

Femicide Bill - Reality is not gender-neutral

Spurred by the brutal murder of Paulina Dembska in January, Malta is about to introduce provisions on femicide into its laws. It is to be highlighted from the outset that the Bill being discussed in Parliament will not create a separate legal offence. Rather, it will encourage the judiciary to take into account violence against women, because they are women, when handing down sentences for the already-existing criminal offence of wilful homicide.

Moreover, it will remove the excuse of sudden passion in cases of femicide. Currently, homicides resulting from "sudden passion" are limited to a sentencing of five to twenty years in prison, instead of a life sentence.

It is true that the law is not gender-neutral since it specifically addresses violence against women. However, this in no way constitutes discrimination against men as is being contended. Quite the contrary. The Bill is based on a correct understanding of reality - women are at risk of violence because of a patriarchal context which places them in a position of inequality and, consequently, at far greater risk of suffering violence because of their gender.

Thus, rather than discriminating against men, the law responds to a reality of disparity between women and men that, if unaddressed, will perpetuate inequality and violence against women.

Reality is not gender-neutral, the law shouldn't be either. Our Constitution recognises as much in Article 45 where it establishes that measures aimed at accelerating equality between women and men are not to be deemed discriminatory as long as they are justifiable in a democratic society. The law does not exist in a vacuum. It exists and is implemented within national, social and cultural structures where it is undisputable that women experience abuse at the hands of men who want to exert power and control over them.

Malta ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, known as the Istanbul Convention, in 2014. The Convention was drafted specifically because it is recognised that women and girls are the social group most at risk of violence and abuse because of their gender. In its first evaluation report on Malta in 2020, the Expert Group monitoring the implementation of the Convention, GREVIO, underlined that it is of paramount importance that the different forms of violence against women are addressed as a gendered phenomenon, which affect women disproportionately, and are manifestations of gender-based violence.

The Bill on femicide is a step in this direction. Clearly, legal amendments alone will not suffice to eradicate the deep roots of violence against women, that in its most extreme form lead to femicide. The same GREVIO report lists many other reforms needed on the level of public policy, the judiciary and policing and *"confirm(s) that the lack of training combined with entrenched stereotypes and a patriarchal culture"* are creating structural barriers for reporting domestic violence and, therefore, perpetuate the cycle of abuse of victims.

Thus, including a reference to femicide in our laws sends an unambiguous message to all actors that violence against women is being approached for what it really is – an exercise in power and control in a society where gender inequality remains a deep-seated reality.

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