF):  
See, <http://www.edu.gov.on.ca/childcare/EarlyYearsChildCareAnnualReport.pdf>.

## CONCLUSION

The many to risks facing these girls and boys nowadays around the world have a devastating impact on their well-being, physical security and future. Some children everyday are killed or injured, others face separation from their families and caregivers, or recruitment into armed forces or armed groups, and far too many suffer sexual violence or other forms of exploitation and abuse. The protection of children from violence, exploitation, neglect and abuse for all those that work in humanitarian situations is an urgent priority, including here of course, the protection actors, but also the broad range of sectoral specialists. The taken efforts need to be quick, well planned also very effective, and need to be able to measure whether they are reaching children and properly protecting them. Furthermore in our humanitarian actions, we need to make sure that we strengthen systems that will protect our children in the longer term, when the emergency response is over. These inter-agency long awaited minimum standards for child protection have the potential to transform the quality and the rigor of our work to protect children, and the same they will hold us to account against commitments as humanitarians. As young generations we urge all those involved in humanitarian action to seize this opportunity, and to implement also promote these standards!

Historically, programming and analysis in child protection have focused on particular issues or specific groups of vulnerable children. Issues receiving attention in recent years include violence against children, alternative care, justice for children affected by armed forces and groups, trafficking, sexual exploitation, child labor and child separation. However, many children are vulnerable to multiple child protection violations. While vertical, issue-focused programming can be very effective in serving the specific cohort of children targeted, it can result in protecting gaps, lack of coherent referral systems and insufficient attention to early intervention, family support mechanisms and prevention efforts. In contrast, child protection systems are seen as a comprehensive and sustainable approach to preventing and responding to child protection issues. They comprise the set of laws, regulations, protocols, policies and services required across all social sectors, especially for the social welfare, education, health, security and justice, to respond to and prevent protection related to risk. This approach does not negate the importance of addressing child protection issues, but rather ensures that these issues are referenced within a holistic service structure. Issues thus become an entry point to strengthen child protection systems more broadly. Such systems seek to protect all children and to unite all stakeholders behind a common set of goals, creating a long term response that is robust! Properly coordinated and adapted to evolving problems. As such, the strengthening of child protection systems is one main ‘column’ of the problems of the UNICEF’s child protection STRATEGY (2008).

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