**QUESTIONNAIRE**

**“NON - DISCRIMINATION AND EQUALITY IN FAMILY AND CULTURAL LIFE”**

In accordance with its mandate, the UN Working Group on the issue of Discrimination against Women in Law and Practice (hereinafter “the Working Group”) developed this questionnaire to gather information on how laws and practices discriminate against women within the family and cultural life. Additionally, this questionnaire has the objective of highlighting good practices and lessons learned in advancing equality between women and men within the family and in cultural life.

Regarding family life, the questionnaire focuses on issues of equality in marriage and rights and responsibilities within the family. In relation to cultural life, the questionnaire addresses issues linked with the right to have access, participate in and contribute to all aspects of cultural life, including arts, sports and cultural activities.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) clearly establishes the State obligation to “take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations”[[1]](#footnote-1). It also establishes the obligation to modify the socio-cultural patterns and gender stereotypes to eradicate all practices based on the inferiority or superiority of either of the sexes as well as to ensure that family education recognizes the common responsibility in the upbringing and development of children.[[2]](#footnote-2) Moreover, the Convention reaffirms the State obligation to eliminate discrimination and guarantee equality in the cultural sphere.[[3]](#footnote-3)

In addition, the International Covenant on Economic, Social and Cultural Rights recognizes the right of all people to enjoy their cultural rights in conditions of equality as well as the right to enjoy the benefits of scientific progress.[[4]](#footnote-4) Furthermore, the Human Rights Committee in its General Comment 28 on the *Equality of Rights Between Men and Women* also reaffirms that the right to equality before the law include equal status within the family and regardless of marital status.[[5]](#footnote-5)

The UN Working Group wishes to thank all stakeholders for responding to this questionnaire by **31 July 2014.**

**Questionnaire**

**General**

1. What status/hierarchy does your Constitution gives to international human rights treaties versus domestic law?

Please explain. Once an international Treaty or Convention is signed and ratified by the Maltese Parliament according to law, that Treaty or Convention would have the same effect as national legislation and enforceable in the Maltese Courts.

1. Has your State ratified international human rights treaties with reservations to provisions dealing with equality in family life?

Yes ( ) No ( √ )

If yes, are there plans to withdraw these reservations?

Yes ( ) No ( )

Please explain.

1. Are the principles of non-discrimination on the basis of sex/gender and equality between men and women established in the Constitution of your State?

Yes ( √ ) No ( )

If yes, please provide references, describe how they are defined (name the specific articles) and whether they cover family and cultural life. They are defined under Article 45 of the Constitution, and do cover family and cultural life, besides other social and labour aspects.

1. Are there any specific anti-discrimination or gender equality laws in your State?

Yes ( √ ) No ( )

If yes, please provide references and briefly describe the content of this law(s), in particular whether it covers family and cultural life. The Equality for Men and Women Act, Chapter 456 of the Laws of Malta, which covers equality on the grounds of gender and gender identity (among other grounds) in employment, education and vocational training as well as by banks and financial institutions.

This legislation covers family life since it prohibits discrimination on the grounds of family responsibilities in these areas.

Moreover, Legal Notice 181 of 2008 – *Access to Goods and Services and their Supply (Equal Treatment) Regulations* safeguards gender equality in the provision of goods and services. This legislation is related to family life since the definition of ‘equal treatment’ covers the absence of discrimination on the grounds of sex, by reference in particular to marital and family status.

1. Have there been any recent legal reforms in your State to guarantee non-discrimination and equality between men and women in family and cultural life?

Yes ( √ ) No ( )

If yes, please explain and provide examples. Act XVIII of 2014, *Equality for Men and Women (Amendment) Act* which aims to enhance non-discrimination and equality guarantees already provided for under Chapter 456 of the Laws of Malta.

1. Are there any customary, religious law or common law principles/provisions that discriminate against women in family and cultural life?

Yes ( √ ) No ( )

If yes, please explain and provide examples. As per Article 2 sub section 1 of the Constitution, Malta adheres to the Catholic faith and, as such, prohibits any possibility of women priests.

1. Are there any good practices that you can share regarding the elimination of sex discrimination in family and cultural life in your State?

If yes, please explain and provide examples.

NCPE works to raise awareness on equality between women and men in society at large, and develops various initiatives in this regard. NCPE developed a brochure ‘Information pack for Households’ delineating information on gender equality, gender stereotypes and related subject matters.

1. What actions have been taken by your State to eradicate negative gender stereotypes, including in the media?

Please provide examples.

NCPE developed guidelines for publishers/advertisers to disseminate information on gender stereotypes and the promotion of gender equality in the media, particularly in vacant posts in employment.

As part of its ongoing work, NCPE reviews adverts in local newspapers and online media with the aim of preventing or combating discriminatory portrayals. NCPE works to ensure that women or men are not excluded from any job opportunities that are advertised.

Moreover, NCPE also follows up complaints submitted by the public and contacts companies regarding adverts pointing out the stereotypical or discriminatory nature of their advert, informing them to take necessary action to address such stereotypes.

1. Are tribunals upholding the principles of equality and non-discrimination in matters relating to family and cultural life?

Yes ( √ ) No ( )

If yes, please provide any relevant case-law/jurisprudence. [**Genovese v. Malta, no. 53124/09**](http://www.pfcmalta.org/uploads/1/2/1/7/12174934/53124-09.pdf), which concerned the refusal to grant the applicant Maltese citizenship on the basis that he is an illegitimate child.

(Articles 8 (right to private and family life) and 14 (prohibition of discrimination.)

1. Are there any other mechanisms to monitor draft legislation, specific provisions in draft legislation or reverse decisions discriminating against women in family or cultural life?

Yes ( ) No ( )

If yes, please provide any relevant examples. NCPE submits policy recommendations on a number of subject matters that are discussed at a national level to ensure that equality is mainstreamed throughout, particularly on matters related to its remit.

**Family Life ­- Equality within marriage**

1. Is there a legal designation of head of household?

Yes ( ) No ( √ )

If yes, is the head of household the male member of the family? What rights or obligations are attributed to the head of household?

1. Do women have the same rights as men in your State in relation to:

( √ ) The minimum age for marriage – if the age of marriage is different for men and women, please provide information

( √ ) The right to enter into marriage

( √ ) The freedom to choose a spouse and to express consent

With permission or authorization from parents/guardians/courts, at what minimum age can men and women marry in your State? What enforcement measures are provided by law in this regard? Marriages in Malta are subject to the provisions of the Marriage Act, 1975, which became effective on the 12th August 1975.

The minimum age permitted by the Laws of Malta for a person to get married is sixteen years old.  In the case where a person is over sixteen years of age, but younger than eighteen, the parents have to provide written approval of this wedding.  The parents will be asked to provide their identity cards.

1. Is there a reference to dowry in the legislation of your State, for example, in marriage contracts or in traditional practice?

Yes ( ) No ( √ ) Dowry was abolished in 1993.

If yes, please explain.

1. Are forced marriages prohibited in your formal and customary laws?

Yes ( √ ) No ( )

If yes, please provide any relevant references. Under the Marriage Act, 1975.

1. Are forced marriages or arranged marriages practiced in your State?

Yes ( ) No ( √ )

If yes, please explain.

1. Is polygamy illegal in your State?

Yes ( √ ) No ( )

 If no, is it legal for both men and women?

1. Is the registration of marriage compulsory in the following cases?

( √ ) civil marriage

( √ ) religious marriage

1. Are same sex-marriages allowed in your State?

Yes ( √ ) No ( )

If yes, please provide references. Act IX of 2014, the Civil Unions Act.

1. Are same-sex relations criminalized in your State?

Yes ( ) No ( √ )

If yes, please provide references.

1. Is equality guaranteed between husband and wife in law and practice with respect to:

( √ ) The right to choose a family name

(√ ) The right to choose a profession and occupation

( √ ) The right to choose the place of residence

( √ ) The right to have and retain one’s nationality

( √ ) The freedom of movement (including the right to travel abroad)

Please provide references. Article 6A of the Civil Code.

1. Do both spouses have the same rights in law and practice with respect to:

( √ ) ownership of property and land

( √ ) management and administration of property and land

( √ ) enjoyment and disposition of property and land

Please provide references. Articles 55, and 1316 to 1345 of the Civil Code.

1. Are women who get married subjected to any form of male guardianship?

Yes ( ) No ( √ )

If yes, what are the specific conditions of this guardianship and what kind of restrictions does it impose on women?

1. Do parents have same rights and responsibilities regarding to:

( √ ) Deciding the number and spacing of children

( √ ) Guardianship, wardship and trusteeship

( √ ) Adoption of children

( √ ) Care of children

( √ ) Education of children

( √ ) Alimony

Please provide references. Article 6A, 7 to 34, 113 to 130A, 132 to 149, and 158 to 187 of the Civil Code.

1. Are de facto unions recognized in law in your state?

Yes ( ) No ( √ )

If yes, please explain in which law(s) and how this is defined.

1. Do men and women have the same legal rights with respect to dissolution of marriage?

Yes ( √ ) No ( )

If yes, please explain in which law(s) and how this is defined. The Marriage Act, 1975, and Article 66A of the Civil Code.

1. Do men and women have the same rights in law and practice when a marriage or union ends in terms of:

( √ ) Equal share of the marital property and land

( √ ) Custody of children

( √ ) Remarriage

Please provide any references. Articles 35 to 66, Article 66A and Articles 150 to 156 of the Civil Code.

1. Is it contemplated in the legislation of your State that, in the event of a divorce, women should remain in the family or common household?

Yes ( ) No ( √ )

If yes, please explain in which law(s) and how this is defined.

1. Are legal provisions guaranteeing non-financial contributions, including care of children, the sick and elderly in the family, taken into account in the division of marital property upon divorce?

Yes ( √ ) No ( )

If yes, please provide references. The already mentioned Article 66A of the Civil Code.

1. Are rights of widow(er)s the same for women and men in terms of:

( √ ) Custody of children

( √ ) Property and land distribution

( √ ) Remarriage

( √ ) Freedom to choose residence

Please provide references. This results from the general provisions of the Civil Code (Book First – Of Persons) as well as under the Marriage Act, 1975.

1. Do women have access to legal aid in relation to family matters?

Yes ( √ ) No ( )

If yes, please explain. The benefits of legal aid in Malta extend and apply to all persons and to any form of litigation or legal assistance.

**Equality within the family**

1. What is the legal definition/concept of “family” in your State? Maltese law, despite attaching a wide variety of rights and obligations to the term ‘family’ and to one’s membership within such unit, omits to mention, in a prevalent majority of instances, the constitutive elements of a ‘family’.
2. In law (including customary law) are men and women equal in the family in your State?

Yes ( √ ) No ( )

If yes, please provide any references. Articles 131 to 156 of the Civil Code.

1. Do men and women have the same social status within the family in your State?

Yes ( √ ) No ( )

If yes, please provide any references. This is cleary gathered from the Equal Opportunities Act under Maltese law.

1. Does your State have data on the number of hours spent by women and by men on functions in the home or in care for family members, including children and the elderly?

If yes, please explain. Mums still spend about twice as much time with their children as dads do (13.5 hours per week for mothers in 2011, compared with 7.3 hours for fathers)

1. Do men and women in the family have the same rights, in law and practice, with regards to inheritance (including equal rank in the succession)?

Yes ( √ ) No ( )

If yes, please explain. In addition, is there evidence of waiver of inheritance rights by women? Articles 831 to 958, as well as 860 to 876 of the Civil Code.

1. Does family education in your State include a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of the children?

Yes ( √ ) No ( )

If yes, please provide any references. The Draft National Children’s Policy launched some 2 years back.

1. If equality is guaranteed in law and practice, does this apply in all different types of families?

Yes ( √ ) No ( )

If yes, please provide any references. Chapter Four of the Constitution of Malta.

**Violence within the family and marriage**

1. Are there any of the following traditional practices in your State ?

( No ) Female Genital Mutilation

( No ) Honour Killings

 ( No ) Son Preference

( No ) Dowry Deaths

( No ) Polygamy

( No ) Prohibition of work or travel without the permission of a guardian

( No ) Other

If yes, is there legislation prohibiting such practices in your State?

Please provide any information on other actions taken to eradicate these practices.

NCPE is working on an initiative to raise awareness on violence against women and girls. This initiative will include research on female genital mutilation in Malta and the development of brochures to disseminate further awareness on this form of violence.

1. Is/are there any anti-domestic violence legislation/regulations in your State?

Yes ( √ ) No ( )

If yes, please provide any references. The Domestic Violence Act, Chapter 481 of the Laws of Malta.

1. Does your State have a legal definition of discrimination which covers gender-based violence or violence against women, which includes domestic violence?

Yes ( √ ) No ( )

1. Does your State have a national policy to eliminate gender-based violence or violence against women, including domestic violence?

Yes ( ) No (√ )

1. Is marital rape considered a crime in the legislation of your State?

Yes ( √ ) No ( )

1. Is adultery considered a crime in the legislation of your State?

Yes ( ) No ( √ abolished in the Seventies. )

If yes, is it equally punished for men and women?

Please provide any references and further explanation.

45. Are there any public campaigns in your State to raise awareness that violence against women and girls is a human rights violation?

Yes ( √ ) No ( )

 If yes, do they attempt to change the attitudes of men? Definitely so.

46. What measures have been taken in your State to raise awareness among law enforcement officials regarding violence against women and girls, including domestic violence?

Please explain and provide examples.

The Commission on Domestic Violence has the function to increase the awareness and understanding of domestic violence and to provide specialised training for professional groups.

In 2010, the Commission on Domestic Violence through an ESF 3.43 project ‘Dignity for Domestic Violence Survivors’ organised training for professionals who work with persons experiencing domestic violence. The professionals included amongst others police officers and lawyers.

47. Are there special law enforcement units to respond to complaints of violence against women and girls, including domestic violence?

Yes ( √ ) No ( )

 If yes, do these include female law enforcement officers? Yes.

48. Please provide information on the incidents/complaints of domestic violence, sexual assault including rape, and child abuse against women and girls in your State.

Commission on Domestic Violence’s statistics regarding incidents and complaints within the Domestic Violence remit (child abuse is not within this remit):

**Reports and Individuals Statistics (Year of Reporting 2013)**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Total Reports** | **Total Individuals** | **DV & Police Reports** | **DV & Police Individuals** | **Hospitalised + Reported** | **Reports****18+ \*** | **Reports****18-** | **Individuals****18+** | **Individuals****18-** |
| 1868 | 1639 | 93 | 83 | 11 (out of 30) | 1520 | 90 | 1312 | 78 |

\*258 reports, (249 Individuals), do not have a birth date.

**Type of Violence** (based on Total Individuals)

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Physical** | **Physical + Others** | **Emotional** | **Emotional + Others** | **Psychological** | **Emotional & Physical** | **Stalking** | **Human Trafficking** | **Others\*** |
| 540 | 1012 | 92 | 590 | 316 | 273 | 27 | 6 | 252 |

\*Involving: Neglect (192), Sexual (60).

**Reports** = number of reports made

**Individuals** = the number of people that made a report/s. (Example: 1 individual = 3 reports)

49. Are there shelters or safe houses for women and girls who are victims of gender-based violence, including domestic violence in your State?

Yes ( √ ) No ( )

If yes, are these available to women and girls living in rural and remote areas? Yes.

**Participation in cultural life**

50. Are men and women equally entitled in law and practice to interpret cultural traditions, values and practices in your State?

Yes ( √ ) No ( )

If yes, please describe and provide examples Article 45 of the Constitution of Malta safeguards protection against discrimination on various grounds including sex or gender identity. It states that:

“(1) ..., no law shall make any provision that is discriminatory either of itself or in its effect.

(2) ..., no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.”

In this regard, ‘discriminatory’ means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour, creed, sex, sexual orientation or gender identity whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

51. Are there restrictive dress codes for women which do not apply to men? No.

If yes, please describe and provide examples.

52. Are women in the country allowed to be a member and fully participate in cultural and scientific institutions in your State?

Yes ( √ ) No ( )

If yes, please describe and provide examples. Please see the reply for Question 50.

Moreover, one of the principles of the Constitution of Malta, stated in Article 14, specifies that:

“The State shall promote the equal right of men and women to enjoy all economic, social, cultural, civil and political rights and for this purpose shall take appropriate measures to eliminate all forms of discrimination between the sexes by any person, organisation or enterprise...”

53. Are women entitled in law and practice, independently of their marital status, to decide freely whether or not to participate in certain cultural events, traditions and practices in your State?

Yes ( √ ) No ( )

If yes, please describe and provide examples. As per reply to Question 50, together with the provisions of the Civil Code, Book First – Of Persons.

54. Are there any specific actions to recognize and value the contributions of women to culture in your State?

Yes ( √ ) No ( )

If yes, please describe and provide examples. The National Council of Women of Malta was founded in 1964.
It is a non-governmental organization comprising individual members and national organizations. It is non-partisan, non-sectarian and independent. It is a co-ordinating body that aims to present a broad and comprehensive view of women's opinions on matters of public interest. It aims to improve the quality of life for all. In particular it works to promote equality of opportunity for women and enable them to participate effectively at all levels and in all aspects of the life of the community. The National Council of Women provides a forum for women of different backgrounds and experiences to come together as individuals and as representatives of affiliated organizations, to exchange information and ideas, formulate policy, educate and promote change.

55. Do you have data regarding the participation of women in arts, science, sports and in the proportion of public funding allocated to women in these activities? No.

If yes, please provide information.

56. Has your State developed any temporary special measures to enhance the participation of women in arts, science, sports and any other cultural activity?

Yes ( √ ) No ( )

If yes, please provide specific examples of these temporary special measures. The Malta Council for Culture & the Arts. The Council, set up by parliamentary act, is an arms’-length agency of government.  It is required to meet once every two months, but may meet more often as the Chair or quorum of members deem necessary.

Members are appointed on merit and on account of their experience of, or expertise in, various aspects of culture and the arts. They may be senior academics, educators, creative practitioners, arts administrators or people who have been engaged actively in promoting the arts either in their personal or professional capacity.

Collectively, they are responsible for ensuring the Malta Council for Culture & the Arts achieves its objectives by fostering programmes to implement the [National Cultural Policy](http://www.maltaculture.com/content.aspx?id=185198). The Council does this by deciding on priorities and by investing money, chiefly from the Malta Arts Fund, in the creators of cultural works – individuals, groups and organisations.

57. Are women allowed and encouraged by your State to participate in all sports?

Yes ( √ ) No ( )

If yes, please describe and provide examples. Please see reply to Question 50.

58. Is any special dress code provided in the legal regulations for all women exercising sports in your State?

Yes ( ) No ( √ )

If yes, please describe and provide examples.

59. Are there any differences in your State in conditions for women’s access, to museums, parks, theaters, sports stadiums and other facilities where culture, sports and science are disseminated in comparison with men?

Yes ( ) No ( √ )

If yes, please explain and provide examples.

60. Is your State promoting the participation of women in the arts?

Yes ( √ ) No ( )

If yes, please explain and provide examples. Please see reply to Question 56.

61. Have there been any cases in your State in last decade of women artists prosecuted for the performance of art, allegedly violating public authority or morals?

Yes ( ) No ( √ ) Theatrical and artistic performances will be exempt from morality and blasphemy laws under amendments to be discussed in Cabinet in Malta in the coming weeks.

If yes, please describe.

1. Article 16, UN Convention on the Elimination of All Forms of Discrimination against Women, adopted by the UN General Assembly on 18 December 1979 (AG Resolution 34/180) and entered into force on 3 September 1981. [↑](#footnote-ref-1)
2. *Ibid* art. 5. [↑](#footnote-ref-2)
3. Article 1, and 13(c), UN Convention on the Elimination of All Forms of Discrimination against Women, adopted by the UN General Assembly on 18 December 1979 (AG Resolution 34/180) and entered into force on 3 September 1981. [↑](#footnote-ref-3)
4. International Covenant on Economic, Social and Cultural Rights adopted by UN General Assembly resolution 2200A (XXI) of 16 December 1966 and entry into force on 3 January 1976. [↑](#footnote-ref-4)
5. UN Human Rights Committee, General Comment No. 28 on article 3 “Equality of Rights between Men and Women”, adopted on 29 March 2000 (HRI/GEN/1/Rev.9 (Vol. I)). [↑](#footnote-ref-5)