ESF/no.46  The Gender Aspect from a Legal Perspective

STRUCTURAL FUNDS PROGRAMME FOR MALTA 2004-2006
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Gender Mainstreaming in Employment

A Tool Kit

"Song of an African Woman"

I have only one request.
I do not ask for money
Although I have need of it,
I do not ask for meat . . .
I have only one request,

And all I ask is
That you remove
The road block
From my path.

From the Acholi poem, Song of Lawino
Okot p’Bitek
Overview

This toolkit has been designed, as part of the project ESF/no.46 “The Gender Aspect from a Legal Perspective”, with the aim of assisting human resource managers or other persons in the public sector whose job entails working with people. It provides general information on gender equality, gender mainstreaming strategy and methods that can be adopted within the workplace.

The toolkit in fact contains a compilation of existing information on gender-related issues, and also provides tools to facilitate the adoption of gender mainstreaming practices within the respective organisation.

The toolkit moreover provides information on the “business benefits” of gender mainstreaming and family friendly measures, thus illustrating why public sector organisations would benefit through the implementation of this strategy.

This document provides general information to people interested in Gender Equality Legislation and Gender Mainstreaming. It is not intended to provide legal advice. Readers should not act, or refrain from acting, based on any information available via this document. The National Commission for the Promotion of Equality expressly disclaims all liability in respect of actions taken or not taken based on any contents of this document. Readers should not rely on the information provided herein as legal advice for any purpose, and should always seek the legal advice of competent counsel in the relevant jurisdiction.
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INTRODUCTION TO GENDER EQUALITY

When Professor Amartya Sen took up issues of women’s welfare, he was accused in India of voicing “foreign concerns.”

“I was told Indian women don’t think like that about equality. But I would like to argue that if they don’t think like that they should be given a real opportunity to think like that.”

Professor Amartya Sen Nobel Laureate 1998
Quoted by Parmita Shastri in “The Unheeded Conscience” which appeared in Outlook India, 1998
What is Gender Equality?

‘Gender’ refers to the social roles and relations between women and men. This includes the different responsibilities of women and men in a given culture or location. Unlike the sex of men or women, which is biologically determined, the gender roles of women and men are socially constructed and such roles can change over time and vary according to geographic location and social context.

Gender Equality occurs when the different behaviour, aspirations and needs of women and men are equally valued and favoured. On the other hand, gender discrimination, or sexism, happens when persons are treated differently because they belong to a particular sex or gender. Under Maltese law, gender discrimination is deemed to have occurred also when persons are treated unfavourably because of their marital status, pregnancy or potential pregnancy or because of their family responsibilities. Sexism, or gender discrimination can also occur when attitudes, conditions, or behaviours promote stereotyping of social roles based on gender.

Gender Equality is a Fundamental Human Right

Human Rights refers to Universal Rights of human beings. The idea of human rights descended from the philosophical idea of natural rights. Human rights are conceptualized as based on inherent human dignity. For many people the doctrine of human rights goes beyond law and forms a fundamental moral basis for regulating the contemporary geopolitical order. Human rights are democratic ideals.¹

The Maltese Constitution, which is deemed to be the supreme law of Malta, includes under Chapter IV dealing with Fundamental Rights and Freedoms of the Individual the prohibition to discriminate on a number of grounds, including sex.

¹ http://en.wikipedia.org/wiki/Human_rights
Gender Awareness:

- Gender is not the same as sex;
- Sex refers to the biological differences between women and men;
- Gender refers to the differential social roles that define women and men in a specific cultural context;
- Gender roles vary greatly in different societies and cultures;
- Gender roles are fluid and can be deconstructed and reconstructed into different roles;
- Gender awareness embodies an understanding of the negative impacts of gender issues and the need to address the inequalities that arise from them;
- Gender awareness acknowledges the significant contribution that women make as equal participants and beneficiaries to society;
- Age, race and class are major factors which determine our gender roles.

Equality is not Sameness

The search for equality is not a search for sameness. People vary in temperaments, interests, abilities, personalities and the amount of material goods that they possess. The community acknowledges different abilities, skills and judgments. Differences exist, but they are individual differences not differences imposed on people by some pre-existing condition like sex.

Differences abound. But these differences are matters of choice, taste and personal history. They need not mean I am better than you, she is better than he. We could still express and retain these individual preferences in a world where material wealth is more equally distributed and where the opportunity to develop skills, talents and abilities is equally open to everyone.

We could be equal and different. With the essentials of life available to all of us, we could all enjoy nature, develop individual preferences and live securely. That is equality.
Three Approaches to Gender Equality

Over the years, gender equality has been sought through three different approaches:

- Equal Treatment;
- Positive Action;
- Mainstreaming.

The Equal Treatment approach is based on the belief that women and men should be treated the same as each other. In effect, this often meant women were treated the same as men! This approach thus failed to address the differences between men and women.

Positive Action is an approach which recognizes that whilst there are similarities between women and men, there are also differences. In recognizing that men and women are different in some respects, it seeks to accommodate, or make up for those differences that are construed as ‘deficits’ or ‘special needs’ of the under-represented sex, in most cases, women.

The Gender Mainstreaming approach on the other hand turns away attention from individuals and their rights, or their deficiencies and disadvantages, and focuses instead on those systems and structures that produce those deficiencies and disadvantages in the first place. It seeks to integrate equality into those systems and structures.
Gender Mainstreaming

The United Nations Definition of Gender Mainstreaming:

Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels.

It is a strategy for making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of the policies and programmes in all political, economic and societal spheres so that women and men benefit equally, and inequality is not perpetuated.

The ultimate goal is to achieve gender equality.

Since October 2005, Member States of the European Union are obliged to actively take into account the objective of equality between men and women when formulating and implementing laws, regulations, administrative provisions, policies and activities in the fields of access to employment, vocational training and promotion, and working conditions.

Gender Mainstreaming is NOT:

About having well-written statements - it’s about changing the way you work

About blaming anybody for inequalities that do exist

About only women taking action

About only women benefitting from it

About having women on Boards or Committees

About stopping or replacing gender specific policies and programmes targeted at either men or women
Non-Discrimination in Employment

Carrie Chapman Catt, women’s rights activist
[in a speech at the Senate]

No written law has ever been more binding than unwritten custom supported by popular opinion.
Gender Discrimination in Employment

Gender Discrimination in Employment is prohibited under the Equality for Men and Women Act. Certain forms of gender discrimination also constitute criminal offences.

Definitions:

Discrimination based on sex or because of family responsibilities includes the treatment of a person in a less favourable manner than other person has been or would be treated on the grounds of sex or because of family responsibilities.

Discrimination can be direct or indirect. Under Maltese law, Direct Discrimination includes:

- The giving of less favourable treatment, to men and women on the basis of their sex or because of family responsibilities;
- Treating a woman less favourably for reasons of actual or potential pregnancy or childbirth;
- Treating men and women less favourably on the basis of parenthood, family responsibility or for some other reason related to sex;
- Managing the work, giving promotions, distributing tasks, offering training opportunities or otherwise arranging the working conditions in a manner that employees are assigned a less favourable status than others on the basis of sex or because of family responsibilities;
- Altering the working conditions, or the terms of employment of employees to the detriment of such employees after such employees have invoked any right accorded to them by gender equality law or claimed the performance in their favour of any obligation or duty prescribed by such law;
- Neglecting an employers’ obligation to suppress sexual harassment;
- Engaging or selecting a person who is less qualified than a person of the opposite sex (unless the employer can prove that the action was based on acceptable grounds related to the nature of the work or on grounds related to previous work performance and experience).

Indirect Discrimination implies any treatment based on a provision, criterion or practice which particularly disadvantages the members of one sex. In such cases, indirect discrimination can occur without there actually being an intention to discriminate. The absence of such intention does not however excuse a person from having discriminated against a particular person or group of persons. In this regard, the importance of gender audits and gender evaluations becomes particularly relevant.

Employers may however exonerate themselves from responsibility if they prove that the provision, criterion or practice is appropriate and necessary and can be justified by objective factors unrelated to sex. This is however an exception that should be interpreted very restrictively.
**Discrimination in Advertising:**

It is not lawful for any person:

- To publish or display or cause to be published or displayed any advertisement, or, otherwise to advertise a vacancy for employment which discriminates between job seekers or to request from job seekers information concerning their private life or family plans (this provision does not apply in those cases where employers prove that the work in connection with the situation advertised can only be performed by a person of a specific sex - this is however an exception that is also applied very restrictively);

- To publish or display or cause to be published or displayed any advertisement which promotes discrimination or which otherwise discriminates.

**Equality at the Place of Work:**

It is not lawful for any person to discriminate, either directly or indirectly:

- In the arrangements made to determine who should be offered employment;
- In determining who should be offered employment;
- In the terms and conditions on which the employment is offered, including pay and other benefits; and
- In determining who should be dismissed from employment.

**Exceptions:**

- In relation to access to employment, a less favourable treatment which is based on a characteristic related to sex shall not constitute discrimination where by reason of the particular occupational activities concerned, or of the context in which they are carried out, such a characteristic constitutes a genuine occupational requirement and where such treatment remains within the limits of what is appropriate and necessary in the circumstances. In such cases the burden of proof shall lie on the person who alleges that there is such a genuine occupational requirement;
- Special protection granted to women during childbirth or pregnancy; and
- Measures of positive action for the purpose of achieving substantive equality for men and women.
Equal Pay

The Maltese Constitution provides that:

“...the State shall ... aim at ensuring that women workers enjoy equal rights and the same wages for the same work as men.”

Employees in the same class of employment are thus legally entitled to the same rate of remuneration for work of equal value.

Moreover employers are duty bound to ensure that for the same work or for work to which equal value is attributed, there shall be no direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration.

Harassment

It is not lawful for an employer or an employee to harass another employee or to harass the employer by subjecting such person to any unwelcome act, request or conduct, including spoken words, gestures or the production, display or circulation of written words, pictures or other material, when such actions take place with the purpose, or which have the effect of violating the dignity of the person who is so subjected, and of creating an intimidating, hostile, degrading, humiliating or offensive environment for the person who is so subjected.

Sexual Harassment

It is unlawful for any person to sexually harass other persons, that is to say:

- To subject other persons to an act of physical intimacy; or
- To request sexual favours from other persons; or
- To subject other persons to any act or conduct with sexual connotations, including spoken words, gestures or the production, display or circulation of any written words, pictures or other material, where the act, words or conduct is unwelcome to the persons to whom they are directed and could reasonably be regarded as offensive, humiliating or intimidating to the persons to whom they are directed; or
- To treat less favourably the persons so subjected or requested due to such persons’ rejection of or submission to such subjection or request.
Employers’ Responsibility:

Persons responsible for any work-place, educational establishment or entity providing vocational training or guidance or for any establishment at which goods, services or accommodation facilities are offered to the public, shall not permit other persons who have a right to be present in, or to avail themselves of any facility, goods or service provided at that place, to suffer sexual harassment at that place.

Should sexual harassment occur, persons responsible as aforesaid may bring as a defence proof that they took such steps as are reasonably practicable to prevent such sexual harassment. In most cases, the implementation of a sexual harassment policy which has been duly brought to the attention of employees or other persons concerned is deemed as sufficient proof that such preventive steps had in fact been taken.

NB.: Sexual harassment is a crime punishable by a fine (multa) of not more than €2,329.37 (Lm1,000) or imprisonment of not more than six months or by both such fine and imprisonment.

As emphasised in OPM Circular 25 of 2004, Heads of Department should not permit or condone any form of sexual harassment in their establishment. All complaints should be treated seriously, and Heads of Department should take disciplinary action in terms of Regulation 13 or 14 of the Public Service Commission (Disciplinary Procedure) Regulations 1999, against public officers who are accused of sexual harassment.

Victimisation: Employers shall be deemed to have discriminated against a person if such employers alter the working conditions, or the terms of employment of employees to the detriment of such employees after such employees have invoked any right accorded to them by law or claimed the performance in their favour of any obligation or duty stipulated by law.
“You can tell the condition of a nation by looking at the status of its women.”
Jawaharlal Nehru (1889-1964)
Former Prime Minister of India
The Organisation for Economic Co-operation and Development (OECD) defines family-friendly policies as ‘those policies that facilitate the reconciliation of work and family life by fostering adequacy of family resources and child development, that facilitate parental choice about work and care, and promote gender equality in employment opportunities’.

Family friendly measures are available to all public sector employees.

The Code of Ethics for Employees in the Public Sector, published in October 1994 states that the term ‘public officer’ includes:

- Full-time male and female employees;
- Casual and part-time male and female employees;
- Male and female employees engaged directly whether on a definite or indefinite contract or on secondment/loan with Government and Local Councils;
- Those employed with public corporations, public authorities and with limited liability companies in which Government is the majority shareholder and which are directly involved in a public service function.

**Benefits Available to Expectant Mothers**

**Maternity Leave**: fourteen weeks paid leave of which six weeks are to be availed of compulsorily after confinement.

**Special Maternity Leave**: five weeks absence to be deducted from sick leave entitlement applicable to employees who, having been granted maternity leave, are unable to resume duties due to a pathological condition arising out of confinement.
Benefits Available to Fathers

Birth Leave: Male employees are entitled to two working days paid leave, to be taken within fifteen days of the occasion of the birth of their child.

Benefits Available to Both Parents

Adoption Leave: The adoptive mother or the father may avail themselves of up to five weeks adoption leave with pay, starting from the day that a child passes into their custody. This leave may be shared once by both parents if they are both public officers, provided that they do not take adoption leave at the same time.

Leave to Foster Children: Public officers may avail themselves of special unpaid leave for a period not exceeding one year, in order to foster a child.

Parental Leave: Parents, including adoptive parents who are public officers and who have been in government employment for at least one year, are allowed to avail themselves of one year of unpaid leave to take care of each of their children under the age of six.

Career Break: Public officers are allowed to avail themselves of a career break of five years, granted once only for the care of children under six years of age.

Three months of either the parental leave or the career break may be reserved and utilized by employees until the child reaches eight years of age. Three months unpaid leave of the total parental leave may be broken up in periods of one month at a time.
Benefits Available to Male and Female Employees

Bereavement Leave: All full-time staff are entitled to two working days paid leave on the occasion of the death of near relatives.

Marriage Leave: All full-time employees are entitled to three working days paid leave on the occasion of their marriage, to start not later than the first working day following the event.

Reduced Hours: Full-time public officers who have been serving for at least one year may be allowed to work on a reduced timetable of 20, 25 or 30 hours for specified reasons such as to look after children under twelve years of age, to care for dependent parents, children or spouses or, if they are over 50 years of age, for medical or serious humanitarian and family reasons.

Responsibility Leave: Unpaid responsibility leave may be availed of by full-time public officers who have been in government employment for at least one year, to take care of their dependent elderly parents, their children or their spouses.

Urgent Family Leave: Full-time employees may utilise four half-days leave from the annual vacation leave entitlement on grounds of force majeure for urgent family reasons in cases of sickness or accident making the immediate presence of the employee indispensable.

The circumstances referred to above include:

(a) Accidents to members of the immediate family of the employee;

(b) The sudden illness or sickness of any member of the immediate family of the employee requiring the assistance or the presence of the employee;

(c) The presence during births and deaths of members of the immediate family of the employee.

In this regard, ‘immediate family’ means the husband, wife and married or unmarried children, as well as family relations up to the first degree, and whether living in the same household or not and persons having legal custody of a child. No advance notification is required to be given by the employee except in those cases where it is possible for the employee to give at least twenty-four hours notice of an event which is to take place and which requires the absence of the employee from the place of work for urgent family reasons.

Thirty Days Unpaid Leave: These may be granted for any good reason. Adequate arrangements must be made with the employer beforehand.
Gender equality is more than a goal in itself. It is a precondition for meeting the challenge of reducing poverty, promoting sustainable development and building good governance.

*Kofi Annan, United Nations secretary general*
The Pre-Requisites for Gender Mainstreaming

Leading authors on the subject of gender mainstreaming are of the opinion that for the successful implementation of this strategy, a number of pre-requisites need to be in place:

A legally backed, public duty to promote equality - as already explained, persons who run workplaces and educational institutions must ensure that they do not discriminate between persons and that equality is promoted in the relevant daily activities.

Appropriate Institutional Arrangements - Institutions intent on carrying out effective gender mainstreaming need to put in place the relevant mechanisms, such as identifying a person who is to be responsible for equality issues; the drafting and implementation of a gender equality policy; adequate reporting mechanisms and sanctions. Gender Audits can be carried out to assess the institution from a gender perspective, and gender impact assessments can be carried out in relation to new projects or policies prior to their adoption or upon their review.

Awareness Raising - persons within the institution should be made aware of the measures taken by the relevant organisation in pursuance of the objective to achieve gender equality. In line with Corporate Social Responsibility, organizations could also initiate campaigns to raise awareness on gender equality issues with the general public.

Training - relevant personnel needs to be given adequate training in order for it to manage gender issues appropriately and effectively.

Expertise - the organization should also have at its disposal the services of experts who can advise on the measures that are best suited to each particular organization.

Reporting Mechanisms - personnel who feel that their rights to equality and non-discrimination are not being upheld need to be able to report such instances internally. Such reporting procedures need to be clearly outlined.

Commitment from the Top - those at the top of the organization need to signify their commitment towards equality issues and lead by example.

Incentives to Build Ownership - these include financial incentives to be included in the performance review of key personnel.

Sanctions - persons who violate another person’s right for equality and non-discrimination are liable to punishments and sanctions prescribed by law. It is in the interest of organization to make this clear to its staff or members. Additionally, organization can impose internal sanctions, such as warnings and suspension from work vis-à-vis a person who breaches the organisation’s equality policy.
The Business Case for Diversity at the Place of Work:

There are several reasons why an organization would want to implement diversity strategies. The organization might be ethically driven, or it would want to ensure regulatory compliance to avoid costly litigation and to preserve its reputation.

In the UK, the Department for Communities and Local Government published in April 2007, a Gender Equality Scheme under the new public sector duty on gender equality. This new duty is a vital part of the reform process to promote equality of opportunity and eliminate discrimination, and follows similar public sector duties for race and, more recently, on disability equalities. The public sector duty on gender equality has now placed public authorities on the front-foot in promoting equality of opportunity and embedding a culture change in employment practices and service delivery. This will make services more responsive to women and men’s individual needs and bring opportunities, reduce inequalities and improve quality of life for all. This scheme is set out to show how the department intends to comply with the Gender Equality Duty. The Gender Equality Scheme2 takes into account the specific duties set out to support progress in delivering the general duty. It focuses on the priorities of both men and women as employees and citizens. It sets out a plan for delivery over the next three years, linked to Public Service Agreement (PSA) targets, and the Department’s vision.

Furthermore, organizations are also aware that the implementation of diversity policies at the place of work also amount to a good return on investment. According to the European Commission (2003) study entitled “The costs and benefits of diversity - A Study on Methods and Indicators to Measure the Cost - Effectiveness of Diversity Policies In Enterprises” (Directorate-General for Employment, Industrial Relations and Social Affairs Unit D/3) diversity adds value to companies by the implementation of diversity strategies as the place of work yields the following results:

**Strengthening long-term ‘value-drivers’** i.e. the tangible and intangible assets that allow companies to be competitive, to generate stable cash flows, and to satisfy their shareholders. These include building a differentiated reputation with key stakeholders and customers, and improving the quality of human capital within a company.

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2 http://www.communities.gov.uk/documents/corporate/pdf/322522
Generating short and medium-term opportunities to improve cash flows
e.g. by reducing costs, resolving labour shortages, opening up new markets, and improving performance in existing markets. These are also known as ‘return-on-investment’ (ROI) benefits.

Research shows that organizations that implement workforce diversity policies identify important benefits:

i. Substantially higher productivity;
ii. A saving on recruitment costs (for every member of staff that returns to work, time and money are saved);
iii. A reduction in staff turnover (high staff turnover hits business performance);
iv. A reduction in absenteeism (a greater sense of wellbeing at work results in reductions in staff sickness absences);
v. The attraction and retention of a talented workforce (flexible working practices will attract talented individuals and can help retaining a talented staff);
vi. An improvement in customer service (flexible working arrangements allow the possibility of providing services 24 hours a day, 7 days a week, which in turn will result in an increase in sales and a reduction in consumer complaints);
vii. Improved innovation; and
viii. Enhanced corporate reputation.

Gender Equality Policy

A Gender Equality Policy signifies an organization’s commitment to promote equality in concrete terms. The Equality Policy should ideally be written, and it should be reviewed and updated regularly. The implementation of such a policy could also exonerate an employer from legal liability in certain circumstances.

**Equality policies should:**

- Be in line with current legislation;
- Have been the subject of consultation with individual and groups within the wider environment;
- Be widely available to all those who come in contact with the organisation;
- Be explicitly endorsed by top management officials.

**The policy should contain the following details:**

- A clear definition of gender equality, in line with relevant legislation;
- A clear statement that gender discrimination is unlawful;
- A reference to employment;
- A reference to service delivery issues;
- A reference to monitoring the policy and how this will be achieved;
- A reference to whose responsibility it is to implement the policy;
- A reference to what will happen if discrimination occurs; and
- A reference to training and developing staff to promote equality.

It is also important to ensure that harassment and sexual harassment are also addressed through this policy or in a separate policy.

Moreover, all staff should have had the opportunity to be made aware of what the policy contains, their personal responsibility to comply and sources of available support.
Gender Mainstreaming in Employment

SECTION D

Gender Mainstreaming

Gender Equality Audit

A Gender audit is the analysis and evaluation of policies, programmes and institutions in terms of how they apply gender-related criteria. (European Commission, 1998).

On page 27 is a questionnaire that can be used for the purpose of implementing the audit. The questions are based on best practice.

www.uel.ac.uk/womenandtransport/pdf_files/chapter5.pdf
(An auditing process for management)

### Individual Questionnaire (Sample)

1. I feel the organization is committed to promoting equal opportunities for all members of staff
   - Not at all
   - Sometimes
   - Always

2. I am aware of my personal responsibility in promoting equal opportunities
   - Not at all
   - Sometimes
   - Always

3. I have seen a copy of the Equal Opportunities Policy
   - Not at all
   - Sometimes
   - Always

4. I am aware of the Action Plan to promote equality inside the workplace
   - Not at all
   - Sometimes
   - Always

5. I have received training on equal opportunities
   - Not at all
   - Sometimes
   - Always

6. I understand how discrimination takes place and my role in challenging it
   - Not at all
   - Sometimes
   - Always

7. I have received training to raise my awareness and understanding of workplace harassment
   - Not at all
   - Sometimes
   - Always

8. I am conscious of my legal right to equal treatment
   - Not at all
   - Sometimes
   - Always

9. I understand how to access the following:
   - Training and Development
     - Not at all
     - Sometimes
     - Always
   - Study Leave
     - Not at all
     - Sometimes
     - Always
   - Flexible Working Options
     - Not at all
     - Sometimes
     - Always
   - Maternity Leave
     - Not at all
     - Sometimes
     - Always
   - Paternity Leave
     - Not at all
     - Sometimes
     - Always
   - Parental Leave
     - Not at all
     - Sometimes
     - Always
   - Career Break Schemes
     - Not at all
     - Sometimes
     - Always
   - Special Leave
     - Not at all
     - Sometimes
     - Always

10. I am given every opportunity to fulfil my potential inside the workplace
    - Not at all
    - Sometimes
    - Always

11. Being treated fairly is an important measure of my satisfaction at work
    - Not at all
    - Sometimes
    - Always

12. I have achieved an appropriate balance between work and other aspects of my life
    - Not at all
    - Sometimes
    - Always
Gender Impact Assessment

The gender impact assessment is used to identify the impact of proposed activities, including policies, programmes and legislation, on gender equality and to counter any unintended impact on women and on men. The following are guidelines on how to carry out a gender impact assessment:

**Step One:** To be Proactive
The gender ‘experts’ in this policy field need to work closely with policy makers to identify ‘problem’ areas and produce policies that will promote equality.

**Step Two:**
They should map the gender dimension of the policy field and ask how policies affect equality? They are involved in an on-going process of reviewing and refining the use of statistics, research and consultation (voices).

The gender experts can also apply the techniques of gender budgeting and call on other gender ‘expertise’. In liaison with the Statistics Service they should monitor and use statistics - noting where additional information is needed. They should invest in refresher and development training in gender issues. These practices help them to deliver equality!

**Step Three:** Envisioning: Creating Equality
Q: From evidence that the ‘playing field’ is not equal - how do we correct existing disadvantages? What can we do to achieve gender equality in the policy and in gendered outcome? What is the BIG IDEA?

**Step Four:** Road Testing
Pilot test the ideas with consultative groups. Collect their ideas and input and adjust the plans. Initiate new research if needed.

Use techniques such as cameos and scenarios to ‘envision’ again the impact of the new policy on different groups of men and women. This is sometimes referred to as gender-sensitizing the policy process.

**Step Five:** Monitoring Moving Change
Q: How will we know if we have succeeded in promoting equality?
Build in monitoring and evaluation. Create gender equality indicators from baseline data and performance review.
SECTION E

OTHER USEFUL INFORMATION
Where to Seek Assistance?

The NCPE

The National Commission for the Promotion of Equality (NCPE) is an autonomous body that was set up in January 2004. The primary task of NCPE is to monitor the implementation of the Cap 456 Act to Promote Equality for Men and Women that came into force in December 2003, LN 85 of 2007 Equal Treatment of Persons Order, and to promote equality in spheres where it may be lacking. The Commission, therefore works to ensure that Maltese society is a society free from any form of discrimination based on sex, family responsibilities in all sectors and at all levels with respect of training and employment, and the provision of services and benefits. The Commission also works to ensure that there is no racial and/or ethnic origin discrimination in the provision of goods and services.

The functions of the NCPE in relation to gender equality, as established under the Equality for Men and Women Act (Laws of Malta, Chapter 456) are:

- To identify, establish and update all policies directly or indirectly related to issues of equality for men and women;
- To identify the needs of persons who are disadvantaged by reasons of their sex and to take such steps within its power and to propose appropriate measures in order to cater for such needs in the widest manner possible;
- To monitor the implementation of national policies with respect to the promotion of equality for men and women;
- To liaise between, and ensure the necessary co-ordination between, government departments and other agencies in the implementation of measures, services or initiatives proposed by Government or the Commission from time to time;
- To keep direct and continuous contact with local and foreign bodies working in the field of equality issues, and with other groups, agencies or individuals as the need arises;
- To work towards the elimination of discrimination between men and women;
- To carry out general investigations with a view to determine whether the provisions of the Equality for Men and Women Act are being complied with;
- To investigate complaints of a more particular or individual character to determine whether the provisions of the Equality for Men and Women Act are being contravened with respect to the complainant and, where deemed appropriate, to mediate with regard to such complaints;
- To inquire into and advise or make determinations on any matter relating to equality between men and women as may be referred to it by the Minister for the Family and Social Solidarity;
- To provide assistance, where and as appropriate, to persons suffering from discrimination in enforcing their rights under the Equality for Men and Women Act;
- To keep under review the working of the Equality for Men and Women Act, and where deemed required, at the request of the Minister or otherwise, submit proposals for its amendment or substitution;
- To perform such other function as may be assigned by the Equality for Men and Women Act or any other law or such other functions as may be assigned by the Minister for the Family and Social Solidarity.

The NCPE is an autonomous body responsible to the Ministry of the Family and Social Solidarity (MFSS), and is composed of seven members including the Commissioner, with an executive staff of ten including the Executive Director.
Glossary of Gender-Related Terms

Source: Toolkit on Mainstreaming Gender Equality in EC Development Cooperation, European Community, 2006

Affirmative (positive) action
Measures targeted at a particular group and intended to eliminate and prevent discrimination or to offset disadvantages arising from existing attitudes, behaviours and structures (sometimes referred to as positive discrimination). (European Commission, 1998).

Care economy
The part of human activity, both material and social, that is concerned with the process of caring for the present and future labour force, and the human population as a whole, including the domestic provisioning of food, clothing and shelter. Social reproduction is the provisioning of all such needs throughout the economy, whether part of the paid or unpaid components. (Alexander, P. Baden, S., 2002).

Country Strategy Papers (CSPs)
These are instruments for guiding, managing and reviewing EC assistance programmes. The purpose of CSPs is to provide a framework for EU assistance programmes based on EU/EC objectives, the Partner Country government policy agenda, an analysis of the partner country’s situation, and the activities of other major partners. CSPs are drawn up for all ACP, MEDA (except Cyprus, Malta and Turkey) and ALA countries. (European Commission, 2004).

Decision-making
A key aspect in changing gender relations at individual, household, group, village, and societal levels. (ILO, 2002).

Division of labour (by gender)
The division of paid and unpaid work between women and men in private and public sphere. (European Commission, 1998).

Empowerment
The process of gaining access and developing one’s capacities with a view to participating actively in shaping one’s own life and that of one’s community in economic, social and political terms. (European Commission, 1998).

Equal opportunities for women and men
The absence of barriers to economic, political and social participation on the ground of sex. (European Commission, 1998).

Equal pay for work of equal value
Equal pay for work to which equal value is attributed without discrimination on grounds of sex or marital status with regard to all aspects of pay and conditions of remuneration (Art. 141 (ex 119) of the Treaty) (apud European Commission, 1998).

Family planning
see reproductive rights.

Family responsibilities
Family responsibilities cover the care of and support for dependent children and other members of the immediate family who need help. National policies should aim at creating effective equality of opportunity and treatment for female and male workers, and for workers without family responsibilities (…) they should be free from restrictions based on family responsibilities when preparing for and entering, participating in or advancing in economic activity. (ILO, 2000a).

Feminisation of poverty
The increasing incidence and prevalence of poverty among women compared to men. (European Commission, 1998).

Gender
A concept that refers to the social differences between women and men that have been learned, are changeable over time and have wide variations both within and between cultures. (European Commission, 1998).

Gender analysis
The study of differences in the conditions needs, participation rates, access to resources and development, control of assets, decision making powers, etc. between women and men and their assigned gender roles. (European Commission, 1998).
Gender and Development (GAD)
Approach concentrating on the unequal relations between men and women due to “uneven playing fields”. The term gender as an analytical tool arose, therefore, from an increasing awareness of inequalities due to institutional structures. It focuses not only on women as an isolated and homogeneous group, but on the roles and needs of both men and women. Given that women are usually in disadvantaged position as compared to men, promotion of gender equality implies an explicit attention to women’s needs, interests and perspectives. The objective then is the advancement of the status of women in society, with gender equality as the ultimate goal. (ILO, 2000b)

Gender audit
The analysis and evaluation of policies, programmes and institutions in terms of how they apply gender-related criteria. (European Commission, 1998).

Gender blind
Ignoring/failing to address the gender dimension (as opposed to gender sensitive or gender neutral) (European Commission, 1998).

Gender budgeting
An application of gender mainstreaming in the budgetary process. It means a gender-based assessment of budgets, incorporating a gender perspective at all levels of the budgetary process and restructuring revenues and expenditures in order to promote gender equality. Gender budgeting involves examination of the gender distributional outcomes of budgetary allocations, that is, how these allocations affect the social and economic opportunities of men and women. Reallocations in revenue and expenditure and restructuring of the budgetary process may be necessary in order to promote gender equality. (ILO, 2004).

Gender contract
A set of implicit and explicit rules governing gender relations which allocate different work and value, responsibilities and obligations to men and women and is maintained on three levels - cultural superstructure - the norms and values of society; institutions - family welfare, education and employment systems, etc.; and socialisation processes, notably in the family. (European Commission, 1998).

Gender equality
The concept meaning that all human beings are free to develop their personal abilities and make choices without the limitations set by strict gender roles; that the different behaviour, aspirations and needs of women and men are considered, valued and favoured equally. (European Commission, 1998)

Gender equity
Fairness in women’s and men’s access to socio-economic resources. Example: access to education, depending on whether the child is a boy or a girl. A condition in which women and men participate as equals and have equal access to socio-economic resources. (European Commission, 1998).

Gender gap
The gap in any area between women and men in terms of their levels of participation, access, rights, remuneration or benefits. (European Commission, 1998).

Gender impact assessment
Examining policy proposals to see whether they will affect women and men differently, with a view to adapting these proposals to make sure that discriminatory effects are neutralised and that gender equality is promoted. (European Commission, 2001).

Gender mainstreaming
Gender mainstreaming concerns planning, (re) organisation, improvement and valuation of policy processes so that a gender equality perspective is incorporated in all development policies, strategies and interventions, at all levels and at all stages by the actors normally involved therein. (European Parliament and of the Council on Promoting Gender Equality in Development Co-operation, 2004).
Gender needs
The roles of men and women in existing societies and institutions are generally different. Thus, their needs vary accordingly. Two types of needs are usually identified: Practical needs arise from the actual conditions which women and men experience because of the gender roles assigned to them in society. They are often related to women as mothers, homemakers and providers of basic needs, and are concerned with inadequacies in living and working conditions, such as food, water, shelter, income, health care and employment. For women and men in the lower socio-economic strata, these needs are often linked to survival strategies. Addressing them alone only perpetuates the factors which keep women in a disadvantaged position in their societies. It does not promote gender equality. Strategic needs are the needs required to overcome the subordinate position of women to men in society, and relate to the empowerment of women. They vary according to the particular social, economic and political context in which they are formulated. Usually they concern equality issues such as enabling women to have equal access to job opportunities and training, equal pay for work of equal value, rights to land and other capital assets, prevention of sexual harassment at work and domestic violence, and freedom of choice over childbearing. Addressing them entails a slow transformation of the traditional customs and conventions of a society. (ILO, 2000b).

Gender neutral
Having no differential positive or negative impact for gender relations or equality between women and men. (European Commission, 1998).

Gender planning
An active approach to planning which takes gender as a key variable or criteria and which seeks to integrate an explicit gender dimension into policies or action. (European Commission, 2001).

Gender relations
The relation and unequal power distribution between women and men which characterise any specific gender system (see Gender contract). (European Commission, 1998).

Gender roles
A set of prescriptions for action and behaviour allocated to women and men respectively, and inculcated and maintained as described under ‘Gender Contract’. (European Commission, 1998).

Gender sensitive
Addressing and taking into account the gender dimension. (European Commission, 1998).

Glass ceiling
The invisible barrier arising from a complex set of structures in male dominated organisations which prevents women for accessing senior positions. (European Commission, 1998).

Good governance
The transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development, in the context of a political and institutional environment that upholds human rights, democratic principles and the rule of law (ACP-EC, Cotonou Agreement, 2002).

Human development
Human development is about people, about expanding their choices to lead lives they value. Economic growth, increased international trade and investment, technological advance—all are very important. But they are means, not ends. Whether they contribute to human development in the 21st century will depend on whether they expand people’s choices, whether they help create an environment for people to develop their full potential and lead productive, creative lives. (UNDP, 2002).

Human rights of women

Informal economy/work
Unpaid economic activities done for the direct benefit of the household or of relations’ and friends’ households on a reciprocal basis, including everyday domestic work and a great variety of self provisioning activities and/or professional activity, whether as a sole or secondary occupation, exercised gainfully and not occasionally, on the limits of, or outside, statutory, regulatory or contractual obligations, but excluding informal activities which are also part of the criminal economy. (European Commission, 1998).
Men and masculinities
Addressing men and boys refers to better understanding the male side of the gender equation. It involves questioning the masculine values and norms that society places on men’s behaviour, identifying and addressing issues confronting men and boys in the world of work, and promoting the positive roles that men and boys can play in attaining gender equality. (ILO, 2004).

National women’s (gender) machinery
A national machinery for the advancement of women is the central policy-co-ordinating unit inside government. Its main task is to support the government-wide mainstreaming of a gender-equality perspective in all policy areas. (United Nations, 1995).

Occupational (job) segregation
The concentration of women and men in different types and levels of activity and employment, with women being confined to a narrower range of occupations (horizontal segregation) than men, and to the lower grades of work (vertical segregation). (European Commission, 1998).

Participation rates
The rate of participation by defined group - example: women, men, lone parents, etc. - as a percentage of overall participation, usually in employment (European Commission, 1998).

Poverty
From a human rights perspective, poverty consists in the non-fulfilment of a person’s human rights to a range of basic capabilities - to do and be the things he or she has reasons to value. Capability failure is thus the defining attribute of poverty. Only those capability failures that are deemed to be basic in some order of priority should count as poverty. As different societies may have different orders of priority, the list of basic capabilities may differ from one society to another (OHCHR, 2002).

Reproductive rights
The right of any individual or couple to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. (European Commission, 1998).

Sector Programme
As a result of following a Sector Approach, Governments in consultation with partner donors and other stakeholders may develop a sector policy and action plan. This is identified as a Sector Programme if it includes the following three components: (i) an approved sectoral policy document; (ii) a sectoral medium term expenditure framework; and (iii) a coordination process amongst the donors in the sector, led by the Government. (European Commission, 2004).

Sex
The biological characteristics which distinguish human beings as female or male. (European Commission, 1998).

Sex disaggregated statistics
The collection and separation of data and statistical information by sex to enable comparative analysis, sometime referred to as gender disaggregated statistics. (European Commission, 1998).

Sex discrimination - direct
Where a person is treated less favourably because of his or her sex. (European Commission, 1998).

Sex discrimination - indirect
Where a law, regulation, policy or practice, apparently neutral, has a disproportionate adverse impact on the members of one sex, unless the difference of treatment can be justified by objective factors (Council Directive 76/207 of 09/02/76, OJ L 39). (apud European Commission, 1998).

Sexual harassment
Unwanted conduct of a sexual nature or other conduct based on sex affecting the dignity of women and men at work including conduct of superiors and colleagues (Council Resolution 90/C 157/02 of 29/05/90, OJ C 157). (apud European Commission, 1998).

Stereotypes
A fixed idea that people have about what someone or something is like, especially an idea that is wrong. (Cambridge University Press, 2003).
Sustainable development
Sustainable development calls for improving the quality of life for all of the world’s people without increasing the use of our natural resources beyond the earth’s carrying capacity. While sustainable development may require different actions in every region of the world, the efforts to build a truly sustainable way of life require the integration of action in three key areas: economic growth and equity, conserving natural resources and the environment and social development. (United Nations, 2002).

Women in development (WID)
In the early 1970s, researchers began to focus on the division of labour based on sex, and the impact of development and modernization strategies on women. The WID concept came into use in this period. The philosophy underlying this approach is that women are lagging behind in society and that the gap between men and women can be bridged by taking remedial measures within the existing structures. The WID approach started to recognize women as direct actors of social, political, cultural and working life. Criticism to the WID approach emerged later, as women’s issues tended to be increasingly relegated to marginalized programmes and isolated projects. The WID approach had no direct impact on development per se. (ILO, 2000b).

Women’s triple role
Women’s triple role refers to the reproductive, productive and community managing role. The way these forms are valued affects the way women and men set priorities in planning programs or projects. The taking, or not taking, into consideration of these forms can make or break women’s chances of taking advantage of development opportunities. (Moser, C. O., 1993)
Useful Links

http://www.ilo.org/dyn/gender/gender.home
http://www.un.org/womenwatch/
http://www.undp.org/women/
http://www.un.org/millenniumgoals/
http://www.unicef.org/gender/index.html
http://www.coe.int/T/e/human_rights/equality/
http://www.equality.gov.mt
http://www.education.gov.mt/employment/ind_relations/ind_rel_legislation.htm
http://www.thecommonwealth.org
http://www.cafra.org/article327.html
http://www.equalityni.org/site/default.asp?secid=home
http://www.eoc.org.uk/
http://www.dti.gov.uk/employment/index.html
http://www.womenandequalityunit.gov.uk/
http://www.bridge.ids.ac.uk/
http://www.siyanda.org
http://www.engender.org.uk/
http://www.oecd.org/
http://www.worldbank.org/gender
http://www.gdrc.org/gender/mainstreaming/8-Mainstreaming.doc
http://www.ndpgenderequality.ie/
We are not talking about winning a privilege from men and taking it over for ourselves, but rather about how society and humankind will gain fulfillment if traditional barriers are abolished and opportunities are fairly shared by everyone.

Ms. Vigdis Finnbogadottir
Former president, Iceland
References (Glossary)


100 words for equality, a glossary of terms on equality between women and men, The European Commission, 2002.


