

Malta **Gay Rights Movement**

Equality for lesbian, gay, bisexual and transgender people in the 2013 – 2018 legislative period

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for Malta's lesbian, gay, bisexual and transgender (LGBT) people since 1973, when the law criminalising sodomy was repealed.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. 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 document 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.

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 and which would ensure that such recognition had effect on all spheres of life including marriage.

2. Education and Young People

- The Maltese Government and the Education Directorates should take immediate steps to counter the discrimination faced by young LGBT people and young people within LGBT 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 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. Leadership Against Prejudice

- The Maltese Government and Parliament should make clear public commitments to LGBT equality, and should speak 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.

4. Equality in Employment and Services

- The Government should intensify its efforts to mainstream equality, including LGBT 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 LGBT voluntary sector, the Government should promote equality and fairness, including for LGBT people, in employment and access to goods and services.

5. 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 LGBT people's right to found a family, without discrimination on the basis of sexual orientation and gender identity.

The MGRM is therefore requesting all political parties to reply to the following questionnaire stating their commitment to the various recommendations and actions outlined in this document.

		PL	AD	PN
1	GENDER IDENTITY Our Party will legislate to introduce a Gender Identity bill that would allow for the following:			
	Access to gender recognition to post-operative, non-operative and pre-operative transgender persons	Y	Y	
	Access to gender recognition to minors with parental consent	Y	Y	
	Gender recognition having effect on all spheres of life including marriage	Y	Y	
2	EDUCATION AND YOUNG PEOPLE Our party will take immediate steps to counter the discrimination faced by young LGBT people and young people with LGBT families by:			
	Working with LGBT NGO's to draw up a strategy to address homophobic, biphobic and transphobic bullying	Y	Y	
	Review teaching resources and curriculum to ensure inclusivity and mainstreaming of LGBT issues across subjects	Y	Y	
	Introduce a clear policy on the recognition of the preferred gender of transgender students irrespective of legal status	Y	Y	
3	LEADERSHIP AGAINST PREJUDICE			
	Our party make clear public commitments to LGBT equality, and should speak out against prejudice when it is expressed by others	Y	Y	
	Promoting the message that transphobic and homophobic prejudice and discrimination are unacceptable.	Y	Y	
	Our party will ensure that the NCPE be given high priority on promoting respect for the dignity and worth of all people and that it is adequately resourced.	Y	Y	
4	EQUALITY IN EMPLOYMENT AND SERVICES			
	Our party will legislate to extend anti-discrimination legislation in the provision of goods and services to the grounds of sexual orientation, gender identity and gender expression.	Y	Y	
	Our party will mainstream equality, including LGBT equality in all areas of public service.	Y	Y	
	Our party will work with the NCPE and NGOs to promote equality and fairness, including for LGBT people, in employment and access to goods and services.	Y	Y	
5	EQUALITY FOR LGBT FAMILIES Our party will take immediate steps to provide for equal recognition of same-sex couples at par with marriage through:			
	The introduction of marriage equality	N	Y	

	The introduction of civil unions or civil partnership at par with marriage	Y	Y	
	Some other form of recognition. Please specify:	N	Y	
	Our party will take immediate steps to allow same-sex couples access to third party and second parent adoption	Y	Y	
	Our party will amend the Embryo Protection Act to decriminalise third party gametes donation and allow equal access the reproductive health services to individuals and couples irrespective of sexual orientation	N	Y	

6 Please list here any other rights or initiatives your party is committing to for the next legislative period:		
PL	AD	PN
<p>(i) The introduction of a cabinet politician directly responsible for Civil Liberties and Equality.</p> <p>(ii) Founding a Consultative Council with the participation of NGOs representing the LGBT Community to advise government on issues related to the LGBT community.</p> <p>(iii) Strengthening the powers of the Commission for Employment to protect individuals from discrimination on the basis of sexual orientation and gender identity at the place of work.</p> <p>(iv) Discuss and come to a conclusion with the LGBT Consultative Council on the signing of Protocol 12 of the United Nations that ensures that there is no discrimination against same-sex couples.</p> <p>(v) Strengthen public policy against discrimination on the basis of sexual orientation and gender identity in the public service, the police force and the armed forces.</p>	<p>Alternattiva Demokratika will work to revise existing equality legislation and ensure the highest human rights standards. This is clear through our intention to include sexual orientation and gender identity in the Constitution, and guaranteeing the right to a free standing right to equality under Protocol 12 of the European Convention. Besides, we will work for the adoption of a 'National Human Rights and Equality Plan' which would be put together in consultation with the LGBT community. We will also support a similar strategy at EU level.</p> <p>AD Election Manifesto pg 104:</p> <p>“There should be a national human right and equality plan ensuring full inclusion of LGBT persons in Maltese society. This plan should be developed following a dialogue with the Maltese LGBT community. There should be a constitutional amendment by means</p>	

<p>(vi) Ensure that members of the police force are given adequate training to safeguard victims of hate crimes and protect them when reporting hate-incidents.</p> <p>(vii) Review the policy on blood donation to be based on scientific research rather than prejudice.</p>	<p>of which discrimination on the basis of sexual orientation and gender identity would be prohibited.”</p> <p>“Protocol 12 of the European Convention on Human Rights should be ratified, and Malta should take a more active role in the promotion of human rights of LGBT persons at the international level.”</p> <p>¹ <i>The legislative model supported by AD is one based on the Argentinean Trans Law which was hailed around the world by human rights organisations as the best trans law in the world. AD will also ensure that Maltese legislation meets all the human rights and healthcare standards & in line with the Council of Europe Commissioner for Human Rights' recommendations in 'Gender Identity & Human Rights: Issue Paper'¹ (2009).</i></p> <p>AD Election Manifesto pg 104:</p> <p>“The state should immediately recognise the gender identity of persons who have assumed a new gender identity and this should be reflected in the person’s official documents such as identity card and passport. The state should allow these persons to marry.”</p> <p>¹ AD's Election Manifesto provides a lot of attention to education. Success in this field can only be guaranteed if all are able to learn without discrimination.</p>	
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	<p>AD Election Manifesto pg 62:</p> <p>“A Gender Policy should also be drawn up in an effort to address in a systematic way issues related to an understanding of the power issues between the sexes and the need for mutual respect. This should inter alia lead to an educational programme with boys in particular on whom the quality of the relationship between women and men in the present and future depend.</p> <p>For an educational system flaunting an inclusive streak, gender segregation is a contradiction. The possibility of co-education should therefore be addressed. This arrangement makes more sense within the context of single-child families and also the pervading individualist streaks that are reducing the possibilities of social interaction. AD reserves a word of caution in that a co-ed system can still propagate inequalities between the sexes unless there is adequate gender mainstreaming and sensitization and a conscious effort by the educational community to engage with the issues in educational practice.</p> <p>[...]</p>	
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	<p>AD also insists on the need to address the needs of LGBT persons within the educational community that include both staff and students. The needs of this community are currently not being addressed with the consequence that a lot of hurt is going unnoticed in our schools. AD feels that in the name of justice it is the duty of an educational system to address the needs of this category of people.”</p> <p>¹ No difference between marriage of heterosexual and same-sex couples either in name or in rights/obligations.</p> <p>AD Election Manifesto pg 104:</p> <p>“There should be full equality between same-sex couples and heterosexual couples in every aspect of life. The state should open the institution of civil marriage to same-sex couples and hence provide the same rights and obligations to all couples (irrespective of whether they are heterosexual or of the same sex).”</p> <p>¹ Alternattiva Demokratika is not contrary to the creation of a parallel institution to marriage for those couples that do not intend to get married but would nonetheless like to have a civil registration of their partnership. However, Alternattiva Demokratika</p>	
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	<p>would not deem appropriate that such a model is established on a distinction on the grounds of sexual orientation whereby heterosexual couples would be automatically excluded from entering into civil unions, and where same-sex couples remain barred from access to marriage.</p> <p>Alternattiva Demokratika believes that any new institution should to be open to all couples without discrimination or segregation.</p> <p>¹ By this we mean (i) joint adoption, (ii) second parent adoption and (iii) fertility treatment (e.g. IVF/sperm donation to single women and lesbian couples).</p> <p>AD Election Manifesto pg 104:</p> <p>“Full equality should also be guaranteed, among others, for the right to IVF treatment and to adoption regardless of sexual orientation and civil status.”</p>	
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