TABLE OF CONTENTS

1. EXECUTIVE SUMMARY ............................................................................................................ 4
   1.1 Background .......................................................................................................................... 6
   1.2 Methodology ......................................................................................................................... 8
   1.3 Definitions used in this Study ............................................................................................ 8
       1.3.1 Definition of a Child ................................................................................................... 8
       1.3.2 Definition of Violence against Children .................................................................... 8
       1.3.3 Working Together ...................................................................................................... 9

2.0. INTRODUCTION ................................................................................................................ 10
   2.1. Policy Context ..................................................................................................................... 10
   2.2. Legal Context ..................................................................................................................... 11
       2.3. Data Collection .............................................................................................................. 12

3.0. INSTITUTIONAL FRAMEWORK ......................................................................................... 14
   3.1. Structures of Delivery of Services ................................................................................... 14
       3.1.1. Social Work Services .............................................................................................. 14
       3.1.2. Health ...................................................................................................................... 15
       3.1.3. Schools ..................................................................................................................... 16
       3.1.4. Pre trial and court process ....................................................................................... 16
       3.2. Review bodies ............................................................................................................... 17
   3.3. Conclusion ......................................................................................................................... 18

4.0 GAPS IN THE PRIMARY LEGAL FRAMEWORK .................................................................. 20
   4.1 Gaps Common to all Primary Legislation addressing Social Protection of Children .... 20
   4.2 ISSUES IN RELATION OF SECTOR SPECIFIC PRIMARY LEGISLATIONS .................. 24
       4.2.1. Social Protection ........................................................................................................ 24
           4.2.1.a. Defining the “threshold criteria” ......................................................................... 24
           4.2.1.b. Supervision, Enforcement and Accountability ..................................................... 25
           4.2.1.c Confusions and the Need for Harmonization between other Laws .................. 26
           4.2.1.d Sharing of Information ....................................................................................... 26
           4.2.1.e. CSW Case Management ................................................................................... 27
           4.2.2 Health Sector ......................................................................................................... 27
           4.2.3 Education ............................................................................................................... 28
           4.2.4 Justice system ......................................................................................................... 29
       4.3 Conclusion ......................................................................................................................... 31

5.0. GAPS IN THE SECONDARY LEGISLATIONS, STANDARDS AND PROCEDURES ............. 32
   5.1. LACK OF PROVISIONS FOR INTERVENTION ................................................................. 33
       5.1.1 Early identification ....................................................................................................... 33
       5.1.2 Intervention ................................................................................................................ 34
   5.2 LACK OF PROVISIONS FOR PROCEDURES TO WORK TOGETHER ............................ 35
   5.3 LACK OF DETAILS FOR SERVICES ............................................................................... 36
       5.3.1. Social Work services, Foster care, Institutional Care (social protection) .................. 37
       5.3.2 Education and Health ............................................................................................... 38
       5.3.3 Police ......................................................................................................................... 40
   5.4 Lack of Safeguarding Provisions for child victims and witnesses in the judicial process ... 40
   5.5 Conclusion ......................................................................................................................... 41

Annex 1 – Data on child victims .................................................................................................. 43
Annex 2 - List of documents reviewed ....................................................................................... 47
Annex 3 – List of Professionals Interviewed .............................................................................. 50
Annex 4 – Policies and Action Plans ......................................................................................... 51
1. EXECUTIVE SUMMARY

The approach taken in Social Protection of children who are at risk or those that have been exposed to violence is a collectivist approach where children rights are juxtaposed with parental rights. Despite the overarching principle of the “best interest of the child” that currently urges the State to intervene into the private sphere of the family, there is no provision that explicitly state that the best interest of the child would be the paramount consideration in all actions concerning children, including the judicial process. Although this is one of the key principles of the CRC and the Family Law it is not reflected their implementation.

Article 3 of the Convention on the Rights of the Child states:

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the **best interests of the child shall be a primary consideration**.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform to the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

This article covers that the best interest of the child should be the guiding principle in all-administrative and legislative proceedings. The principle of “best interest of the child” is usually understood in terms of the culture and norms of a society and without an explanation in the laws what is expected in terms of international legal obligations can be misunderstood. Several problems can be seen in this regard both inherent to the justice system and the overall system (including social protection, education and the health).

Many of these challenges are arising from the **gaps in the primary legislations** and the **inexistence of secondary legislation** that is essential to execute the provisions in the primary laws. The primary laws **do not emphasize the importance of sharing the burden** of social protection of children exposed to violence equally to the various authorities, hence collaborative work is currently greatly hindered. The primary laws and the secondary laws that do exist lack specificity and are broad and vague in nature.

Furthermore, there is confusion arising from the fact that the legislations **do not provide explanations of terminology** used within the laws leading to non-uniformity in their interpretation and application. There are **inconsistencies** between the laws that lead to inaction. Additionally, there is a lack of proper mechanisms provided in the law that encourages collaborative work: identification of roles and responsibilities of agencies and how their work links to each other, producing a system that is fragmented.

Protocols and standards have been produced with the objective of enhancing collaborative work, while some of them are of high standards and cover procedures for working with children, most of them fail to provide the tools for such work instead outlines already existing roles in a compartmentalized manner. They also provide details but in some instances too wordy and not enough guidance to carry out the collaborative work. These tools also lack the importance laid on them due to their legal status.

**Shortcomings in the existing secondary legislation can be classified into four categories:**

1. Inexistence of essential secondary legislations that provide detail to those provisions in primary laws
2. They usually cover aspects pertaining to the premises where services are provided and not the
actual the professional and therapeutic services

3. Lack of explanations of terminology used leading to problems in practice and data collection
4. Lack of provisions detailing guidance on how to carry out functions of the provisions

Overall, there is a lack of understanding of the importance of accountability in social protection of children, as this is the crucial element that gains the trust of the public. It is therefore, intrinsic for the provisions regarding supervision, monitoring and inspections to be followed up, and ensuring the implementation of the outcomes of these procedures. These are essential elements for effective protection of children and public trust in the system.

Despite these issues some of the major issues lie with the proper enforcement of these laws: they are not properly implemented and the legal provisions are not exercised when there is an apparent failure in adhering to the laws. The problem of implementation is compounded by issue of shortage or staff and the lack of appropriately trained professionals including the justice system regarding child development, children at risk of harm and the dynamics of violence; and also children who are victims and witnesses. Poor implementation can also be attributed to the lack of budget allocations for the provisions of the Laws, Strategies, National Action Plans, and Protocols. It is further compounded by poor administrative practices such as regular supervision and following up.

Recommendations have been made taking all these issues into consideration. While this analysis is concerned with identifying the gaps in the secondary legislation budgetary and administrative aspects have been included as they may continue to affect implementation of already existing laws and newly introduced laws. The recommendations are guided by aspirations to achieve higher standards in social protection of children in the continuation of the ambitious path that has already been set by country.
1.1 Background

Violence against children, by children and among children has been sporadically addressed in the country. There has been a huge development of policy documents addressing child protection, juvenile delinquency prevention, domestic violence, trafficking in human beings and illegal migration, etc. Parts and pieces have been addressed in different legal instruments, like the Family Law, Social Protection Law, Juvenile Justice Law, education related legislation, Criminal Code and Code on Criminal Procedure. A comprehensive study on violence against children has not been done.

The country has approximately 2 million citizens, where almost a third (597,702) are children up to 19 years of age. The latest reports of the State Statistical Office (SSO) show that about 30,000 children have used the social welfare system, targeted with approximately 10,000 forms and 8,000 measures of social protection. More than 700 children have been accommodated in social welfare institutions.

When it comes to violence against children, it is a challenge to know the exact numbers, to analyse and bring out conclusions and recommendations. This is mainly due to not reporting these types of crime, in addition to the inconsistent manner of collecting data in each institution that handles such cases. (Please see Annex 1).

The 2006 Ombudsman report on domestic violence indicated several problems:

- the Centres for social work (CSW) do not have separate register or separate data on children victims of domestic violence. This issue has been resolved with the introduction of the CSW electronic data system LIRIKUS in 2012;
- The CSW do not provide special protection to children victims. The measures undertaken by the CSW are not specific for children, but are issued for the victim/mother and her children;
- There is absence of specialised centres/shelters for children victims of domestic violence;
- The offender is rarely removed from the home therefore the work with the child is more difficult. Where the offender is not removed from the house/home, the child is taken either to a shelter together with the mother or in another institution of social protection.

The 2012 Ombudsman report on child sexual abuse and sexual exploitation of children (covering the period of 2008-2001) provides very good information on the matter. The report covers the court measures, the recidivism and re-victimisation rate, identifies the children at risk of being sexually exploited and abused etc. It provides a solid base for understanding the situation and the existent system of protection and prevention of these types of crimes against children.

Protection from trafficking in human beings (THB) is an issue pretty much developed in the country. Some recent trends show that the internal trafficking of children age 14-17 years old, usually girls is predominant. Another important issue is that trafficking that occurs through some traditional practices, namely the arranged marriages of children. According the latest information from the National Coordination Mechanism the children who are most susceptible victims of abuse and exploitation are from Roma origin. The SSO criminal reports do not provide data about this type of crime. The National Strategy on THB reveals that labour exploitation has been in an increase, where children (usually boys) are hired as shepherds. In addition, the children on the street are also prone to labour explanation and are at very high risk of being trafficked as well.

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1 State Statistical Office publications: 2.4.13.04; 2.4.12.6; 2.4.12.13; 2.4.12.9 (regarding the children with impairments the data is not specific enough, but they have been included in the number of children accommodated in social welfare institutions)

2 National Strategy on THB and illegal migration, 2013-2016
There is no general prohibition of **corporal punishment** and on the contrary it seems that it is still considered as an educational measure moderately used in different settings (family, school, educational or correctional institutions, community etc.). The laws on primary and secondary education prohibit only physical and psychological violence of children. Even though the laws threaten with fines for misdemeanours, still the practice shows no results. More details regarding this prohibition is yet to be developed.

Different reports conclude that **violence in schools** is present. The NGO Coalition for protecting of child rights announced that in 2011 the MoI had reported 128 cases of violence in schools, and identifies three most common types: physical, group and violence with use of weapon. In 2012, the authorities drafted a strategy and a protocol on dealing with violence in schools, with measures mainly focused on situational prevention. Schools have been week in reporting violence against children with exception of the fights among students. The main preventive mechanism introduced was to install cameras in the schools (shown to be effective though for the safety during school hours) and hiring security staff. However, this is a partial approach, focusing only on the security. Even the strategy and protocol do not encompass all forms of violence, but are mainly focused on safeguarding secure environment in the schools, and dealing with physical and psychological violence that occurs in the school setting.

According to the Teachers Survey Report, teachers have low awareness to the problem of violence. Although majority of the teachers confirmed that they were reporting cases of violence, it occurred that they informed the parents and the superiors about those. No data on the follow ups was identified in the study. The reasons are found to be different, of not knowing what to do and where to turn to and who to call, the opinion that their effort won’t have any effect, that other institutions are responsible, etc. UNICEF Study confirmed that the reporting of violence from schools is weak and there were several reasons (schools do not distinguish between different forms of violence; do not have effective rules for the behaviour of the teachers and the students, etc.).3

The Ombudsman report on violence in schools 2007 and the Megashi report4 found that:

- There is violence in the schools with all the types of violence present;
- The children are afraid to report violence, they do not know when, how and where to report. When they report they are not taken seriously;
- They do not know what to report since there is no clear knowledge of the different forms of violence;
- The children are not aware of their rights and duties;
- The measures against the perpetrators were not appropriate;

The 2009 Ombudsman report informed that **violence against children in institutional care** exists. It highlights that children and employees do not know the child rights. The children do not report the violence committed against them because they are afraid, they do not know how, to whom or simply do not think that they should report it. The children complaints are not taken seriously and the complaints against employees in the surveyed institutions have not been transparently considered.

In terms of **services provided to child victims**, according to the SSO’s data on social welfare, the system of children protection predominantly uses institutional forms of protection. This was confirmed with the 2011 UNICEF Justice for Children Gap Analysis regarding the juvenile justice system. It is of no secret that violence occurs in different types of facilities where children are accommodated.

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3 Skopje teachers’ attitudes toward child abuse, 2005/2009, Megjashi NGO; Study on the initial situation of violence in the primary schools, 2008-2009 UNICEF

4 The field research report on perception of children’s rights, discrimination and children’s exposure to violence, 2009, Megjashi
Out of all these and other studies, study or information from the medical profession has not been identified. The marginalisation of the health sector in this matter proves that the chain has holes that need to be strengthened and connected. The health sector, more precisely the Institute for public health keeps records regarding violence.

Responding to violence against children in any setting has proved to be difficult. It has been acknowledged that although the legal framework exists, the practice aspect of the implementation of those general norms is lacking. That is mainly due to the insufficiently developed working documents that will provide guidance to those directly working with such cases on how to report, how to respond and how to cooperate with the other involved in this system.

1.2 Methodology

Desk review was conducted as an initial step to identify the gaps by comparing the main legal provisions pertaining to child protection (see Annex No. 2 for state documents and legislations) with child protection laws from those countries that ranked 1st and 2nd ranking in a study conducted among 42 countries worldwide, “Protecting children from violence and maltreatment: A qualitative comparative analysis assessing the implementation of U.N. CRC Article 19”.

The review was followed by interviews with key policy makers and professionals working in the area of child protection to get a full picture of the how the child protection is working including strengths and weaknesses, what are the shortcomings of the current legal provisions and what would be helpful for achieving more effective child protection.

1.3 Definitions used in this Study

For the purpose of this study three main concepts must be defined: child, violence against children, and working together.

1.3.1 Definition of a Child

This study adopts the definition stipulated in the UN Convention on the Rights of the Child (CRC):

“A child means every human being below the age of eighteen years.”

The Law on the Protection of Children uses the same definition as the CRC, with inconsistencies observed in the definition of child in other national laws. The term “child” is a social construct that differs from country to country and culture to culture. Therefore, professionals should take into consideration that definitions are contextually based and realise that definitions can affect public attitude and legislation and interventions.

1.3.2 Definition of Violence against Children

This study adopts the definition of violence used in the UN Report on Violence Against Children, which is contained in Article 19 of the UN Convention on the Rights of the Child, it reads:

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“...all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse,...”

Violence covers all forms of abuse committed against children. The term “violence” will be employed in this study referring to the whole spectrum of maltreatment covered in this Article. This Article does not provide the dynamics of violence that the Convention leaves to the signatory State Parties to define for the benefit of professionals involved in the day-to-day social protection of children. The national laws currently defines violence in the context of family, which refers to children amongst other victims.

1.3.3 Working Together
The national laws refers working together with various institutions in the provisions of social protection as “coordination”. However, there is no definition for time term in any of the laws. Hence for the purpose of this paper the definition offered by Murphy for working together or coordination is employed:

“The coming together, by more than one agency or practitioner group, to act in a collaborative way to prevent the occurrence or re-occurrence of abuse with regard to a particular child, or children in general, and to offer such therapeutic help as those children, and their families, require.”

This definition is important, as currently there is no definition for working in collaboration in social protection of children. It also shows why, by whom and which services are required to effectively protect children. It is necessary that when jointly cooperating or working together that collaboration is positive rather than competing against each other, especially when the goal is the prevention and protection of children. Rulebooks and protocols on child abuse and family violence currently outline the obligations of individual sectors however; fail to provide provisions on how and the mechanisms for such collaboration resulting in inadequate information sharing.

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2.0. INTRODUCTION
The main goal of this study is to identify gaps of secondary legislation related to child victims and witnesses of violence. It also provides concrete recommendations how to address those gaps.

The legislations covering child protection issues in theory have incorporated principles outlined in international child rights and child protection instruments. However, research, studies and the information gathered from the professionals interviewed for this project has highlighted that there is a major gap between what is espoused in the laws and practice that could be attributed various factors that exist within the system, such as capacity, confusion from continuous amendments and so on. These studies have also stated legal gaps and the introduction of secondary legislation to strengthen the child protection measures as the system buttresses on the laws.

2.1. Policy Context
The system for social protection of children fits into the wider social policy context. For this reason, key entities that impact the protection of children because they are socially constructed and vary internationally, regionally and nationally. These entities are childhood, parenthood, and violence against children (child abuse and neglect) must be understood within the context of the country as social protection systems usually reflect and reproduce these constructions. Interventions are usually guided by how these entities are understood.

International and regional comparisons pertaining to key entities such as prevention, interventions and violence against children have been used to measure successes and failures of protection systems. The term “social protection of children” therefore must be understood in the context of the country for effective interventions to be established. Hitherto, there is no specific explanation of this term in any of the laws or policy documents. For comparison purposes, in Australia, the term is used in reference to assessment and interventions aimed at every level in the aim of reducing the risk of violence against children – community education and family support, statutory interventions that include foster care, institutional care and permanent removal of children into state care. Whilst, in the term “child welfare” in Norway is used to encompass a variety of services aimed at assisting families where there is a risk of child abuse and neglect. These two systems in these two countries are explained as having two different approaches to social policy: liberal welfare regime in case of Australia and social democratic welfare regime adopted in Norway.

Critiques of liberal welfare regimes have highlighted that services delivery in relation to social protection of children have concentrated on identification and treatment of risk, rather than focussing on promoting child and family welfare. Early intervention and family support are usually outsourced to non-governmental organisations (NGO’s) and the delivery of alternative care services are shared by governmental and not governmental agencies. Whereas in the Nordic states, with social democratic welfare regimes, the “child is seen as the joint responsibility of parents and the state, and regarded to be the duty of the state to contribute to both the costs and care of the children.”

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resources fail to remedy the crisis. In the case of the latter promotion of social equity among all citizens is so central to the system many families that are found at risk are provided with home care to prevent break down, including leisure and social activities. Therefore, there is focused emphasis laid on early intervention to “avoid lasting problems”. However, this leads to a larger number of children on care orders in Norway than compared to Australia.

The country provides a mixture of the two regimes but with more residual features like Australia, that can be found in both the Law on Social Protection and the Family Law. Short analysis of different policies is provided in Annex 4.

2.2. Legal Context

The legislative context of social protection of children shapes the roles and responsibilities of agencies that are involved. There is no one consolidated law that deals with protection of children from violence rather it is achieved through many national Acts. Family Law compels the State to undertake protection measures in the “best interest of the child”. Achieving this principle however, varies from country to country, as it is socially constructed. The law currently, does not provide an explanation. Hence, whether it should be achieved with an emphasis on family preservation and reunification and with minimal State intervention or with intensive State intervention is unclear. Current practice indicates that due to limited early identification measures, many cases are not intervened until it becomes very severe which is a feature of a liberal welfare regime.

The legal provisions covering protection of children against violence, although not fully aligned with human rights conventions, provide basic elements: protecting the best interest of the child – Article 84 and 85 Law on Family, non-discrimination – Article of the Law on Social Protection, survival and development – Articles 84- 90 of the Law on Family, to be heard in proceedings pertaining to children – Articles 53-55, 66, 232, and 354 of the Code on Criminal Procedure (official Gazette No. 151/2010) due to come into effect in December 2013 and working in partnership with parents Article 85 of the Law on Family. Although, non-discrimination has been defined in the law with list of exceptions, these may hinder the best interest of the child. Although, Roma children were not brought up in the meetings certain references to cultural practices that were common to Roma community were mentioned. Committee on CRC identified defacto discrimination against Roma children as an issue that needs to be addressed effectively. It is considered as an act that imposes harm on a child under the Law on Social Protection and affords compensation to the victim of such discrimination.

Many of these provisions do not contain definitions or explanations of the various forms of violence against children; this can impact on implementation and data collection. Without definitions that apply nationally, establishing concordance across all the sectors involved in the social protection of children is difficult. The issue of lack of common standards and guidance for data collection was also raised as an issue among the sectors.

Reporting of violence against children is mandatory upon citizens, officials, and legal persons and those who neglect to report are charged with a fine under Article 279-i of the Family Law and Article 364 of the Criminal Code. Also, social workers who neglect to protect children from violence are charged for the offence of negligence. Despite these provisions it was established that education institutions and the health sector rarely report any incidences, and therefore it can be said that this provision has not been properly enforced.

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13 ibid Section 3-1 of the Child Welfare Service Act, and Healy & Ol tedal, supra note 1, p. 264.
14 Information gathered during interviews
The State takes a forensic approach to provisions of social protection services through early identification and early intervention in the aim of resolving or mitigating harmful consequences (Article 24), identification of the problem followed by informing “possible solutions” (Article 27) and right to assistance to overcome crisis in the family (Article 29). “Possible solutions” can be interpreted to mean whatever service within the power and capacity of the State it will provide to those in need. Article 24 also compels the authorities to focus on early identification and intervention with families and children in need.

The State takes a proactive role in establishing preventative measures in place for a family to enjoy free parenthood, and lays the primary obligation for the upbringing of children on the family (Article 5). The State takes a proactive role by stating that it will provide special protection to family, maternity, children, and children who are unaccompanied (Article 4, para. 1) and then focuses on the protection that it will provide for those families that are in disturbed relations or violence (para. 2). The Ombudsman official reported that protection for children from mixed marriages need to be addressed, as currently there are concerns. Family law also provides interventions for children who have been victims of trafficking and intervention efforts are further strengthened through the Program on Reintegration of Child Victims of Trafficking 2006.

Many legal responsibilities are laid on agencies providing protection to children and professionals and they can also be held accountable for not adhering or neglecting to meet these requirements. Many professionals expressed frustrations due to the mismatch of legal responsibilities to the funding of these activities that prevent them from caring out the activities stipulated in these provisions. This is a contributory factor for the weak and frustrated collaborative work. Another example was provided by CSW that they are unable to make house visits as there is no funding for transport and clients have to travel to CSWs instead. Outreach work is normally a major component of social work and in prevention work. NGO Megashi reported that due to the lack of regular visitation from CSW to families in one of the cases a murder of a child by a violent father was committed. For early interventions that do not require the removal of children if outreach work was budgeted for would prevent the bigger costs of accommodating children by the state into foster care, institutions and educational schools, and would assist in preventing loss of life.

Likewise, the National Action Plans provide a lot of activities that compliment the legal provisions, however, the lack of budgets prevent their effective and full implementation.

Whilst, these afford protection to children who are risk or have been exposed to violence its implementation and enforcement is weak, leaving children exposed to further violence within the system.

2.3. Data Collection
In response to recommendations from studies and the CRC Committee the Government has established a database system, LIRIKUS (being developed into a central database system), within CSW that contains information pertaining to non-accidental injuries to children (cases of violence against children).

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15 Law on Social Protection
16 Concluding Observations 11 June 2011 - CRC/C/MKD/CO/2, para. 16
17 Concluding Observations 11 June 2011 - CRC/C/MKD/CO/2, para. 8
There is also an independent database within the health sector that registers of violence. It is a practice in other countries that the Department of Health is charged with maintaining the database of people who pose a threat to children. Instead of introducing another Registry for those who pose a threat to children could be either considered under LIRIKUS or the registry in the Health sector.

The issue of effective collection and handling of data has been raised as an issue that is common to all sectors. One of the reasons could be there is no secondary legislation guiding this issue and the lack of definitions common to all sectors on various forms of violence. Statistical data is sent to the MLSP on a quarterly basis from sectors they are responsible for. Likewise, statistical data from the schools are sent to the Ministry of Education and the justice sector. The State Statistical Office collects data sent from the social welfare institutions, from ministry of interior, form prosecution offices and the courts. The main obstacle is that every institution has its own terminology that is using which makes confusions when reading the statistical data. Officials interviewed were unclear as to how these statistical data was used in the formulation of policies or laws. If the objective of the collection of this data was communicated to professionals the level of frustration and complaints about the immense administrative work can be reduced because these would be their contribution to making effective policies and laws.

Guidance documents could assist in analyzing trends such as; establishing the number of families that recovered from crisis through State intervention, how many parents were revoked of their parental right, how many families received counselling, how many families did not have their parental right revoked, and so on. Early intervention to prevent harmful consequences is one of the main objectives of the Law on Social Protection and hence effective management of data collected is central to achieving this goal. These can assist in identifying gaps and achieving social protection of children in the most cost effective manner.

Data can also be used to prepare budget analysis and child friendly budgeting. It is clear from the various reports that budgetary constraints have forced the professionals unable to carry out the provisions in the various laws. For example, the National Preventative Mechanism in 2011 found that ununiformed police officers on many occasions bought food for the individuals detained or the detainees get food delivered by their families.19

Administrative procedures can also be improved through data collection during supervision visits. For example, delays of up to several weeks in the arrival of medical insurance coupons from other towns to residential institutions where the juvenile is accommodated disrupting regular access to healthcare has been observed by the National Preventative Mechanism.20 The cost of not attending to violence against children usually has a much bigger cost impact on the government expenditures in the long run. Child Friendly budgeting has been employed by several countries including to estimate the costs of non-attendance to child protection issues.

19 See Annual Report from National Preventative Mechanism, p. 219 and 236
20 ibid, p. 243
3.0. INSTITUTIONAL FRAMEWORK

Together with the legal and policy framework, the organisational structures with regard to social protection of children have gone through major changes since the country’s independence in 1991. These changes have improved the institutional context for social protection of children and social protection in general. These achievements are continuously being strengthened by programmes aimed at aligning legal and policy instruments with the country’s international legal obligation to the various conventions. This analysis will focus on the organisational structures of the social protection system.

3.1. Structures of Delivery of Services

3.1.1. Social Work Services

The system of social protection is implemented through institutions for social protection: 30 Centres for Social Work – CSW, non-institutional (counselling centres, foster care, day care centres) and institutional means (shelters for domestic violence, educational home, residential institutions and detention centres).

CSWs are public institutions with public authority to conduct social protection activities, which fall into four major categories: assess and investigate violence against children, provide family support in cases of divorce, arrange therapeutic services such as counselling, to refer to alternative care services and the administration of cash benefits and provision of social services. Services for children are delivered at municipal level. While most CSWs are generic teams there is some level of specialization within the teams, such as team that focuses on divorce and juvenile justice issues. It was reported that a child’s case might be held in two different teams within the CSW but the two teams are unaware of the other team holding the same child. These could lead to duplication of services and essential time invested by the workers. It could also cause confusion to the family involved and interventions that might be central to court proceedings. There is a lack of strategic planning meetings within secondary legislation that compels the sharing of information between teams. The introduction of LIRIKUS could alleviate some of these difficulties but the planning process could only be improved through the introduction of case management aspects that compels the workers to have a face-to-face meeting. Case management also takes children’s views into account. Workers expressed frustration with the level of administrative work (UNICEF project is addressing this issue) and budget for travelling to visit clients.

Social workers also expressed their concerns regarding children victims of family violence, as they are not always the direct victims of such violence. Furthermore, in divorce situations they are victims of different types of violence. They highlight that the strategy on DV 2012-2015 mentioned children as victims of family violence, but the activities are focused on enlarging the counselling and treatment-based centres for victims of family violence. Despite these targeted activities, social workers continuously face the challenge to place children due to that closure of the shelter for domestic violence in Skopje, lack of shelter for children, and that there are no specialised foster families.

Megjashi (NGO) reported their concerns regarding the legal provisions and practice in the courts relating to victims of violence. NGO expressed referring to cases where there is more than one victim, the cases is concluded only referring to the victim that was reported. This inhibits the level of intervention and engagement of all the victims that require services.
3.1.2. Health
Legal provisions within the Law on Healthcare and the Law on the Protection of Patients’ Rights provide for many interventions that assist victims of violence. However, the health sector has been reported to be silent in relation to reporting on such incidences.

Health centres that provide specialised health services for children have been reported to be weak and mainly located in the capital. There are two specialised state institutions for psychiatric care of children. One is at the Clinical centre – tertiary health protection, and the other is the Institute for mental health of children (secondary health protection).

There are only two doctors with an expertise in children psychiatry and hence they report being overburdened. They also report the privatisation process has affected their involvement with the counselling centre. The one doctor (at the Institute) is specialised mainly for children 2-5 and 12 years of age, and the other at the Clinic – on child psychiatry is specialised in adolescents. The limitation of the provisions of therapeutic services to children due to the lack of trained professionals is a major gap between the obligations of the State stipulated by the Law on Social Protection and the actual services provided.

There is also a huge discrepancy in what is provided in the law and the actual situation, especially when compared to the rural and the urban areas. There are only two state institutions (where the health insurance currently can be used) and they are located in the capital Skopje. This limits access to health (Article 39 of the Constitution and Article 24 CRC) to those who live in other towns that need the services of these institutions on a regular basis. Additionally, due to privatisation financial situation of the most vulnerable families and children would be unable to access these services. Outreach camps on a monthly basis could assist in the short and medium term until more have been trained in this area. The introduction of informal child protection groups that report to CSWs can improve the early identification and intervention by local community in solving non-serious cases. Examples of these can be found in Vietnam and the Maldives that have proved a cheaper and much more effective option as it increases the role of the community in protecting children.\(^21\)

There is currently one Counselling Centre for parents and children based in one of the primary schools in Skopje also, which is free of charge for the citizens. However, there are no other counselling centre in the country, which inhibits a significant percentage of the population from accessing this service.

It was reported that in rural villages the presence of doctors might be limited to one or two. There might be the issue of fear of reprisal attacks if they report. Environment and cultural factors may also be contributing to the silence of incidence such as: corporal punishment/violence is still considered as an upbringing measure and blood revenge in the traditional environments where sexual violence is not reported at all.

Some of major issues identified by the health sector professionals included: early identification, forensic, and treatment. Although the heal sector is obliged by law to report they rarely have adhered to this provision and none of the officials or doctors could identify the reasons for this. In the rural communities where there is only one or two doctors the fear of reprisal attacks have been indicated as a major obstacle to adhere to the mandatory reporting of violence. Mandatory reporting is also applicable to citizens and illuminating the need for awareness raising sessions for smaller communities on the responsibilities of individuals and the community to protect children.

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Health sector officials raised the issue of court requests on establishing credibility of the child’s disclosure, and usually the clinical psychologists carry out this task. They explained that they usually find that the violence had increased to serious levels whereas early detection and intervention could have prevented the severity. The court and CSW can request medical assessment from doctors, but there is no direction in any of the protocols or guidance documents as to who should bear the costs of these expensive procedures. This is a factor that can inhibit collaboration from the health sector with other sectors.

The officials and doctors expressed the need for coordination or collaboration among the relevant organs to be strengthened in order to synchronise the work among the professionals in the field. It was also noted that “difficult to treat a child from abuse when the perpetrator is free” bringing the issue of the need for pre-trial detention of offenders. These offenders might threaten doctors if they report although no such incident was reported in the interviews. The issue of privatisation has had an impact on the health aspects of social protection of children; therefore it is important that this aspect is assessed by the State to ensure that the privatisation process does not affect the legal obligations of the State to protect children.

### 3.1.3. Schools

Law guarantees the right to education of all nationals and resident stateless children, and efforts have been made to improve the quality of education. Despite the guarantee of access to education to stateless resident children, those without the birth registration do not have access to education in most cases as reported by the Day Care Centre for Street Children. With the assistance of the Day Care Centre some of these children maybe allowed to attend formal schooling but the school does not award them with a certificate due to the lack of this document. It not only affects education but these children do not have access to health care insurance and are deprived from reaching their full potential.

It was gathered from the interview with the Ministry of Education a focussed attention was paid on enrolment and the educational aspects rather than a more holistic view of education where the overall healthy development of the child was not considered. Education institutions are where children spend most of their time apart from home. Considerable work was done in relation to bullying and peer violence and a system of counselling was established in each school to assist victims of such violence. However, there is no presence of a contact person dedicated to social protection of children in the schools where regular contact could happen between CSW and the police to ensure when violence is suspected early measures can be put in place to prevent harmful consequences as it is stated in the Law of Social Protection. At the moment they do not identify domestic violence experienced at home and hence do not report to police. It is evident also that there is some hesitance on the part of the education system to report abuse outside of the educational institutions. This lack of transparency is worrying as research confirms that those who abuse children chose occupations that allow them to be in close proximity to children. Staffing and reporting of staff concerns should be addressed in the education sector urgently. It is difficult to comment further on the education sector due to the limited amount of relevant information provided in the interview.

### 3.1.4. Pre trial and court process

Professionals and NGO Megjashi, identified the lack of pre-trial detention as a concern because offenders could pose a threat to child victims of violence and likelihood of retraction increases. Criminal legislation in the country does not provide for the compulsory pre-trial detention. Some countries manage this through civil procedures of application of bail where the court has the right to deny bail, impose restriction on bail, or to be held in remand. NGO claims that this could be one of the main reason that children do not report as they do not trust that the system can protect them.
Police officers have received training in talking to children who have been victims of violence and those who have come in conflict of the law. The police noted that not every police officer is trained and usually do not speak to the child without the presence of CSWs. NGO mirrored this response that not all officers are trained and sometimes a challenge to find an investigator that is trained. The police identified that there is a need for technical-operational protocol that is more comprehensive providing clear instructions: who calls to whom, what number is used; what is asked, from whom, where to go, where to go if finds a child on the street, who is called, and so on. The police noted that most of the communication is conducted over the phone and no formal meetings for discussion of plans for intervention are required in current practice.

NGO also noted that the general public do not trust the police and hence are reluctant to report cases of abuse. The police officials raised the issue relating to this and expressed that they currently do not have any forums where they can focus on preventative activities such as talking to school children and families. The unit for prevention lacks permanent resources to fulfil the duty.

The police highlighted that the biggest concern for them was to collect evidence to prove neglect. There is currently no definition within the law on what actions constitute to neglect and they usually rely on the assistance of the health and education sector for early identification and for reports. The police stated that in 90% of the cases stakeholders are reluctant to provide information including the health and education sector, and they only find out when the situation becomes very severe.

The official from the Ministry of Interior brought issues relating to gaps in the laws, lack of financial means, lack of administrative procedures relating to staff orientation and when staff with training changes jobs and the deficiency is the training of judges and prosecutors in this area. She identified that neglect is a silent issue that needs attention. She emphasized on the introduction of secondary legislation to keep up with the amendments and the introduction of new primary laws.

These officials identified that the protocols have brought in new insight into the various aspects of violence against children but it is not working. The main objective of these protocols where to improve the collaboration between the sectors but have failed to include the tools of how to collaborate and the financial means to carry out the functions. Many pilot projects have produced successful results but have not been sustained as international parties funded them and these activities have not been carried on into the national budget at the end of the projects.

Despite the existence of investigating rooms fitted with video and audio taping facilities these rooms have not been utilized, as the court has not been accepting evidence attained from these means. This situation could be amended in December 2013 when the new Criminal Procedure comes into effect that provides for these means to be included in cases relating to children.

### 3.2. Review bodies

There are a number of review bodies such as the courts, the Ombudsman and the Ministry of Labor and Social Policy (MLSP). The MLSP is charged with policymaking, supervision, inspections of the implementation and application of laws and other regulations in the area of social protection of children. Institute for Social Activities (ISA), which operates under the MLSP, supervises and monitors the professional work of the institutions for social protection, other legal entities and natural persons who perform social protection activities.

The administrative infrastructure represents that the relative responsibilities bourne by the various levels of authority to ensure accountability. In practice communication has hindered by tensions and sharing of important protocol and guidance tools prepared by MLSP and ISA pertaining to protection
of children who have been exposed or at risk of violence has not occurred respectively. It was gathered from the interviews that there were differences of perspectives on the approaches to social protection of children and the methods used between the two entities leading to tension. It is important to ensure that both entities are working to achieve the same goal and effective collaboration and regular meetings can assist in working through the differences of perspectives.

In 2009, the Ombudsman services established a child rights protection section to be headed by a deputy ombudsman. Currently, the unit does not have a head and has impacted on the work of this section. An official from the service shared it is a huge achievement that the laws, protocols and standards have been harmonized with European Council and UN Conventions, but in practice children are still not seen as having rights. This body has carried out many awareness-training sessions in schools and with families relating to violence against children, however, they reported that they have not received any reports from children. NGO Megjashi receives a significant amount of reports from children illustrating the some hesitance and the level of trust towards the official system.

The Ombudsman has also followed up on severe cases of violence against children that had been reported on the media. Its follow up actions have not been shared on the media. In respect of these cases they have issued cautionary letters to the respective agencies involved but have not used the legal weight that is afforded by Articles 24 and 32 of the Law on Ombudsman. Transparency of such interventions by the Ombudsman increases accountability among the relevant agencies as well as increases the level of trust in the system among the general public. Once the level of trust among the public increases reporting by families and children may increase simultaneously. The Committee on CRC has noted that the Ombudsman service need strengthening in terms of “authority, capacity, human and financial resources, and independence to carry out its mandate effectively.”

These review bodies although charged with reviewing negligent practice issues, a cautionary approach has been employed whereby serious matters, even death in custody, have been handled without exercising legal provisions.

3.3. Conclusion

This discussion has illuminated the powerful role of institutional conditions within the social protection system. It is apparent that the lack of definitions within the primary laws coupled with the absence of certain secondary legislations detailing the provisions cause difficulties in collaborative work in the protection of children against violence. Moreover, there is a concern that the protocols are not achieving their hoped objective due to the lack of tools on how to execute these directions and which institutions would take the budgetary responsibility. There is also a lack of facilities and services, although required by law, that victims can access and sometime required to be placed by the court.

These issues are compounded by the lack of appropriately trained professionals, police investigators, prosecutors and judges have had negative consequences from the point of referral to the completion of the court procedures for children. Additionally the lack of transparency and accountability has created tensions within entities, possibility of abuse within the system and lack of trust in the system by the general public.

This project aims to improve some of these issues with the suggestion for secondary legislation to counter some of these challenges and amendments to some of the protocols and standards. It should

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22 Concluding Observations 11 June 2011 - CRC/C/MKD/CO/2, para. 14 - 15
be noted that some of these concerns go beyond the scope of this project and it is advisable to assess these to bridge the gaps between the provisions of the law and actual implementation.
4.0 GAPS IN THE PRIMARY LEGAL FRAMEWORK

Various studies conducted have identified amendments to primary legislation and that secondary legislation be strengthened to ensure children be protected from violence and those that witness various forms of violence (see Annex 2 for State documents). It is important to note that whilst, there are legal gaps that have prevented in the full realisation of rights afforded to child victims of violence afforded under the CRC and Conventions of the European Council, there are also lack of facilities and trained professionals in the area of social protection. It should also be acknowledged many developments have taken place in relation to protection and many of those in the social protection sector. It is important that other sectors are given equal importance as they share equal responsibility and burden in the protection of children.

Further reviews in relation to violence against children have been considered in this report. It will attempt to identify gaps more specifically with respect to secondary legislations that currently fail to fully protect those children who are exposed and witness various forms of violence.

4.1 Gaps Common to all Primary Legislation addressing Social Protection of Children

There is no one comprehensive and consolidated Act covering violence against children, but rather they are covered in various legislations. The Constitution affords protection of children from various forms of abuse and torture: Article 11 prohibits all forms of torture, Article 42 gives special protection to mother and children relating to labour that maybe hazardous, Article 40 emphasises on the provision of special protection to the family unit.

Article 51 provides that laws shall be in accordance with the Constitution and all other regulations in accordance with the Constitution and law. The Article 118 states, “any International agreements ratified in accordance with the Constitution automatically become part of the integral legal order and cannot be changed by law”. Despite this provision, secondary legislation is required for the full realization of the principles in both the UN Conventions and the various Conventions and recommendations of the Council of Europe pertaining to children23. The main principles of the CRC and the most essential elements for social protection of children have been provided in various primary laws.

1. Protecting the best interest of the child – Article 84 and 85 Law on Family
2. Non-discrimination – Article of the Law on Social Protection
3. Survival and development – Articles 84-90 of the Law on Family
4. To be heard in proceedings pertaining to children – Articles 53-55, 66, 232, and 354 of the Code on Criminal Procedure (official Gazette No. 151/2010) due to come into effect in December 2013
5. Working in partnership with parents Article 85 of the Law on Family

While these provisions form the backbone for social protection of children there are four main areas of concerns that can pose challenges in the implementation.

Firstly, they lack specificity leading to confusions and non-uniformity in its interpretation and implementation. Additionally, there are multiple duties combined in one Article. One such example can be seen in Article 84 of the Family law provides two different activities in one article: paragraph 1

relates to the duty of the Centre for Social Work to intervene into a family but does state what the interim measure or what level of intervention it is. While paragraph 2 relates to mandatory reporting of abuse if a citizen, an authority or legal personnel becomes aware of if a parent does not “excise their parental right.” Although “parental right” is defined in Article 44 it still remains vague without an explanation in the law.

Secondly, the lack of definitions or explanations of terminology used in these provisions, such as, “best interest of the child”, “severe threat”, “personality”, “neglect”, “physical abuse”, “coordination” just to name a few. It is clear from the Ombudsman’s report (2012) that majority of the professionals including social workers, prosecutors, police officers and judges did not know the meaning of sexual abuse and sexual exploitation. Hence, there is a grave need to include explanations of terminology used in the laws. Violation or threat to the “best interest of the child” currently provides grounds for the State to intervene into the private sphere of the family, but as seen in the first chapter, without and explanation what is considered best interest of the child in the context of the country professionals act on their own judgment. Children considered in this category are they also considered in need of services? Or are they requiring emergency protection?

During discussions with various sectors it was established that the issue of distinguishing various forms of abusive acts and terminology in laws created confusion. One such example is the term paedophilia was understood as any sexual act that was committed by an adult against a child, whereas the term describes only one category of adults that abuse children sexually – children who are prepubescent. Moreover acts that constitute to abuse may also be culturally explained, such as the phenomenon of begging was explained by professionals as neglect. Begging has been addressed as resulting from violence or neglect in relation to “child at risk” in Article 12 of the Juvenile Justice Law.

Neglect is covered further under the Criminal Code and Law on Misdemeanours Against public Order and Peace. According to the former, a person who abuses or uses a child for economic exploitation can be imprisoned for a period between 3 months to 3 years. This includes a parent, foster parent, guardian or any other person who abuses the duty of care an education. While the latter refers to begging which amounts to a misdemeanour offence charged with a fine on the individual. Parent, foster parent or guardians, who neglect their duty of care resulting in the child under their care begging, have to bear the fine.

The Law on Social Protection obliges several sectors to coordinate with social protection institutions, however, no explanation as to what constitutes to “coordination” is provided. Communication between sectors in the provision has been identified as an issue and sometimes an obstacle to effective prevention of social protection of children. Various efforts have been made in relation to strengthen coordination including the introduction of protocols. The initial step of elaborating on “coordination” what it means and what it constitutes and proceeding into the provision of a mechanism will reduce various issues currently experienced by the system.

Some of the terms could be elaborated in more operational or practice based terms in secondary legislations to bridge the gap. However, the term “parental right” needs to be elaborated in a more specific and clear manner in the primary legislation.

Thirdly, the lack of details within the primary legislations both in relations to crimes and their interventions which poses challenges whilst the crime is being served and after the release of offenders that may continue to pose a threat to children. Whilst, the Criminal Code criminalizes tactile (sexual assault, rape) and non–tactile abuse (gratifying sexual urges in front of minor in public or

otherwise, showing pornographic material), and transactional abuse (trafficking, prostitution and pornography); classification within the categories are not provided. For example non-tactile abuse include voyeurism and exposure.

The use of force, manipulation, threat, use of position, enticing (grooming) to commit violence against individuals is addressed in the Code in relation to engaging in a crime. With or without consent is derived from these provisions. However, it does not provide separate article addressing consent itself, as it is covered in legislations in some countries. The reason could be that the courts only considered the meaning of sexual abuse and sexual exploitation to be applicable to those acts committed against children under the age of 14. Establishing of “informed consent” therefore becomes a crucial component especially pertaining to children who have attained the age of criminal responsibility. Evidential presumptions in relation to consent provide extra protection for children who have attained the age of criminal responsibility but has not reached the age of 18, such as in Article 128A of Crimes Act of New Zealand and Sections 74-78 of Sexual Offences Act 2003 UK. In the case of the country, guidance notes for judges could assist in understanding the dynamics of abuse especially in cases involving children who have attained the age of 14.

After serving the sentence, individuals may continue to pose a risk to children and hence monitoring becomes central to ensure the continued protection for the victims and other children. For this reason, the Criminal Code provides precautionary measures for those that commit crimes including assaults, homicides, sexual offences, fraud and so on, and to those that assist and collaborate in a crime (Article 24 of the European Convention for Protection of Children from Sexual Abuse and Sexual Exploitation). These precautionary measures give the power to the Courts can make an order invoking Articles 38-b, 96-c.4 and other Articles of the Criminal Code to prohibit and individual following a conviction from entering into certain professions making it applicable to family members, brothers, sisters, teacher, educator, adoptive parent, guardian, doctor, or any other person misusing their position. Explicit relevance to children, however, is only made in relation to only those that have been convicted of sexual assault of a juvenile (Article 188) and rape (Article 189). The duration of such a prohibition can range from one year to 10 years under Article 38-b.

The effectiveness of the administrative mechanisms for monitoring of individuals that pose a threat to children currently cannot be ascertained by any of the published reports. Presently, a person (convicted as sex offender) has an obligation after the termination of the enforcement of the sentence to report at least once in a year and 5 days before his birthday, until the end of his life, to the relevant court. Some countries have addressed sexual offences through the passing of separate legislation such as the Sexual Offences Act 2003 UK which incorporates details of various orders that can be placed on a convicted offender: risk of harm, foreign travel, young offenders, and details regarding notification orders. With the lack of detailed procedures or mechanisms for monitoring of offenders and the issues raised above, the provisions of European Convention for Protection of Children from Sexual Abuse and Sexual Exploitation have yet to be fully incorporated.

Finally, interactions between legislations, for example “children at risk” contained in the Juvenile Justice Law should be applicable to all children including those children stated in the Family law. This issue has

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26 Ombudsman (2012), supra note 18, p. 157

27 Criminal Code – 96-c.4 and Articles 18, 20, 21, 23 and 33
been addressed by a previous study “Improvement of the Justice for Children Normative Framework: Legal Gap Analysis”, and this assessment supports the recommendations put forth in that study.

While these gaps exist there are some that could be remedied under secondary legislations in a more operational form giving it specificity and mechanisms to implement these provisions it is important that primary legislations the issues highlighted could be considered.

**Recommendation 1**: The Ministry of Labour and Social Policy should develop a by-law - **Rulebook for Procedures in Social Protection of Children** - with explanations of terminology (where possible and applicable) in an operational manner for the purpose of identification, reporting, referral, investigation, treatment and follow up and judicial involvement. These definitions are intrinsic for standardising recording, data collection and trend analysis.

*For Example Best interest of the child could be worded*: “When establishing the Best Interest of the child all the relevant factors must be taken into account/consideration...” All cultural aspects need to be incorporated for its relevance in the local context.

Canadian Child and Welfare Services Act defines Best interest of the child as:

Where there is a reference in this Act to the best interests of a child, all relevant factors must be taken into consideration in determining the best interests of a child including the following factors, with a recognition that differing cultural values and practices must be respected in making that determination:

(a) the child’s safety;
(b) the child’s physical, mental and emotional level of development and needs, and the appropriate care or treatment to meet those needs;
(c) the child’s cultural, linguistic and spiritual or religious upbringing and ties;
(d) the importance for the child’s development of a positive relationship with his or her parent, a secure place as a wanted and needed member of the family, and a stable environment;
(e) the importance of continuity in the child’s care and the possible effect on the child of disruption of that continuity;
(f) the risk that the child may suffer harm through being removed from, kept away from, returned to, or allowed to remain in, the care of a parent;
(g) the merits of any proposed care plan for the child;
(h) the child’s relationship by blood or through adoption;
(i) the child’s views and preferences, if they can be reasonably ascertained;
(j) the effects on the child of a delay in making a decision.

**Recommendation 2**: Provisions in legislations to be more specific and cover one aspect and its related elements of an obligation to avoid confusion.

**Recommendation 3**: Identification in the primary law where secondary legislation need to be introduced and within 1-1 and 1/2 years of the law coming into effect.

**Recommendation 4**: Introduction of secondary legislation by Ministry of Interior providing guidance on offences against children. This would provide Schedules on offences that are considered as serious and may continue to pose a threat to children even after the individual has served a sentence of imprisonment. Such Schedules are provided in the Malaysian Child Act 2001 and the Children and Young Persons Act 1933 of UK referring to the Offences covered in the Criminal Code.²⁸

4.2 ISSUES IN RELATION OF SECTOR SPECIFIC PRIMARY LEGISLATIONS

The following sections will look at sectors separately and gaps in specific to each sector in terms of primary legislation.

4.2.1. Social Protection

The Law on Social Protection is comprehensive and provide is provides a buttress to the system that provides social protection to children. Whilst it is comprehensive and covers essentials elements there are some challenges posed to its full implementation.

4.2.1. a. Defining the “threshold criteria”

Currently, protecting the best interest of the child is the guiding principle for intervention into the privacy of the family by the State and Chapters 5 and 6 of the Family Law provides for supervisions orders and ceasing of parental right based on taking this principle into account. Without a proper definition of this principle it fails to provide clear stipulations on grounds for intervention.

Section 31 of the Children’s Act 1989, England and Wales provide criteria, which has to be met for various care orders to be issued. This is:

1. That the child must be suffering, or likely to suffer, significant harm.
2. And that the harm or likelihood of harm must be attributable to one of the following:
   - The care given to the child, or likely to be given if the order were not made, not being what it would be reasonable to expect a parent to give; or
   - The child being beyond parental control.

Children’s Act UK defines “harm” as “ill-treatment or the impairment of health or development”. Likewise, ‘Development’ to mean physical, intellectual, emotional, social or behavioural development; ‘health’ means physical or mental health; and ‘ill-treatment’ includes sexual abuse and forms of ill-treatment which are not physical. Additionally, “impairment suffered by hearing or seeing the ill-treatment of another” was also included in 2002. Meeting the threshold criteria warrants an investigation under S. 47 of this Act.

Professional practice as reported suggests that lack of such criteria sometimes can lead to situations where children could be taken into care prematurely or too late. For identification of harm further guidance can be provided in an official child protection procedures (protocols). This allows for working with the family to prevent breakdown in times of crisis. There are cases that might require voluntary childcare and protection (ambulant services or foster care) and mandatory child care and protection (foster care and institutional care). Inclusion of such criteria is important to foster the aspect of working in partnership with parents so the ultimate permanency goal, if parental right is revoked, either for child to return to parents when situation no longer poses a risk or harm to the child or prepare child for independent living.

In relation to the threshold criteria, the health sector expressed the hesitance from the judicial sector regarding the credibility of child victims and witnesses. With the limited amount of clinical child psychiatrists (3 for the whole country) this creates a huge burden on these doctors. Social workers and police investigators would be able to provide a wealth of information relating to children’s experiences and a report of the psychiatrist should only be attained in exceptional circumstances where there was reasonable doubt in the child’s testimony. Furthermore, court assessment services could contract out...
specially trained professionals including experienced social workers to carry out further assessments to alleviate the burden placed on the two psychiatrists. It is important that the child not be subjected to too many interviews as this might urge them to recant the abuse29.

Threshold criteria would be the operational definition of the “best interest of the child” referred to in Recommendation 1 as it is currently the State intervention is based upon.

4.2.1.b. Supervision, Enforcement and Accountability

Line of Accountability is outlined in Law on Social Protection and Law on the Ombudsman. The Law on Social Protection highlights the importance of supervision and oversight on the provision of social protection measures: non-institutional, institutional and financial assistance. Implementation of these provisions have been weak maybe due to various reasons but not limited to these reasons: lack of specificity within the laws, lack of definitions of terminology, lack of enforcement mechanisms that relate to these provisions.

Enforcement of these provisions is not observed diligently according to the information gathered during the interviews. The line of accountability is clear from the law nonetheless legal provisions have not been exercised in cases where failure had been is apparent and reported in the media. A cautionary approach had been adopted, instead.30 Accountability is one of the main elements of ensuring effective child protection thus the legal provisions need to be imposed for deviating or failing to adhere the provisions in the law.

It is also unclear where provisions relating to investigation of missing children or deaths in state care institutions. Furthermore, neither the Prison administration (who is also responsible for the protection of children in 2 educational and correctional facilities) has a separate document providing procedure in case of death of a prisoner (adults) and children under their protection as well. While cases where children have died since they had been known to the system, shared by professionals, and covered in the media were not subjected to a public inquiry nor the Ombudsman has utilised the full power of the provisions in the Law on the Ombudsman. For accountability to be enforced and for effective child protection to be realised these powers provided in the laws need to be exercised.

Although, sanctions for failing to adhere to the provisions of the laws and procedures are limited, inadequate or even dangerous are instances where abuse is given a lesser gravity as an offence. This decreases the seriousness of such abuse when committed by an authority figure and those that have been licenced and entrusted by the State. Whilst there are many levels of interventions there the legal provisions have never been exercised according to the information collected.

Introduction of public inquires in death of the child resulting from abuse, whilst in they have been known to Centre for Social Work, and in institution could increase the level of accountability at all levels. All serious child abuse cases should be subjected to inquiries that are transparent. It is recommended that this be introduced.

This lack of accountability mechanisms can also be observed pertaining to foster carers. Where the Rulebook currently does not cover instances where abuse has been committed by carers on their foster children. It does not provide on-going review process and police checks and so on. A draft Procedures
for individuals affected by Violence or Abuse have been produced which includes procedures for placing children with foster carers. Although, these contain the main elements it needs further elaboration and a secondary legislation to give it legal validity.

The Law on Social Protection stipulates for regular supervision and oversight on the provision of social protection measures: non-institutional, institutional and financial assistance. Although, the line of accountability is clear from the law; it lacks the levels of enquiries depending on the seriousness of the failure or breach of this law. The law elaborates on the qualifications and criteria of those officials that carry out inspections of providers of social protection services under Article 229.

**Recommendation 5:** The introduction of Rulebook providing minimum standard guidelines for services (which will be covered in the next chapter) by the Ministry of Labour and Social Policy under the Law on Social Protection will provide guidance for those who are charged with supervision and inspection of social protection services and institutions.

**Recommendation 6:** The Code of Professional Ethics and the licencing mechanism in the Institute of Social Activities need to be linked and harmonised including more specific and detailed provisions of those working in the child protection system.

**4.2.1.c Confusions and the Need for Harmonization between other Laws**

It is of concern that the sanctions for abuse of children within an institution (whether state or private) provided in the Law on Social Protection diffuses the importance of this provision because the Law on the Child Protection (Article 130-1 and 103/3a) does not consider torture, physical and psychological abuse of child within an institution as a criminal offence but only as a misdemeanour offence. Additionally, Law on Primary and Secondary Education covers physical and psychological abuse amounting to misdemeanour charges stated under Articles 172 and 118 respectively. Bodily assault, however, is considered a criminal offence under Articles 130 and 131 the Criminal Code amounting to six months to 5 years depending on the severity. This is a clear contradiction with the various provisions in the Criminal Code that criminalises such acts committed against children, especially by individuals including those occupying authority positions (Article 142 and 143 of the Criminal Code).

**Law on Family** deals specifically with the rights and welfare of the child, from a perspective of excising of “parental right” and the “failure to exercise parental rights”. Violence against children is covered under this purview. Whilst chapters 5 and 6, of this law is well developed in relation to the abuse against children it silent on incidences of death of a child as a result of abuse or neglect. Therefore it can be concluded that such deaths would be covered under the Criminal Code.

**Recommendation 7:** Article 130 of Law on Protection of Children requires amendment to ensure that there is no contradiction to the Criminal Code in relation to abuse committed against children.

**4.2.1.d Sharing of Information**

The term “official and professional secret” (confidentiality) is used to explain that privacy of the client with regard to the activities in the provisions of social protection. This involves sharing adequate levels of information to ensure protection; for this reason, Law on Social Protection and Law on the Family require institutions including health and educational institution report any incidents of violence against children to CSW. But the law is silent on the levels of information sharing. Violating this provision amounts to a fine ranging from 500 to 5000 EUR in MKD value.
According to the Law on Personal Data Protection (Data Protection Act) there are no bars for the public institutions to share the data relevant for the realization of the rights. Article 8 and article 15 of this Act indicates that possibility [for what Marina]. Exceptions are depended on the case, when not every data can be shared. According to the requirements of art.8/9, 15, and art. 23 of the Data Protection Act, other relevant laws (Law on Social Protection and Family Law) that contain certain guarantees for the protection of the data are to be followed.

Article 70 of the Law on Broadcasting provides that the programs must not contain pornography, excessive violence or other contents that may cause damages to mental and moral development of children. The law specifies times when adult content can be transmitted and these should contain audio and visual message to alert that children are not recommended to view the program. It does not identify the reporting of cases where children are involved whether it be juvenile crimes or violence against children.

Report by the Ombudsman (2009) indicates that there is a regulation for data protection in healthcare to protect the dignity of the patient pertaining to medical conditions. Interviews for this study put the question to health professionals’ does the health sector professionals prioritize confidentiality of the patient to violence committed against children?. Health sector professionals did not have a definite answer to this question.

Provisions on “Information Sharing” can be introduced to the Rulebook on Procedures referred to in Recommendation 1.

4.2.1. e. CSW Case Management
There are many orders that the court can pronounce stipulated under the chapters “Supervision of Parental Right” and “Cease and Continuation of Parental Right” in the Family Law. However, they do not have classification by different names for different types of orders what specific preventative or protective measures should be taken, by who and when. The type of orders includes: supervision, contact, placement, protection (in relation to property), cessation of parental right, and continuation of parental right. Every child who is subjected to an order should have a plan, where the most preferred goal, if separated from his/her parents is to return to parents.

This law mentions a professional team, however does not provide a list of the sectors that this team should consist of. This is where coordinating needs to come in order to emphasise that various sectors that are involved have a strategy meeting to plan the intervention. The police, health professional, school, CSW and an attorney and any other professional depending on the specific case, for example a disability worker, counsellor who works with drug addictions, Juvenile Justice worker might need to join the team accordingly. There should be set guidance on the role of this team, whether it is chaired by a chair within the CSW or and independent chair. It is the result of this meeting a care plan should be developed from. Paragraph 2 of Article 5 directs CSW to develop individual plan for the victim.

Recommendation 8: Ministry of Labour and Social Policy to Introduce Rulebook on Case Management and Case Planning to give legal applicability of the case management methodology developed by the Institute of Social Activities.

4.2.2 Health Sector
Law on Healthcare Protection provides preventative diagnostic, therapeutic and rehabilitative measures and guarantees protection of children who have suffered sexual abuse. However, this law does (no place the duty to report/ or is silent) abuse to any authority but only the parent on the

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31 Law on personal data protection, 2005, Official gazette No.7/05; 2013/08; 24/10; 135/11, art.8 and 15
status of the child’s condition. Research clearly shows that abuse is normally perpetrated by those who are close and trusted by the family and the child, and this legal loophole leaves child victims that come into contact with the health sector unidentified in the child protection system. This is a clear contradiction to the provision in the Law on Social Protection that needs and the Law on the Patients Rights Protection.

The Law on Patients Rights Protection requires health professionals to make a referral to CSW to ensure protection if the victims have experienced violence was established. This law does not impose a bar on sharing information about incidence of violence but lays importance on the protection of the victim. They also obligated under this law to notify the police if the level of violence was dangerous and required immediate protection. Mandatory screening is provided in the Health Care Policy. The outcome of the screening requires health professionals to develop a health care plan for the victim. Special interventions are provided for children.

Records of victims of violence are entered in to Registry of violence under the Law on Records in Health Care. Disclosure of the information on this registered is provided to the court and the police it required for dismissal or criminal matters.

Whilst there are provisions in the laws, given the lack of specificity observed in the other laws, these laws might share similar strains.

Recommendation 9: Ministry of Health to introduce secondary legislation to cover Medico-legal cases in relation to violence against children and Domestic Violence.

Recommendation 10: Introduction of medico-legal tools including a form for doctors by the Ministry of Health (as per this UNICEF project). It will also bridge the gap that currently exists between the primary law and the protocols. Moreover, it gives the legal backing for the provisions in the protocols.

4.2.3 Education

The Law on Elementary Education (Article 53) prohibits physical and psychological ill treatment of students in schools. Likewise Law on Secondary School (Article 62) lays a fines on teacher or the school who commits physical or psychological violence on a student – amounting to 1500 Euro and 3500 - 4000 Euro respectively. However, it does not cover sexual abuse or neglect. This might be a contributory factor for non-reporting of violence against children even when identified. The Ombudsman’s report (2009) identifies as mentioned earlier that they have raised the issue with the Ministry of Education to incorporate sexual violence in the laws pertaining to the Education sector.

This law requires any incident of violence to be reported to the Inspectorate. Children, parents, teachers and principals and concerned citizens can report to the Inspectorate. Whilst, the Law on Social Protection specifically lays the obligation on schools to report to CSW’s this law does not require schools record or report any forms of abuse to other authorities.

Recommendation 11: Ministry of Education to amend inconsistencies with other law: a. The Law on Elementary Education and Secondary Schools needs to be amended and aligned with the provisions of the Criminal Code which affords harsher punishments to those who have abused or assaulted causing harm, and to prevent confusion. b. Reporting obligations in the Laws pertaining to the Education sector need to be harmonized as prescribed in the Law on Social Protection Article 11

Recommendation 12: Ministry of Education to introduce Rulebook on child friendly schools requiring school governing bodies, municipalities and schools to make arrangements to safeguard and promote the welfare of children.

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32 UNICEF (2010), Forlorn and Sacred, p. 68
4.2.4 Justice system

The police are mandated to work according the Criminal code, the Code on criminal procedure, the Law on police. The Law on the Police requires officers to protect the life and safety of citizens. The Law also stipulates the officers identify and apprehend offenders and any other measure required for prosecution of offenders. It also states the duties to protect the human rights and freedoms of the citizens. Despite the important role of the police, Law on Family is silent on the role of the police.

The police are usually the first to receive complaints or reports and to arrive on the scene of crime. Main trend in reporting of family violence have usually been from the concerned mother and children are often too afraid to report it. In the interview the Police noted that health institutions and the schools have never reported such crime.

Weaknesses in the implementation and even sometimes violation of the provisions of the Juvenile Justice Law and International Standards can be observed in relation to juveniles: no separate rooms for detention of juveniles, non-availability of trained officers due to spatial limitations, and the appointment of attorneys.33 Juveniles have been reported to be accommodated in adult detention rooms and rooms that do not meet the health and safety standards.

Due spatial limitations juveniles have been interviewed by trained inspectors but in the same room as untrained officials.34 Additionally, not every police station has a trained police officer. After the initial contact with the child victim the police are required to call the CSW and the medical doctor if necessary. The interview with the police officers reported having positive relationship and response from the CSW. Reports have identified otherwise, where the police have reported the unavailability of CSW after 1600hrs leading to conducting interviews without them.

Coercion and assault on juveniles by officers has been indicated in reports. This might be sporadic cases, but nevertheless brings to light the importance of supervision and regular inspection. Juveniles are seen as “violent, hopeless and problematic” and this view influences the conduct towards juveniles who come in contact or conflict with the law. The interviews indicated that this view is still present, despite the restorative approach advocated by the Juvenile Justice law, and a repressive approach is favoured to disciplining of juveniles.

Examples of such treatment were found in the Assessment of the Juvenile Justice reforms (UNICEF 2010), which stated that physical violence against children was very low. A later study Voices of children (UNICEF/PRI 2011) contradicted these findings with many of the interviewed children reporting that they had experienced violence during police procedure. Not only physical violence like slaps, kicks and similar, but also psychological intimidation for confessing other crimes. Although there have been several protocols developed to guide the institutions when working with children in particular types of cases, these documents are not implemented diligently. They are not specific enough, they do not provide where to go, whom to call what to do.

The Rulebook on the Manner of Performing Police Duties covers several issues but mainly in informative manner. Rather, it asserts the basic obligation of immediate involvement of the juvenile inspector with the juvenile without differentiation of approaches adopted to employ in relation to a juvenile who has committed an offence to a victim of a crime. Moreover, the Ministry of Interior official stated that investigating techniques (from French Police document) with child victims was translated and used as a manual for investigators.

34 Ibid, p. 246.
The Law on the Police is the main legal instrument guiding their work however, except for one article (Article.37) does not specifically mention children (juveniles). In matters pertaining to children or juveniles it is the Juvenile Justice Law guides them. For this reason, the Juvenile Justice Law has become the main legal document providing the general standards of conduct and treatment of children when in contact or conflict with the law.

In addition to the police, a legal obligation is also placed to train judges and public prosecutors when dealing with children as the law requires judges and prosecutors to understand the importance of protecting children from further trauma they might experience within the court process. The Law on Juvenile Justice and the Criminal Procedure Code compels investigating officers, CSWs, prosecutors to use of audio and video methods and investigations to be conducted in a specialised room for children victims and child witnesses. Article 138 para.4 of the Juvenile Justice Law explicitly states that the juvenile can be interrogated only twice and three times only in exceptional circumstances. Likewise, the Protocol on Treatment of Cases of Child Sexual Abuse and Paedo philia Clause 4.5 states that a maximum of two interviews is preferred with child victims, however in practice this limitation has not been followed. However, the lack of legal guidance documents for legal professionals and the police – who should be aware of due process - fail to understand the stress, pressures and the impact of the judicial process on children.

The new Code on Criminal Procedure provides various protections including protection of children giving self-incriminating evidence (Article 54-2), video and audio recordings for victims of sexual violence, examination of vulnerable victims and exclusion of the public during court hearings (closed court).

Further, legal guidance notes and procedure pertaining to very young child victims who are unable to communicate to the court regarding their experience of the traumatic event. In addition, the Law on Witness protection is not child sensitive.

In relation to sexual offences the Criminal Code differentiates between the offence being committed against a child who is younger than 14 and older than 14 years of age. Law on the Register for Child Sexual Abuse and Paedophilia addresses paedophilia, which is a category of offenders who fantasize about sexual activity or engage in sexual activity with prepubescent children. It is noteworthy that the law covers this category even though in a more sensationalistic manner than a legal manner because the trauma and long lasting psychological damage is more severe the younger they are. [Although widely in popular of offenders use, the term paedophilia should not be used as a category of sexual offence.] It is classified as medical condition, and those with this condition prefer and only engage in sexual activities with pre-pubescent children or have only phantasies about that (not necessarily that they will do something).] – Marina the information I have checked covers both fantasies and engaging in sexual activity.

The Law on the Register for Child Sexual Abuse and Paedophilia provides the rules on how to manage and fill in the register; it provides few duties of the involved institutions in collecting the data about the convicted adult sex offenders. It also contains those convicted with final and executive court decision for crimes of sexual abuse.

Additionally, the Law on the Register provides general obligation for all convicted sex offenders not to get near places where children gather (kindergartens, schools, playgrounds and similar). Therefore, it is unclear from these provisions and a concern that sex offenders that have committed non-tactile
abuse such as exposing themselves to a child be considered to work with children after serving their sentence. In addition, it does not contain protective measures for instances where the offender is the victim’s father, and by exposing the details of the parent, indirectly identifies the child victim. This provision is contradictory to Article 5 of this Law as it provides that the victims’ identity shall not be publicly disclosed in any circumstances.

**Recommendation 13**: Ministry of Justice to include sexual offences committed against prepubescent children to align with the Law on the Registry of Child Sexual Abuse and Paedophilia.

**Recommendation 14**: Ministry of Social Policy to include procedures for Juvenile sex offenders and the protection of identity of child victims of sexual abuse in the Law on the Registry of Child Sexual Abuse and Paedophilia.

**Recommendation 15**: Ministries of Interior, Judiciary, and CSW to ensure the budgetary requirements approved and provided for the implementations of the Laws pertaining to the protection of children.

**Recommendation 16**: Ministries to have quality protection teams that carry out regular checks on the work of front line staff: investigating police officers, CSW Social workers. Likewise, Ministry of Justice carry out independent checks on prosecutors and judges on their conduct in relation to children.

**Recommendation 17**: Ministry of Labour and Social Policy to introduce “ON CALL” system whereby at least one member of social work staff is available after hours, to ensure that the requirements of the provision in the Juvenile Justice Law can be followed.

**Recommendation 18**: Ministry of Justice to introduce Legal guidance documents that provides them information regarding child friendly approaches for judges.

**4.3 Conclusion**

This section has identified gaps in the primary legislation and their remedies. It has also identified areas where an introduction of a secondary legislation can bridge the gaps and to provide legal to the protocols. The lack of “threshold criteria” (when the State can intervene into the privacy of the family) has influenced a system that attends to most severe cases – a reactive system rather than proactive system. In addition to the shortcomings in the laws poor enforcement has also prevented the full realisation of protection rights of children afforded by the UN Conventions and the European Council Conventions. Those provisions that increase the accountability of professionals and institutions must be exercised when required to ensure that abuses within the system are prevented. This increases transparency and trust in the system.

Some of the difficulties in the implementation and seemingly non-adherence have can be attributed to the non-availability of budget and weak administrative systems. Therefore some of the recommendation made here are administrative and budgetary in nature to ensure proper implementation of these laws.
5.0. GAPS IN THE SECONDARY LEGISLATIONS, STANDARDS AND PROCEDURES

The sublegal framework provides the details of legislation and is operational in practice, and specifies what the law establishes. These are as binding as the legislation. Regulations can be amended by the Ministry or Ministries by whom they were first written, without having to pass a new piece of legislation.

Policies documents include policy statements along with the beliefs of their author Ministry. They contain a statement of organisational intentions and commitment. Policies reflect the content, intention and opinion of the Legislation and Regulations. These include National Strategies, Action Plans and National Programs.

Procedures are not as binding as the Legislation or Regulation but reflect the content, intention and opinion of them and the policies written from them. Procedures specify what must or may be done in specified circumstances and define the limits of professional discretion. For staff in those sectors that formally adopt them, these procedures have the status of instructions and any inability or failure to comply with them should be accompanied by an explanation. Any supplementary internal procedures developed by different sections of a Ministry should also refer to, and be consistent with these procedures. Protocols are considered as official procedures. The Umbrella Protocol on Domestic Violence is a very comprehensive document with detailed explanations, particularly in relation to the health sector and its role is working in collaboration with other sectors. Other protocols that do not provide such comprehensive information need amendments. Although, professionals have identified protocols as useful their effectiveness have been hindered by the lack of legal validity and the compartmentalisation of roles and responsibilities of the sectors.

Guidance provides contextual information or addresses the question of ‘why’ specified actions may be required. Guidelines and Working Standards come under these Guidance documents. Some of the Procedures and Standards provide relevant and important information such as the Draft Procedure on those Affected by Violence and Abuse. This draft contains the necessary elements for case management. However, without a legislative support its application could have a similar effect to the protocols.

Recommendation 19: All secondary legislations include a provision that state clearly that all protocols and/or guidance documents made in relation to the specific legislation should be followed.

There is a significant gap between primary legislation and protocols, standards and guidelines mainly because specific details are missing in the primary legislation and their corresponding operational details that are provided by secondary legislations. Secondary legislations dealing with violence do not adequately cover the professional interventions and provisions on children, but rather focus on the details of premises where the service is provided. The protocols and standards poses various challenges during implementation as they are too theoretical and not practice based, which was also identified in an earlier study by UNICEF - “Revision of CSW Standards: Situation and Gap Analysis.”

This study proposed that Standards, Procedures and Guidelines be developed for Case Management for CSW, along with guidance of planning and managing deinstitutionalization of children, “gatekeeping” for placement of children in institutions and recruitment, selection, training and support for foster carers. Without a secondary legislation to support these interventions these documents will continue to face difficulty in enforcement similar to the Protocols.
Various Rulebooks (secondary legislation) have been passed that are sector specific covering social protection of children (see Annex 2). These Rulebooks have been passed with the objective to provide more details of what has already been stipulated in the primary legislations. The main purpose of the providing details is to ensure that the agencies or authorities implement the provisions in planned and organised manner. Hence these Rulebooks should ideally contain details on the specifics of what is required by particular agency, which agencies or authorities should provide which service, what are their roles in the process, what are the time spans, what are the specifics of the plans, how are the plans going to be prepared, by who, follow up details, and reviewing.

The following sections are going to identify the gaps in the secondary legislations.
1. Lack of Provisions for Intervention
2. Lack of Provisions for Procedures to work together
3. Details for Service Standards
4. Lack of Safeguarding Provisions for Child Victims and Witnesses in the Judicial Process

5.1. LACK OF PROVISIONS FOR INTERVENTION

5.1.1 Early identification
As highlighted earlier the principle of “best interest of the child” guides intervention by the State. In addition to the lack of detail to establish what is the best interest of the children, there is no Rulebook that provides guidance on early identification of violence against children. Family law and the Law on Social Protection establish system to minimize and prevent social risks that might harm children. In order to prevent and provide assistance criteria to establish those that are in need is essential. In this respect, Articles 84 and 85 of the Law on Family identify “child in need” even though it does not specifically states so and what interventions are provided by the state respectively. Article 84, para 1 reads “CSW shall have the duty to undertake the necessary measures in order to protect the personality, the rights and interests of the child.”

Article 85 states “CSW shall warn the parents about the deficiencies in the development and education of the child, and assist them to develop and educate the child regularly,” and also instructs parents to seek assistance through counselling, medical or in an institutional setting. Here, again the intention of the provision is to emphasize that without the assistance or services from the State the health and development of the child might be significantly impaired. The use of “warn” does not foster a joint and supportive relationship between CSW and the parents, which is essential to maintain in order for families to be more open to request for assistance.

Intervention by the State for a child with disability is included in Article 94. These provisions lack the establishment of the views of the child by the CSW before taking any action (Article 12 of CRC). Due to these reasons, professionals including CSW’s, teachers, and health professionals do not have a clear understanding of what they have to establish in order to identify a child who is in need of services from the state.

Secondary legislation can provide more specific instruction outlining clearly what kind of services they would be, who will pay, how to establish “best interest of the child”, how to understand “personality” and what are the “rights”.

Refer to Recommendation 1 - The Ministry of Labour and Social Policy early identification of violence against children will be part of the Rulebook on Procedures.
5.1.2 Intervention

Clear criteria (threshold criteria) must be established before a court pronounces supervision orders or orders to cease the parental right. This criteria need to establish that the child is suffering, or is at risk of harm, or significant harm, or if the parenting was not good enough, or if he child was out of control.

Grounds to intervene into the private sphere of the family must be established clearly to prevent arbitrary intervention (Article 16). In this respect, Article 86 states “CSW may reach a decision for permanent surveillance upon the exercise of the parental right, related to all or some of them.” Article 90 provides instances what constitutes abuse and neglect and are considered before the parental right is removed by a court order.

It is important that threshold criterion is met and an assessment supports the criteria before a decision is made of the type of service or intervention that will be provided for the child and or family. In this respect, Article 3 and The Rulebook on the Manner of Enforcing and Monitoring the Pronounced Measures for Protection of the Family and Victims of Domestic Violence Undertaken by the Centre for Social Work and About the Manner of Monitoring the Interim Measures for Protection From Domestic Violence Pronounced by the Court 2007 covers the steps that CSW is required to take upon receipt of information about domestic violence. Article 5 of this secondary legislation, states that the type of measure or intervention is decided after an assessment is conducted to identify the needs of the family and the victim. Nature, intensity and context of the incident, health and status of the family, age of the victim, and other factors are taken into account by the professional worker (social worker) and considered by a professional team. It is important to note that there might be more than one victim and this need to be amended in this provision.

Currently, the Rulebook refers to victims of domestic violence where children are covered but with minimal reference to child specific interventions. This is where the Rulebook needs to add details, as every child who is subjected to a court order or those that are placed with the family should have a care plan that is regularly reviewed. Care planning and reviews ensures regular communication and review meetings with all the professionals involved in the social protection of the child. Better coordination is ensured through mechanism that provides specific guidance. This then provides the legal specificities to the protocols that are currently in effect.

Current practice of the development of the plans is laid on CSW and they follow the guidance of the Rulebook. Therefore, written reports are requested rather than visits, and updates are usually attained through phone calls instead of meetings. Social workers are currently not required to visit and visits are not budgeted for.

**Recommendation 20:** Refer to **Recommendation 1**, on “best interest of the child” as threshold criteria that has to be met before court pronounces and order. This procedure should contain details of actions that should be carried out pertaining to each order pronounced by the court.

**Recommendation 21:** The Ministry of Labour and Social Policy could take two routes: to incorporate Chapter on Care Plan in the Rulebook on Enforcing and Monitoring Measures for Protection of Victims of Violence OR develop a separate Rulebook on Case Planning; that should contain:

1. **Care Planning** – content of the plan, healthcare (medical requirements), regular check-ups etc, contact with parents and significant individuals, relatives if placed without them
2. **Placements** includes notification to healthcare, school to ensure there is a designated teacher and details of other authorities
3. **Assessment** of Parental ability, circumstances of why child was placed in care, support to parents.
4. **Foster care** – condition, emergency placement, placed with kin or relatives
5. **Visits by responsible authority** – currently Article 28 states that CSW do not need to make a visit but request reports, however this is not sufficient to ensure best level of social protection, frequency of visits.

6. **Review of the Care plan** – To some extent this aspect is covered in Article 27 and 28 but it lacks specific details such as responsible authority to conduct reviews, who is present at the review – health sector education, parents, child to give his/ her views in the review, Arrangement to implement the decisions, and record of reviews. Each child to have key worker that is responsible to communicate with relevant people involved in the case.

7. **Ceasing to be cared by the state** – currently addressed without specific details in Article 29.

8. **Interpretations or explanations of terminology**

9. **Reference to the law or laws** the Rulebook’s powers is conferred by.

The process of the care plans (remand sentence care plans) should also be extended to Juveniles who are placed in institutions where the care plan requires addressing offending behaviour and other requirements of the court.

### 5.2 LACK OF PROVISIONS FOR PROCEDURES TO WORK TOGETHER

This is crucial for those institutions obliged to work in collaboration in child protection. Currently, protocols although promoting the concept of “working together” most communications take place over telephone and roles and responsibilities including the allocation of budget are reported to be confusing. Several professionals have indicated that protocols need to be changed into secondary legislation to increase their enforcement and adherence.

Child protection procedures are covered is many different legal documents, national strategies, protocols and procedures. Whilst many relevant provisions are scattered in various laws it is important for procedures to bring together these legal provisions in one document as an official guidance document to those working in child protection. This is clarified by the response from professionals working in the field as they reported confusion due to too many protocols and procedures. This is compounded by the limitations of the Law on Child Protection as professionals attempt to juggle the rights of the child victim with sometimes competing parental rights, privacy of family and so on.

There are provisions within the Law on Healthcare that provides definitions and compulsory treatment rights for victims of child sexual abuse. This document can elaborate on healthcare procedures in the identification, reporting, treatment and follow up on child protection cases. Health sector reports that they require specific child protection procedures and guidance in this area. It is essential that this part is comprehensively drafted as child victims of abuse usually come in contact with the health sector as their first point of contact in the child protection system (Recommendation 9).

School and other educational institutions are where children spend most of their time apart from home. They also form close bonds with teachers who care for them during the day. Currently, the system gives focused attention to educational achievements. For healthy child development and for a child to reach his/ her full potential and health and welfare aspects of the child requires similar attention. Whilst, school counselling has expanded reporting of abuse and risk of harm where state intervention is essential, schools have not been very forth coming according to professionals. Procedures for identification and reporting of suspected abuse should be included in such a document as it is mandated report such act under Article 9 of the Law on Protection of Children (Recommendation 12).

These Procedures should also include details of information sharing between institutions, professionals and with families and children. Research has shown that in a high percentage of inquiries into child deaths where social services are involved recommendations include the need to ensure there are strong processes for sharing relevant information between agencies, across geographical and
professional boundaries. It is important that information is shared in appropriate ways to ensure the maximum protection of children and vulnerable adults. Information sharing, partly due to lack of specific procedures, such as planning meetings, strategy meetings, child protection case conferences, have been limited or insufficient. Professionals have reported that even between teams within the Centre for Social Work where a child’s case is held in one team and the family is held in another are unaware. This could lead to duplication of interventions, complications and confusion for children and families that are involved.

The Standard for Specialist Services for CSW (2011) provides procedures relating to socially excluded persons, those affected by violence and Juvenile Justice. This document includes timelines, linking victims or clients with appropriate services, procedure on placements with foster carers and institutions focusing mainly on the role of the CSW. There is a tendency that these procedures could stay within the CSW are the other sectors may be unaware or do not complement the role of the other sectors hindering the working in collaboration with other sectors. Likewise, Draft Procedures for Persons Affected by Violence or Abuse also provide procedures relating to case management within the CSW. While these documents are important and need to be followed, case planning, requires intervention by various agencies and may require the initiation of child protection procedures. Additionally it provides a regulatory framework.

Currently, the Rulebook on Enforcing and Monitoring Measures for Protection of Victims of Violence provides procedures to be followed in cases of family violence lacks detail and is insufficient in providing protection of children exposed to violence.

Refer to Recommendation 1 Procedures for the Social Protection of Children incorporating the mechanisms and tools of “working together”. These procedures will need to be more specific to decrease confusion and standardise child protection practices. This Rulebook should include:

1. **Roles of various authorities and agencies** mandating they have to work together
2. **Information Sharing**, confidentiality and consent
3. **Recognition of Abuse** – explanation of what constitutes to abuse, behaviours as result of abuse
4. **Referral and Assessment**
5. **Child Protection Inquiries**
6. **Implementing the Child Protection Plan**
7. **Managing Allegations** against staff, officials and volunteers working with children
8. **Managing Individuals who pose risk of harm** – refer Recommendation 5 to the classification of those who pose a risk to children – referring to those offences stated in the Criminal Code
9. **Serious Case reviews**
10. **Child death review**
11. **Child protection conference** – It brings together members of the family (where appropriate the child), and professionals who work with the family.

### 5.3 LACK OF DETAILS FOR SERVICES

Roles and responsibilities of specific sectors in relation to social protection of children are provided by primary laws and detailed in secondary legislations, protocols and standards. These usually remain within sectors and hence there is fragmentation of services, which hinders effective collaboration. Sometimes there can be even competition between sectors as highlight by Murphy’s work on working together.\(^{35}\) Some of these aspects have been highlighted in the interviews: passing the responsibility and blame instead sharing of failings, competing with sectors stating that “we are doing better than

\(^{35}\) Murphy, supra note 1
them”, and too much being expected on one sector. Consequently setting up for failure due to over burden and burnout.

It was also noted that a cautionary approach was taken when they were failings, “not to offend” the other sector. It is important that legal responsibilities that are provided in the laws are followed diligently otherwise the system is open to abuse and this type of unhealthy behaviours filter through to the victims. It also creates a lack of trust in the system. Interviewers expressed that the general public were wary of social workers and the police. It is important to build public trust in the system, as a significant percentage of reporting is reliant on them. A supportive and informed public is important for effective child protection.

5.3.1. Social Work services, Foster care, Institutional Care (social protection)

Currently, social work services, foster care and institutional care are covered under the Law on Social Protection. Social Work Services provided by CSW are supervised and monitored by MLSP. Institute for Social Action developed methodological guideline for practice. Many Standards and Guidelines are being developed in relation to this service. Additionally, the Code of Professional Ethics applies to those who work in institutions for social protection and social services. It stipulates that non-discriminatory approach be employed towards services users and should not harm their human rights under any condition.

Rulebook on the criteria for choosing a foster family, the type and number of beneficiaries who can be accommodated in a foster family as well as the type and form of services from social protection which are provided to the accommodated persons. (2010) See Annex 2. The Rulebook provides basic assessment to become registered as foster careers. This Rulebook should include vetting procedures, regular police checks, exclusion criteria, regular key workers, update training, paperwork, review meetings etc. This Rulebook requires amendment to incorporate many aspects including recruitment of foster carers, reviewing, support workers for foster carers, police checks, and so on to prevent those who may pose a risk to children be approved as a carer.

Recommendation 22: Ministry of Labour and Social Policy to undertake revisions to the Rulebook on Fostering to include regular reviewing, monitoring, health and police checks, review meetings etc.

Currently, there is a Rulebook on the Norms and Standards for Foundation and Start The Operation of Institutions for Social Protection Centre for Victims of Domestic Violence 2007 and does not specifically provide for the needs of children. This Rulebook although refers to standards and norms it does not provide much detail about professional services offered by the institution which is central to the social protection of children. Apart from Article 10 of the law, which outlines the number of professional staff, qualifications of staff and staff and resident ratio are provided.

Criteria for placement are covered in the Rulebook for Interim Measures for the Protection of Family and Victims of Domestic Violence provide criteria for placement in an institutional setting. The criteria only those who can be accommodated “when it is established that there is serious danger and threat to life and health of individual”. Hence, leaving those that do not qualify to be decided by professionals. Those that may pose health risks are excluded from being placed in shelters until the issue is dealt with in more appropriate service, victims with mental health issues, those with seriously communicable diseases or male victims of domestic violence in a shelter for women.

The National Preventative Mechanism in relation to detention facilities and educational institutions has raised several concerns for children who are accommodated in institutions, including those that are attributed to lack of secondary legislation on minimum standards along with the lack of detailed Standard Operating Procedures. Additionally, children are seen as “violent, hopeless and problematic”
fostering treatment that there is nothing they can do with these children to rehabilitate them. From the reports it can be established that the staff do not carry out proper therapeutic work on behaviour modification but children are left to their own means. In addition to the lack of educational provisions in detention centres the those that do offer classes only a small minority of children seem to attend classes offered on site while others sleep or watch television. This indicates that there is no routine that is organised for children. Most children who are accommodated tend to come from disorganised homes and do not have a routine to their day. Routine provides safety for children and without the organisation and supervision in the institutions their home environment is recreated.

Children who are have left the premises without notifying does not have to face consequences hence reinforcing that non-adherence to rules is the norm. The inability of staff to control violence between juveniles in an effective manner has also been reported to be a problem. Crisis intervention training is important for staff to protect themselves from attacks from children and to diffuse fights between children effectively. These interventions teach children how to handle crisis effectively without resorting to fighting.

CSW is notified of unaccompanied children when they are placed in institutions. A written request is sent to appoint a guardian (key worker) for the child according to the Law on Asylum and Temporary Protection. However, report suggest that there has never been a case where a guardian has been appointed or visited the asylum to advice the child regarding his/her rights during the asylum procedure.36

**Recommendation 23:** In relation to Institutions it is important to have a comprehensive and consolidated Rulebook that applies to institutions, educational homes, and detention centres where children under the age of 18 are accommodated. Each institution prepares their procedural standards based on the national standards provided by the Rulebook. This ensures standardized implementation of the law, which will assist in the inspection, and supervision of these centres. Ministry of Labour and Social Policy to develop a consolidated Rulebook for Institutions to include:

1. Criteria for placement
2. Service Standards
3. Staffing
4. Case Management – Special measures need to be included for Victims of trafficking, Behaviour modification for Juvenile placed in educational homes or detention centres
5. Residential living – what is expected of the child, what is expected of the institution
6. Education for children
7. Exit requirements – preparation for leaving, independent living
8. Child Missing from the institution
9. Complaints
10. Health, Safety and Security
11. Record Keeping and Information Systems

**Recommendation 24:** Ministry of Labour and Social Policy to introduce regular Therapeutic Crisis Intervention Training for Institutional Staff.

**5.3.2 Education and Health**

Reports and the information gathered for this analysis through interviews have indicated that collaboration from Education and the Heath sector has been limited. The frustrations experienced by

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other sectors have been compounded by the lack of Secondary legislations providing mechanisms for collaborative work with these two sectors.

In relation to the education sector two major documents have been recently developed (Draft documents) deals directly with violence in schools: the National Strategy for Decreasing Violence in Schools (2012-2015) and the Protocol for Security and Treatment with Students in Cases of Violence (2012). General nature and mainly focusing on ensuring secure environment in the schools these two documents touch on the issue of violence at home. As children bring the violence they experience at home with varying display of symptoms. While some children might act it out through bullying other children, sexually abusing younger children others become depressed and withdrawn and so on. The Protocol sporadically notes that the teachers should know to identify if a child has been a victim to family violence. However, with the focus on educational achievements teacher training would require in house or retraining in identification of symptoms of abuse.

One of the main objectives of these documents is to provide the basic framework for schools to develop their own protocols for intervention in cases of violence and the prevention of violence, they fail to provide guidance on children who are affected by family violence. Although, this is the first systematic step towards addressing violence in school their emphasis within the parameters of the school limits their scope in addressing the root causes of violence at school – violence at home. It also negates the working in collaboration with other sectors in addressing the issue effectively. Further complications can be identified as it proposes amendments to many of sublegal documents in the educational sector on the basis of this Strategy.[Marina - Are these proposals addressing the family violence issue? If these amendments are related to improving the situation then its good]

The Protocol contains installation of reporting boxes in schools, which allows children to report violence in confidence. However, the protocol fails to identify legal obligations corresponding to its provisions, responsibilities, accountability, as well as clear identification of all the actors [Marina do you mean other sectors] involved in dealing with violence in schools.

This protocol represents a general framework and provides the opportunity for developing the school protocols for dealing with violence. Being in draft form opens the opportunity to incorporate amendments to strengthen these documents.

Rulebooks currently relating the Education sector, Rulebook on Kindergarten, do not cover aspects relating to teachers but the standards and details of premises. It does not focus on the welfare aspects which should ideally include: school that encourages children to develop positive self-image, develop sense of autonomy and independence, self confidence to resist inappropriate approaches by individuals that may harm them, assist in developing and sustaining healthy relationship with families and peers, and working with parents to build their knowledge and understanding of principles of social protection of children.

Refer to Recommendation 25: Ministry of Education develops a Rulebook that is comprehensive and consolidated, also enhances collaborative work with other sectors should include:

1. Procedures to work with other authorities that provide social protection
2. Responding to suspicions of violence
3. Recording of violence and disclosures – contacting CSW’s and the police
4. Informing parents
5. Allegations against staff
6. Disciplinary Action
7. Training
8. Planning
9. Curriculum – introducing key elements of safety  
10. Confidentiality (official secret)  
11. Support to families

Each educational institution then would develop their internal procedures aligning with these overarching national procedures.

Health sector has the Law on Patient Rights Protection that includes the responsibilities to report and document violence against victims. However, the specificity of provisions pertaining to children is unclear. The need for Rulebook on procedure, medico legal forms and reporting to other authorities was identified by health professionals. Ministry of should produce medico-legal case procedure in a Rulebook that specifies the actions that they should take in cases where violence is suspected and established and clearly state the mechanisms and tools to work in collaboration with other sectors (Recommendation 12).

5.3.3 Police

The Police are guided by their Rulebook in the Manner of Police Work, which outlines how to interview and communicate with the victim of violence in establishing clear description of events. Apart from the translated document (French document on investigating child sexual abuse victims), stated earlier, the police currently do not have a guidance document for interviewing children.

Additionally, the Police are required to record all interactions with the juvenile in personal files developed for the child. It has been noted that files are inappropriately and inadequately completed; sometimes without any detention notes and no mention of attorneys being informed. Suspicious occurrences of violence against children have also been found on files where children have incurred injuries after their custody. Clear guidance has been provided in Juvenile Justice Law and those that are specific for detention.

Recommendation 26: Ministry of Interior to dedicate an official to inspect files to ensure that regular checks be carried out by the Head of Shift of the Police Station in relation to the treatment of juveniles. Ministry create a mechanism through which violations against Juvenile Justice Law be referred to a disciplinary committee within the Police.

Recommendation 27: Ministry of Interior to develop guidance document on child friendly investigation techniques that is attached to the Rulebook.

5.4 Lack of Safeguarding Provisions for child victims and witnesses in the judicial process

There lack of understanding the dynamics of abuse among the Courts are concerning. Equally concerning is the denial of recidivism among perpetrators, as reported by Courts that they did not have such cases. These factors influence when judges take decisions in cases relating to children who have been exposed to violence. In the UK, the Section 1(1) and 1(3) of the Children’s Act clearly directs the courts to take certain factors into consideration before a decision is made:

Section 1 (1) – Before taking any decision, the court must put the child’s welfare first.

38 Ombudsman, (2012), supra note 18, p. 15-159  
39 Ibid, p. 159
Section 1 (13) – The Court is directed to pay particular regard to the following factors:

- the wishes and feelings of the child concerned (considered in the light of his age and understanding)
- his physical, emotional and educational needs
- the likely effect on him of any change in his circumstances
- his age, sex, background and characteristics of which court considers relevant
- any harm which he has suffered or is at risk of suffering
- how capable each of his parents, and any other person related to whom the court considers the question to be relevant, is of meeting his needs
- the range of powers available to the court under the Children Act in the proceedings in question.

Ministry of Labour and Social Policy and the Ministry of Justice have two routes to ensure that children’s rights are protected in the judicial process: a. Refer to Recommendation 1 - the Ministry of Labour and Social Policy and the Ministry of Justice consider the inclusion of such a provision where “best interest of the child” is paramount and the court is compelled to consider a checklist such as the one given above into the Rulebook on Procedures for Social Protection Children. OR b. The relevant Ministries consider the inclusion of such an Article into the Law on the Protection of Children.

According to the new Code on criminal procedure from 2010 (new CCP) which will come into effect as of December 2013, the position of the victim / witness is much better shaped allowing for video and audio taped recording to be accepted by the courts, closed hearing, special consideration for victims of violence and other vulnerable children, and the consideration of defence to speak through video or audio or professionals. This allows those children who are very young. There is legal guidance notes or a Bench Book for judges that provide further guidance on cases. Hence, legal guidance notes needs to be provided to ensure that the rights of child victims and witnesses are fully realised.

**Recommendation 28:** Ministry of Justice to develop Legal Guidance notes to Prosecutors and judges to ensure that they fully understand the dynamics of violence against children and these factors are taken into consideration.

1. Considerations for the Prosecutor – for example when bail is considered whether to include or not to include conditions
2. How to achieve best evidence in cases involving children
3. Information on Domestic Violence, child prostitution, Violence against children, trafficked victims
4. Protecting against self incriminating evidence
5. The court process
6. The Trial
7. Media
8. How question should be asked
9. Sentencing
10. After the hearing

**5.5 Conclusion**

This analysis illuminate that they are many shortcomings in relation to both primary and secondary laws pertaining to children exposed to violence. It also shows that whilst many amendments have harmonised domestic laws with international conventions, nevertheless their enforcement is hindered.
by the several reasons including lack of accepting that children have rights, poor enforcement, lack of secondary legislations providing mechanisms and tools to work in collaboration, lack of financial means, and lack of trained professionals.

Whilst, the primary laws provided the basic elements for social protection of children from violence the secondary legislations failed to provide operational means to implement the laws effectively. There have been many reasons identified to the non implementation of the laws: lack of specificity, no clear guidance on roles and responsibilities, procedures for inter-agency collaboration or working together, and necessary tools. It should be noted that the country continues to aim for higher standards in children protection and hence many protocols, standards and guidance documents have been produced in an attempt to address the shortcomings of the legislations. However, these documents have failed to achieve the perceived objectives due to their legal status, lack of funding and the lack of mechanisms to deliver the provisions.

The issue of enforcement is important, as even with the introduction of secondary legislations without the enforcement they will not provide effective social protection of children from violence. Accountability mechanisms are very weak leading to violations of due diligence and violation of children rights and risk of violence outside and within the system. Cautionary approach in certain instance are helpful but when provisions in the laws are violated legal powers that are provided in the laws need to be exercised in the best interest of the child.

This analysis has provided many recommendations and identified the Ministries that are responsible for carrying out these recommendations. Recommendations have been made after reviewing many state documents and identified obstacles and the information gathered from the interviews.
Annex 1 – Data on child victims

With the attempt to show some data we have used the SSO publications on social protection of children and the criminal statistics that the SSO collects from the police, public prosecutions and the courts. It must be mentioned that these statistics are the only official numbers which can provide some frame regarding the situation.

Table 1 – Total population according 2002 Census

<table>
<thead>
<tr>
<th>Total</th>
<th>children</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 022 547</td>
<td>591 702</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total</th>
<th>children</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 022 547</td>
<td>591 702</td>
</tr>
</tbody>
</table>

Table 2a, 2b and 2c. – Social welfare of children (2010 – 2011)

Table 2a. Children recipients of social welfare

<table>
<thead>
<tr>
<th>End of year</th>
<th>Lacking parental care</th>
<th>Exhibiting antisocial behaviour</th>
<th>Intellectually disabled</th>
<th>Physically disabled</th>
<th>other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>10 424</td>
<td>4 396</td>
<td>3 285</td>
<td>3 080</td>
<td>1 324</td>
<td>32 509</td>
</tr>
<tr>
<td>2011</td>
<td>9 719</td>
<td>4 468</td>
<td>3 296</td>
<td>3 272</td>
<td>1 001</td>
<td>21 756</td>
</tr>
</tbody>
</table>

Table 2b. Some forms and measures of social protection provided to children 2010/2011

<table>
<thead>
<tr>
<th></th>
<th>Lacking parental care</th>
<th>Exhibiting antisocial behaviour</th>
<th>Intellectually disabled</th>
<th>Physically disabled</th>
<th>other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foster care</td>
<td>864 /882</td>
<td>9/7</td>
<td>27/26</td>
<td>13/16</td>
<td>50/127</td>
</tr>
<tr>
<td>Placement in foster families</td>
<td>215/206</td>
<td>1/1</td>
<td>30/28</td>
<td>11/15</td>
<td>10/17</td>
</tr>
<tr>
<td>Placement in social welfare institutions</td>
<td>235/231</td>
<td>21/17</td>
<td>63/120</td>
<td>53/47</td>
<td>16/24</td>
</tr>
<tr>
<td>Placement in other institutions</td>
<td>9/78</td>
<td>11/0</td>
<td>78/37</td>
<td>26/2</td>
<td>3/4</td>
</tr>
<tr>
<td>Other assistance (education, ass. in kind, home care ass, care allowance, etc.)</td>
<td>355/388</td>
<td>70/0</td>
<td>276/387</td>
<td>516/414</td>
<td>351/1252</td>
</tr>
<tr>
<td>Conflict resolution in family disputes</td>
<td>1666/1807</td>
<td>176/1</td>
<td>2/1</td>
<td>1/1</td>
<td>100/301</td>
</tr>
</tbody>
</table>

Page 43 of 51
Table 2c. Children in institutions

<table>
<thead>
<tr>
<th></th>
<th>2010</th>
<th>2011</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infants and small</td>
<td>115</td>
<td>108</td>
<td>223</td>
</tr>
<tr>
<td>Children and youth</td>
<td>59</td>
<td>60</td>
<td>119</td>
</tr>
<tr>
<td>homes (Bitola)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Institutions for</td>
<td>84</td>
<td>87</td>
<td>171</td>
</tr>
<tr>
<td>children lacking</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>parental care (11th</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>October Skopje)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reception centres for</td>
<td>23</td>
<td>25</td>
<td>48</td>
</tr>
<tr>
<td>care and education of</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>children (25th May)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Institutions for</td>
<td>55</td>
<td>48</td>
<td>103</td>
</tr>
<tr>
<td>care for children with</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>educational, social</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>difficulties (Ranka</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Milanovic)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All institutions</td>
<td>336</td>
<td>328</td>
<td>664</td>
</tr>
</tbody>
</table>

Table 3 – institutions of social welfare (total number of beneficiaries, not only children)

<table>
<thead>
<tr>
<th></th>
<th>Number of institutions</th>
<th>Number of recipients</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutions for children</td>
<td>3</td>
<td>255</td>
</tr>
<tr>
<td>lacking parental care</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Institutions for care of</td>
<td>3</td>
<td>378</td>
</tr>
<tr>
<td>persons with disabilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Institutions for professional</td>
<td>1</td>
<td>149</td>
</tr>
<tr>
<td>training and employment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>of disabled persons</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enterprises for employment</td>
<td>251</td>
<td>2 292</td>
</tr>
<tr>
<td>of disabled persons</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Institutions for care and education of children and juveniles (25th may)</td>
<td>1</td>
<td>25</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Reception centres for children and juveniles with educational and social difficulties (Ranka Milanovic)</td>
<td>1</td>
<td>48</td>
</tr>
<tr>
<td>Institutions for adults</td>
<td>15</td>
<td>854</td>
</tr>
</tbody>
</table>

Table 4 - Violent crime committed by juveniles

<table>
<thead>
<tr>
<th>Crime</th>
<th>Reported</th>
<th>Convicted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Murder</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Murder in the heat of passion</td>
<td>1</td>
<td>/</td>
</tr>
<tr>
<td>Bodily harm</td>
<td>34</td>
<td>25</td>
</tr>
<tr>
<td>Grievous bodily harm</td>
<td>31</td>
<td>31</td>
</tr>
<tr>
<td>Participation in a brawl</td>
<td>13</td>
<td>17</td>
</tr>
<tr>
<td>Threatening with a dangerous instrument during a brawl or a quarrel</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>Facilitating the use of narcotics, psychotropic substances and precursors</td>
<td>2</td>
<td>11</td>
</tr>
<tr>
<td>Unauthorized production and release for trade of narcotics, psychotropic substances and precursors</td>
<td>9</td>
<td>4</td>
</tr>
<tr>
<td>Theft</td>
<td>119</td>
<td>88</td>
</tr>
<tr>
<td>Aggravated theft</td>
<td>652</td>
<td>329</td>
</tr>
<tr>
<td>Robbery</td>
<td>77</td>
<td>54</td>
</tr>
<tr>
<td>Armed robbery</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>Damage or destruction of goods under temporary protection or cultural heritage or natural rarities</td>
<td>2</td>
<td>/</td>
</tr>
<tr>
<td>Causing general danger</td>
<td>13</td>
<td>6</td>
</tr>
<tr>
<td>Destruction or damage to public Installations</td>
<td>1</td>
<td>/</td>
</tr>
<tr>
<td>Endangering traffic safety with a dangerous act or means</td>
<td>41</td>
<td>/</td>
</tr>
<tr>
<td>Causing national, racial or religious hate, discord and intolerance</td>
<td>1</td>
<td>/</td>
</tr>
<tr>
<td>Obstructing an official in the performance of official duties</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Act of violence</td>
<td>24</td>
<td>28</td>
</tr>
<tr>
<td>Illegal possession of weapons or explosive materials</td>
<td>7</td>
<td>3</td>
</tr>
<tr>
<td>Rape</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Sexual assault of a minor below 14</td>
<td>11</td>
<td>4</td>
</tr>
<tr>
<td>Mediation in prostitution</td>
<td>1</td>
<td>/</td>
</tr>
<tr>
<td>Showing pornographic material to a child</td>
<td>2</td>
<td>/</td>
</tr>
</tbody>
</table>
Table 5. – Children victims of trafficking and extramarital relationship with a child (juvenile)

<table>
<thead>
<tr>
<th>Year</th>
<th>Centre for Social work</th>
<th>Sectors for internal affairs/police</th>
<th>Courts</th>
<th>NGO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Child victim extramarital relationship</td>
<td>Trafficked children</td>
<td>Child victim extramarital relationship</td>
<td>Trafficked children</td>
</tr>
<tr>
<td>2008</td>
<td>/</td>
<td>1</td>
<td>18</td>
<td>3</td>
</tr>
<tr>
<td>2009</td>
<td>5</td>
<td>1</td>
<td>20</td>
<td>15</td>
</tr>
<tr>
<td>2010</td>
<td>3</td>
<td>2</td>
<td>16</td>
<td>5</td>
</tr>
<tr>
<td>2011</td>
<td>8</td>
<td>2</td>
<td>16</td>
<td>5</td>
</tr>
</tbody>
</table>

Table 6 – Criminal justice

<table>
<thead>
<tr>
<th>Crimes for 2011</th>
<th>Reported adult</th>
<th>Accused minor</th>
<th>Convicted adult</th>
<th>Convicted minor</th>
<th>Sentences adult</th>
<th>Sentences minors</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Production and distribution of child pornography through a computer system</td>
<td>1</td>
<td>/</td>
<td>1</td>
<td>/</td>
<td>1</td>
<td>/</td>
</tr>
<tr>
<td>Rape</td>
<td>30</td>
<td>21</td>
<td>18</td>
<td>3</td>
<td>13</td>
<td>/</td>
</tr>
<tr>
<td>Sexual assault of a juvenile person who has not turned 14 years of age</td>
<td>31</td>
<td>11</td>
<td>30</td>
<td>4</td>
<td>24</td>
<td>1</td>
</tr>
<tr>
<td>Mediation in conducting prostitution</td>
<td>4</td>
<td>1</td>
<td>1</td>
<td>/</td>
<td>/</td>
<td>/</td>
</tr>
<tr>
<td>Showing pornographic material to a child</td>
<td>2</td>
<td>2</td>
<td>/</td>
<td>/</td>
<td>/</td>
<td>/</td>
</tr>
<tr>
<td>Incest</td>
<td>1</td>
<td>1</td>
<td>/</td>
<td>/</td>
<td>/</td>
<td>/</td>
</tr>
<tr>
<td>Trafficking with children</td>
<td>18</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>/</td>
<td>/</td>
</tr>
<tr>
<td>Total</td>
<td>87</td>
<td>57</td>
<td>48</td>
<td>41</td>
<td>1</td>
<td>6</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Crimes for 2011</th>
<th>Reported</th>
<th>Accused</th>
<th>Convicted</th>
<th>Sentences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abduction of a minor</td>
<td>64</td>
<td>44</td>
<td>35</td>
<td>6</td>
</tr>
<tr>
<td>Neglecting and mistreating a minor</td>
<td>84</td>
<td>15</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>Non-payment of maintenance</td>
<td>257</td>
<td>233</td>
<td>215</td>
<td>17</td>
</tr>
<tr>
<td>Total</td>
<td>405</td>
<td>292</td>
<td>258</td>
<td>29</td>
</tr>
</tbody>
</table>

Note: No specific statistical data on accused minors.
Annex 2- List of documents reviewed

**STATE DOCUMENTS**


Megjashi (2009), *The field research report on perception of children’s rights, discrimination and children’s exposure to violence*


Action Plan on Prevention and Management of Sexual Abuse Of Children And Paedophilia 2008-2012

National Strategy for Protection Against Domestic Violence 2008-2011

National Strategy on Juvenile Justice 2012 – 2015

National Program for Social Protection 2011-2021


Ombudsman, (2011), *Child Protection From Economic Exploitation*, Compilation of Presentations from the Annual Conference of the Network of Children Ombudsperson in South-Eastern Europe (CRONSEE), in collaboration with Save the Children – Norway

Ombudsperson, (2012), *Report on the Research of the Phenomenon Sexual Abuse and Sexual Exploitation*

Program for Resocialisation of Victim of Trafficking


*Procedures on Persons Affected by Violence and Abuse* (DRAFT), UNICEF

**REFERENCES**


UN and EUROPEAN COUNCIL CONVENTIONS AND DOCUMENTS
UN Convention on the Rights of the Child
Concluding Observations, 11 June 2011 - CRC/C/MKD/CO/2

Council of Europe Convention on the Child protection Against Sexual Exploitation and Sexual Abuse


Council of Europe Recommendation 1601 (2003): Improving the Lot of Abandoned Children in Institutions

Council of Europe Recommendation No R (93) 2 on Medico-social Aspects of Child Abuse

Council of Europe Recommendation No R (98) 8 on Children’s Participation in Family and Social Life

LEGISLATIONS

Laws

Primary Laws

Criminal Code
Criminal Procedure Code
Law on Family
Juvenile Justice Law
Law on Social Protection
Law on the Registry of Child Sexual Abuse and Paedophilia
Law on Healthcare Protection
Law on the Protection of Patients Rights
Law on Elementary Education
Law on Police

Secondary Legislation

Rulebook On The Manner Of Enforcing And Monitoring The Pronounced Measures For Protection Of The Family And Victims Of Domestic Violence Undertaken By The Centre For Social Work And About The Manner Of Monitoring The Interim Measures For Protection From Domestic Violence Pronounced By The Court (Official Gazette Of Republic Of Macedonia No. 80/92, 9/96, 38/04 And 33/06)


Rulebook on the criteria for choosing a foster family, the type and number of beneficiaries who can be accommodated in a foster family as well as the type and form of services from social protection which are provided to the accommodated persons. (2010)

Rulebook – centres for perpetrators of family violence
Rulebook – register sex offenders

Rulebook on the standards and normative for conducting the activities in an institution for social protection Day care centre for street children (2005)

Rulebook on the standards and normative for conducting the activities in the kindergarten (2009)

Rulebook on the Form and Contents and the Procedure for Maintaining a Register for Execution of Assistance and Protection Measures for Children and Juveniles at Risk (2008)

Legislations of Other Countries

United Kingdom Children’s Act 1989


Malaysia Child Act 2001
## Annex 3 – List of Professionals Interviewed

<table>
<thead>
<tr>
<th>NAME</th>
<th>DESIGNATION &amp; INSTITUTION</th>
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</thead>
<tbody>
<tr>
<td>Ms. Elka Todorovska</td>
<td>National Commission for Protection of Children from Abuse and Neglect</td>
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<tr>
<td>Ms. Elena Lazovoska</td>
<td></td>
</tr>
<tr>
<td>Ms. Irena Todorovska</td>
<td>Ministry of Labour and Social Policy</td>
</tr>
<tr>
<td>Ms. Bilijana Jarcevska</td>
<td>Head of Marriage and Family Department – CSW, Skopje</td>
</tr>
<tr>
<td>Ms. Iva Mihajlovskova</td>
<td>Children’s Rights Section- Ombudsman</td>
</tr>
<tr>
<td>Ms. Dimitrinka Jordanova Pesevska</td>
<td>World Health Organization</td>
</tr>
<tr>
<td>Ms. Lilijana Jakovcevska</td>
<td>Advisor – Ministry of Interior</td>
</tr>
<tr>
<td>Mr. Goran Popovski &amp; Inspectors</td>
<td>Inspector – Department of Juveniles</td>
</tr>
<tr>
<td>Ms. Tanja Ristova</td>
<td>Director of Institute for Social Activity</td>
</tr>
<tr>
<td>Ms. Snezana Pajovic Misevska</td>
<td>Sex abuse and Juvenile</td>
</tr>
<tr>
<td>Ms. Nevena Petrova</td>
<td>Street Children/ children with disabilities</td>
</tr>
<tr>
<td>Ms. Bilijana Kazakovska</td>
<td>Domestic Violence</td>
</tr>
<tr>
<td>Ms. Nermina Fakovic</td>
<td>Ministry of Health</td>
</tr>
<tr>
<td>Dr. Marija Ravela</td>
<td>Clinical Centre</td>
</tr>
<tr>
<td>Ms. Meri Boshkova</td>
<td>Institute for Mental Health for Children and Youth</td>
</tr>
<tr>
<td>Ms. Rozeta</td>
<td>Counsellor – Counselling Centre</td>
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<tr>
<td>Megjashi</td>
<td></td>
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<tr>
<td>Ms. Irena Velkovska</td>
<td>Social Worker – Day Care Centre for Street Children</td>
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</tbody>
</table>
Annex 4 – Policies and Action Plans

Since 2000, the country has given special focus to the enhancement of the rights of children and the protection of children. Legal reform has been given serious consideration to harmonise national legislation to those rights outlined in the UN Convention on the Rights of the Child, the Rights enshrined in Council of Europe Recommendations and European Conventions relating to children.

In 2006, The Government adopted a second National action plan on the rights of the child (2006 - 2015), and a National committee on the rights of the child was established in 2007.

In 2008, an inter-ministerial group was charged with developing an Action Plan to Prevent and Combat Sexual Abuse against Children and Paedophilia. Action plan was adopted in December 2008.

In 2009, the Parliament established a National coordination body for implementation of the action plan for prevention of sexual abuse and pedophilia for the period 2009 – 2012.

In 2010, a Coordination body for monitoring and evaluating the implementation of the National strategy for protection from family violence 2008-2011 was established.

In 2012, a National coordination body for protection of children from abuse and neglect was established as well. One of the many responsibilities of this body is to prepare a unified single protocol for all involved institutions regarding reporting and investigation of abuse and neglect; to liaise with NGOs; drafting laws, (sub) legal documents; the body is responsible for its work to the Government, where it submits its reports every 6 months.

In addition, there is a body of policy documents as are the action plan for street children (2013 – 2015); Action plan for prevention of sex abuse and pedophilia (2009 – 2012); National strategy on family violence (2012 – 2015), etc. which tackle different aspects of possible child abuse, neglect and violence.

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41 This National Action Plan includes provisions that aim at increasing protection of children’s rights, establishing non-discrimination, achieving higher standards of education, health care and social care. The policies this plan espouses also aim at reducing various factors of social exclusion that push children into poverty. The Plan details short, medium and long-term strategic goals.