INTRODUCTION

In 2010, a European project addressing Youth Sexual Aggression and Victimization (Y-SAV) was launched. Y-SAV is a three-year project co-financed by the European Union in the framework of the Health Programme to address the issue of sexual aggression and victimization among young people. The project aims to build a multidisciplinary network of European experts in various member states, bring together the knowledge on youth sexual aggression and victimization in a state-of-the-art database, develop a more harmonised way of measuring these issues and provide recommendations for strategic action to address the problem of youth sexual aggression under different circumstances in different EU member states.

This report is part of the Y-SAV knowledge base. The knowledge base presents information regarding youth sexual aggression and victimization for each EU member state. This report presents the current situation in Malta regarding policies, legislation, organisations, prevalence, risk factors and evidence-based interventions in the area of youth sexual aggression and victimization.

This report was compiled by the Y-SAV principal investigators at the University of Stockholm (Sweden), Rutgers WPF (The Netherlands) and the University of Potsdam (Germany).
## TABLE OF CONTENTS

Government and policies.................................................................................................................................. 1  
Legal situation.................................................................................................................................................. 3  
Institutions, organisations and services......................................................................................................... 5  
Research on prevalence, risk factors and evidence based interventions.................................................... 6
GOVERNMENT AND POLICIES

Ministries
The ministry responsible for youth issues is The Ministry of Culture, Youth and Sport, which has a Youth Department. The main tasks of the department are to support NGOs and agencies and to promote participation of young people in society. Besides the ministries (and other ministries, like The Ministry For Social Policy, involved in youth matters) there is a Commissioner for Children and a National Commission for the Promotion of Equality.

The National Youth Agency was officially inaugurated on the 5th February 2011. The Agency has the aim to implement youth policy, to put young people’s interests at the forefront through mainstreaming, conduct research related to young people as well as implement programmes, which work towards their empowerment and well-being.¹

The National Sexual Health Policy for the Maltese Islands promotes ‘services to prevent and respond to sexual violence’ and support for victims of rape of various ages.²

Policies
The first Youth Policy was published in 1994 and has been renewed and updated regularly by the government in collaboration with other important stakeholders. It is a transversal policy which covers various issues, e.g. education, employment, health, participation and social inclusion and recreation. Some national programmes emanate from the Youth Policy, e.g. on social inclusion, employment and media, but there has been no programme on youth sexual life.

The existing national youth policy encourages youth work projects and initiatives related to the promotion of sexual health amongst young people.³

Current discussion
Current issues discusses are the barriers to prosecution including the necessity of the complaint of the victim and also the stigma that is attached to women victims of sexual violence offences.⁴

A sexual assault response team through a co-ordinated approach is proposed. Professionals from the Ministry for Health and Mater Dei Hospital, Agenzija Appogg, the Police, Victim Support Malta, the Malta Council for Women Organisations and the Ministry for Justice and Home Affairs are working together to find the most efficient manner of providing a specialised service to respond effectively and sensitively to victims of crimes of a sexual nature and gender based violence amongst which: date rape, stranger rape, sexual assault and sexual abuse from a known partner.⁵ These different bodies are proposing a sexual assault response team consisting of a forensic nurse, a gynaecologist, a psychologist, a police inspector, a social worker and Victim Support Malta to be on call. When a survivor of sexual assault, arrives in the hospital, they would be immediately triaged by the forensic nurse in a dedicated room within Mater Dei Hospital while the SART (sexual assault response team) is informed. The on-call SART members would respond promptly to the hospital call to provide a medical and forensic examination and provide crisis intervention and advocacy/support for the survivor.

¹ www.agenzijazghazagh.gov.mt/Categories/802/About_Us/
³ Available at www.agenzijazghazagh.gov.mt/Categories/819/The_National_Youth_Policy/
On-going longer term support would also be provided through the Victim Support Malta. A holistic professional approach may help and additionally end the shame of the many survivors of such assaults. To date, this response team has not yet been set up.

The Malta Confederation of Women’s Organisations has just proposed and called for the strengthening of legislation, policies, structures and resources to effectively help female victims/survivors of violence. It addressed the main authorities concerned. It condemns all violence, crimes of rape and violent assault against women of all ages, including young women.⁵

⁵www.mcwo.net/2011/12/mcwo-proposals-for-amendments-to-legislation-on-violence-against-women
LEGAL SITUATION

i. Law and legal definitions

Offences of rape and sexual violence are considered in the Criminal Code under Title VII which is named ‘of crimes affecting the good order of families’ and are as such approached from a family unit perspective. Often the relationship between the perpetrator and the victim is recognised as an aggravation of the offence and a higher punishment is established.

The main legal provision that deals with rape is found in Article 198 of the Criminal Code and reads as follows: ‘Whosoever shall, by violence, have carnal knowledge of a person of either sex, shall, on conviction, be liable to imprisonment for a term from three to nine years, with or without solitary confinement.’

Consequently this offence covers not only the act of sexual penetration but also other sexual acts that fall short of sexual penetration. For an offence of rape specifically however the law requires sexual penetration or at least its commencement and also requires the element of violence. In this regard therefore the law does not only require ‘force’ but also lack of consent. Violence is assumed to have been present for adults only when the victim ‘was unable to offer resistance owing to physical or mental infirmity, or for any other cause independent of the act of the offender, or in consequence of any fraudulent device used by the offender.’ Consent is considered to be absent and consequently violence is presumed where the offence of ‘carnal knowledge’ or ‘indecent assault’ is perpetrated on a person under the age of 12, or when the victim was unable to offer resistance owing to physical or mental infirmity, or for any other cause independent of the act of the offender, or in consequence of any fraudulent device used by the offender. Case law is not sufficient to indicate whether a victim who is ‘voluntarily’ under the influence of alcohol or drugs is to be considered as infirm and consequently unable to provide a valid consent.

The law also recognises the offence of indecent assault which again necessitates a lack of consent. Even in this case violence is assumed to have been present for adults only when the victim ‘was unable to offer resistance owing to physical or mental infirmity, or for any other cause independent of the act of the offender, or in consequence of any fraudulent device used by the offender.’ Article 207 of the Criminal Code provides an all-encompassing offence of ‘violent indecent assault’ and is as such inclusive of ‘any violent indecent assault which does not, in itself, constitute any of the crimes, either completed or attempted, referred to in the preceding articles of this sub-title...’ In this manner, where an assault does not reach the threshold required for these offences, the act may still be condemned as a criminal offence under this article.

Article 544 of the Criminal Code specifically provides that criminal proceedings will not be instituted in the case of rape, abduction or violence indecent assault except upon the complaint of the private party. However where this offence is accompanied with public violence, domestic violence or with any other offence affecting public order then prosecution will not depend on the complaint of the victim. When prosecution depends on the complaint of the victim then the complainant may at any time before final judgment is delivered waive his/her complaint. Such waiver will stop proceedings unless the accused objects to such waiver in which case the trial will proceed as if the complaint had not been waived. Where the complainant withdraws his/her complaint after the opening of trial and it appears to the court that the complaint was frivolous or vexatious, or made with the object of extorting money or other effects, or making any other gain, then the court may direct that proceedings be instituted against the complainant and if convicted may be sentenced to detention or to a fine.

Legislation on the concept of rape in marriage has only been recently drafted, this pertaining to Article 198 (Rape) and Article 202 (Aggravating Circumstance) of the Criminal Code.

 Victims may participate in criminal proceedings as a ‘civil party’ and in this respect may be represented by his/her own legal representatives. However victims are not afforded legal aid where they wish to engage lawyers to participate as a party to the proceedings. Participation in proceedings will provide the victim’s representatives with the faculty of examining witnesses and also of presenting submissions.
Official statistics
Malta has amongst the lowest rate of rape reports in Europe, in 2005 there were 1.7 reports per 100,000 persons. In 2009 the same figure was 2.9.  

In 2009 there were 23 cases in the whole of last year, 25 in 2008, 23 in 2007 and 27 in 2006. In the year 2000 there were 31 cases, the highest in the past 10 years. These include women of different ages. According to the parliamentary question 4464, those accused of rape in 2008 were of various nationalities, from Malta, Sudan, Libya, Somalia, Marocco, Niger and the Ivory Coast. The age of the victims ranged from 6-60 years.

Legal studies
It is difficult to analyse any court judgments in this respect as these judgments are not easily available. The official database of court judgments only provides 5 judgments under the key word of rape and they are not recent sentences.

However if one had to consider these 4 judgments the following results emerge: in the judgment of Police v. Omissis from a maximum of 19 years imprisonment, the sentence given was 4 years. The same conviction for 4 years was also given by the Criminal Court to a person accused of rape of a patient held in the national psychiatric hospital. Attempted rape in a place accessible to the public was punished with 3 months imprisonment in a case determined in 1997. These judgments alone do not suffice for an adequate consideration of the average punishment given by national courts. It is also to be noted that sentencing will heavily depend on the facts and circumstances as proved during the specific proceedings thereby having a direct bearing on the punishment given.

---

INSTITUTIONS, ORGANISATIONS AND SERVICES

i. National level
The Foundation for Social Welfare Services (FSWS) incorporates the three main agencies within the Ministry for Social Policy and which are Agenzija Sedqa, Agenzija Appogg and Agenzija Sapport. These offer comprehensive programmes of prevention, support and treatment services, both on community and residential settings within the fields of abuse, children, families and adults in need. The foundation is led by a Board of Directors that is chaired by the Permanent Secretary at the ministry.

There is a National Youth Council coordinating the work of NGOs and serves as a link between young people and decision makers. This council does not specifically relate to Y-SAV or to sexual health.

The School Psychological Services provide support and therapy to young people with special educational needs due to physical, mental, perceptual, emotional, behavioural and other difficulties arising from a number of causes including those related to sexual health problems and to sexual aggression and victimization. This service, provided at a national level extends also to the parents of young people affected by these problems.  

ii. Regional/local level
There are no regional authorities in Malta. In the municipalities there are Local Councils with participation of young people’s organisations. The Foundation for Social Welfare Services provides much of the social work in the municipalities, in cooperation or in combination with other agencies (public and non-public). These councils do not specifically relate to Y-SAV or to sexual health.

<table>
<thead>
<tr>
<th>Appogg</th>
</tr>
</thead>
<tbody>
<tr>
<td>Website</td>
</tr>
<tr>
<td>Type of organisation</td>
</tr>
<tr>
<td>Short description</td>
</tr>
</tbody>
</table>

RESEARCH ON PREVALENCE, RISK FACTORS AND EVIDENCE BASED INTERVENTIONS

Inclusion criteria: Studies from 2000 onwards; only studies reporting youth sexual aggression (excluding cases of childhood sexual abuse, as defined by legal age of consent).

<table>
<thead>
<tr>
<th>No.</th>
<th>Author</th>
<th>Year of publication</th>
<th>Prevalence data</th>
<th>Incidence data</th>
<th>Perpetration data</th>
<th>Victimization data</th>
<th>Heterosexual aggression</th>
<th>Same-sex aggression</th>
<th>Risk factors/outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Camilleri-Cassar, F., &amp; Azzopardi, J.</td>
<td>2008</td>
<td>x</td>
<td>-</td>
<td>-</td>
<td>x</td>
<td>x</td>
<td>-</td>
<td>x</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>


http://www.medinstgenderstudies.org/national-findings-reports-date-rape-cases-among-young-women/


Type of sample: Random selection among female college students.

Sample composition:
- \( N = 150 \) females + 2 focus groups.
- Age: 18-24 years.

Design:
- Cross-sectional.
- A part of a larger study \( N = 1.857 \) conducted by five European countries: Cyprus, Greece, Latvia, Lithuania and Malta.

Measurement of sexual aggression:
Questionnaire included attempted and completed rape; based on Rickert et al. (2004) and Zeitler et al. (2006).

Examples for items:
'Please review each behaviour below that may have happened on a date during the last 12 months.' A list of several sexual behaviours was presented to the participants e.g.:
- performed oral sex on person;
- had sexual intercourse;
- responses: my date TRIED to against my wishes/my date DID this anyway against my wishes.

Type of data collected:
- Prevalence (lifetime) in heterosexual encounters.
- Victimization reports from women.

Relationship(s) between victim and perpetrator:
Specified: reported unwanted sexual experience were often perpetrated by a person that the respondents considered to be their boyfriend, friend or sexual partner, in most cases the respondent knew the perpetrator for a period of a few months or several years.

Incidence: N/A

Prevalence:
Summary of prevalence findings regarding victimization
Overall prevalence of unwanted sexual experience: 15.7% 

Attempted date rape:
- 3.3% oral sex, 4.9% sexual intercourse.

Completed date rape:
- 0.8% oral sex, 0.8% sexual intercourse;
- reported unwanted sexual experience were often perpetrated by a person that the respondents considered to be their boyfriend, friend or sexual...
partner, in most cases the respondent knew the perpetrator for a period of a few months or several years.

<table>
<thead>
<tr>
<th>Findings regarding risk factors</th>
<th>Summary of findings regarding risk factors for victimization</th>
</tr>
</thead>
</table>
| Considered risk factors: alcohol drinking, drug use. | • All participants who reported unwanted sexual experiences also reported that their partners had been drinking alcohol and/or using drugs.  
• 41.2% of the participants reported having 2-3 alcoholic drinks during a date. |
| Findings regarding outcomes or consequences | N/a |

References studies
