

# Malta **Gay** Rights Movement



## Towards a Robust Human Rights & Equality Framework

### SCOPING CONSULTATION

**Do you think that human rights and equality are sufficiently protected and promoted in Malta? If not:**

There have been some important changes for Malta's lesbian, gay, bisexual and transgender (LGBT) people since 1973, when the law criminalising sodomy was repealed. These have included the transposition of the EU's Employment Framework and Freedom of Movement Directives; the amendment to the Criminal Code regulating hate crimes, extending the scope of the law to include sexual orientation and gender identity and the extension of the National Commission for the Promotion of Equality (NCPE) remit to include these grounds. There was also the introduction of articles 257 of the Civil Code allowing for the change in name and gender annotations in official documents of post-operative transgender persons as well as Bill No. 5 of 2013 implementing changes to the Civil Code by which trans persons shall be considered for all civil purposes, including with regard to the capacity of that person to exercise the right to marry, as belonging to the acquired sex.. These have given LGBT people some of the basic legal rights and protections that other people have long taken for granted.

However, LGBT people continue to face prejudice and discrimination on a regular basis and in a number of spheres.

Taking the above into consideration, this feedback outlines recommendations and actions that the Maltese Parliament and Executive can take to bring true equality, freedom from discrimination and human rights violations, within reach for lesbian, gay, bisexual and transgender people in Malta.

#### **a. Which human rights do you believe need further protection and promotion?**

### 1. Gender Identity

- The Maltese Government should take all necessary legislative, administrative and other measures to fully respect and legally recognise each person's self-defined gender identity to introduce a comprehensive Gender Identity Bill that would facilitate the gender recognition of transgender persons irrespective of whether they have undergone gender reassignment surgery.

- The Maltese Government should ensure access to health services for trans gender persons who chose to undergo gender confirmation surgery.

## 2. Education and young people

- The Maltese Government and the Education Directorates should take immediate steps to counter the discrimination faced by young LGBTIQ people and young people within LGBTIQ families, ensuring policies provide adequate protection for students, staff and teachers of different sexual orientations and gender identities against all forms of social exclusion within the school environment, including bullying and harassment.
- The Maltese Government should take immediate steps to ensure that transgender or intersex students are able to have their preferred gender recognised and to be treated as such by all educational institutions irrespective of their legal status, thus ensuring that all students have access to opportunities and resources for lifelong learning without discrimination.
- The Maltese Government should ensure that education methods, curricula and resources serve to enhance understanding of and respect for, *inter alia*, diverse sexual orientations and gender identities, including the particular needs of students, their parents and family members related to these grounds.

## 3. Equality in employment and services

- The Government should intensify its efforts to mainstream equality, including LGBTIQ equality, in all areas of public service.
- The Maltese Parliament should legislate to extend anti-discrimination legislation in the provision of goods and services to the grounds of sexual orientation, gender identity and gender expression.
- Working with the NCPE and the LGBTIQ voluntary sector, the Government should promote equality and fairness, including for LGBTIQ people, in employment and access to goods and services.

## 4. Equality for LGBT families

- The Maltese Government should provide equal rights and recognition at par with marriage to same-sex couples by taking all necessary legislative, administrative and other measures to ensure that any right, obligation, entitlement, privilege or benefit available to different-sex partners is equally available to same-sex unmarried partners.
- The Maltese Parliament should amend the Embryo Protection Act to decriminalise and allow for third party gametes donation and provide equal access to reproductive health services to individuals and couples irrespective of sexual orientation and gender identity,
- The Maltese Government should legislate and take all administrative and other measures to allow for third party and second parent adoption by same sex couples, ensuring LGBTIQ people's right to found a family, without discrimination on the basis of sexual orientation and gender identity.

## 5. Intersex

- The Maltese Government should review current medical practices in respect of intersex conditions and put an immediate stop to those practices that infringe the fundamental human rights of intersex persons, such as the right to bodily integrity.
- The Maltese government should carry out a research study investigating the experiences of intersex people in Malta and the understanding of intersex issues within a Maltese context by looking at current medical practices. The aim at this stage would be to gather basic information that can guide policy and law development in the field of Intersex rights in Malta.

### b. How can Malta better protect and promote human rights and equality overall?

- By drawing up a National Action Plan outlining a clear human rights framework and the targets that the government wishes to achieve during the current legislature.
- By ensuring that NGO's and other actors within civil society are properly consulted on issues that are of direct concern to them.
- By making clear public commitments to human rights and LGBTIQ equality and speaking out against prejudice when it is expressed by others, thus ensuring that the exercise of freedom of opinion and expression does not violate the rights and freedoms of persons of diverse sexual orientations and gender identities.
- The Government should use its media profile to promote the message that transphobic and homophobic prejudice and discrimination are unacceptable.
- The Maltese Parliament should ensure that the NCPE places a high priority on promoting respect for the dignity and worth of all people and that it is adequately resourced in order for it to be effective given the extension in its remit.