This publication is supported by the European Community Programme for Employment and Social Solidarity – PROGRESS (2007 – 2013)

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• Monitors and reports on the implementation of EU legislation and policies in PROGRESS policy areas;
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• Relays the views of the stakeholders and society at large.

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Contents

1.0 Preface ......................................................... 5
2.0 Methodological Note ........................................... 6
3.0 Malta Research Report: National Commission for the Promotion of Equality ............................ 7
   Introduction ................................................... 8
   3.1 Demographics .............................................. 8
      3.1.1 Legislation & Policy .................................. 9
   3.2 Race .......................................................... 9
      3.2.1 Legislation .............................................. 9
      3.2.2 Statistics ................................................ 10
      3.2.3 Housing ............................................... 10
      3.2.4 Employment ........................................... 11
      3.2.5 Education ............................................. 12
      3.2.6 Healthcare .......................................... 13
      3.2.7 Media ................................................ 13
   3.3 Gender ..................................................... 14
      3.3.1 Legislation .............................................. 15
      3.3.2 Statistics ................................................ 15
      3.3.3 Employment .......................................... 15
      3.3.4 Education ............................................ 16
      3.3.5 Formal Structures and Civil Society .............. 17
      3.3.6 Conclusions ......................................... 17
   3.4 Sexual Orientation ....................................... 17
      3.4.1 Legislation .............................................. 17
      3.4.2 Statistics ................................................ 18
      3.4.3 Employment .......................................... 18
      3.4.4 Civil Society ......................................... 19
      3.4.5 Conclusions ......................................... 19
   3.5 Disability ................................................. 19
      3.5.1 Legislation .............................................. 20
      3.5.2 Statistics ................................................ 20
      3.5.3 Employment .......................................... 21
      3.5.4 Education ............................................ 21
      3.5.5 Formal Structures and Civil Society .............. 22
      3.5.6 Conclusions ......................................... 22
   3.6 Religion ................................................... 23
      3.6.1 Legislation .............................................. 23
      3.6.2 Statistics ................................................ 23
      3.6.3 Education ............................................. 24
      3.6.4 Conclusions ......................................... 24
   3.7 Age .......................................................... 25
      3.7.1 Legislation .............................................. 25
      3.7.2 Statistics ................................................ 25
      3.7.3 Employment .......................................... 25
      3.7.4 Education ............................................ 26
      3.7.5 Care .................................................. 27
      3.7.6 Conclusions ......................................... 27
   3.8 Concluding Remarks & Recommendations ......... 27
       List of Interviewees/Contributors .................... 29
       References ............................................... 29

4.0 Northern Ireland Research Report .................. 33
   Introduction ................................................... 34
   4.1. Religion .................................................. 35
       4.1.1 The Fair Employment & Treatment Order (FETO) 35
       4.1.2 Statistical Information ............................ 35
       4.1.3 Good Practices ..................................... 36
   4.2 Sexual Orientation ....................................... 36
       4.2.1 Legislative Framework ............................ 36
       4.2.2 Statistical Information ............................ 37
       4.2.3 Good practices ..................................... 37
   4.3 Age .......................................................... 38
       4.3.1 Legislative Framework ............................ 38
       4.3.2 Statistical Information ............................ 38
       4.3.3 Good Practices ..................................... 39
   4.4 Disability .................................................. 39
       4.4.1 Legislative Framework ............................ 39
       4.4.2 Statistical Information ............................ 40
       4.4.3 Good Practices ..................................... 40
   4.5 Gender ..................................................... 41
       4.5.1 Legislative Framework ............................ 41
       4.5.2 Statistical Information ............................ 41
       4.5.3 Good Practices ..................................... 42
   4.6 Race/Ethnicity .......................................... 43
       4.6.1 Legislative Framework ............................ 43
       4.6.2 Statistical Information ............................ 43
       4.6.3 Good Practices ..................................... 43
   4.7 Conclusions ................................................. 44
       References ............................................... 45
1.0 Preface

The Voice for All VS/2007/0477 Research Study was developed within the broader framework of the Voice for All project coordinated by the National Commission for the Promotion of Equality (NCPE) and co-funded by the European Community for Employment and Social Solidarity – PROGRESS (2007-2013).

This study comprises a transnational analysis on six grounds of discrimination, namely Race/Ethnicity, Gender, Sexual Orientation, Disability, Religion, and Age. Research was carried out in the following four EU countries (the organisations responsible for the research conducted in each respective country are listed in brackets):

• Malta (National Commission for the Promotion of Equality)
• Northern Ireland (Institute for Conflict Research)
• Italy (Dipartimento per le Pari Opportunità)
• Cyprus (SYMFILIOSI)

It is important to note that the transnational partners have been selected with a specific motive in mind – whereas Italy and Northern Ireland are long-standing members of the EU (the former having acceded in 1957 and the latter in 1973, as part of the United Kingdom), both Malta and Cyprus are relatively new members, both having reached accession as recently as 2004. Therefore the study sheds light on the social situations in countries which are at two distinct stages of integration within the European Union.

The format of this report is set out as follows: the Maltese research will be presented first, followed by that of Northern Ireland, Italy, and Cyprus. Each research study brings forth the various socio-economic, legislative and cultural issues related to each ground of discrimination, and discusses the measures in which these issues can be resolved. The research also identified a number of specific good practices being adopted to combat discrimination and promote social inclusion within each country. Although these practices are mentioned throughout this report, a more detailed description of each practice may be found in this report’s sister document, the Voice for All Good Practices Document, or on the project website www.voiceforall.gov.mt.

The National Commission for the Promotion of Equality would like to thank a number of people who have worked on this report, particularly Mr. Neville Borg (“Voice for All” National Researcher) and Ms. Bianca Zammit (“Voice for All” Project Coordinator). NCPE would also like to thank Ms. Therese Spiteri (NCPE Senior Projects Coordinator) and Mr. Edmond Apap (NCPE Assistant Projects Officer) for their work and coordination throughout the duration of the project. We would also like to thank the persons who have conducted the transnational research, namely Mr. John Bell (Institute for Conflict Research – Northern Ireland), Dr. Nicos Trimikliniotis (SYMFILIOSI – Cyprus) and Prof. Pietro Vulpiani (Dipartimento per le Pari Opportunità – Italy).

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Executive Director
National Commission for the Promotion of Equality

Project Leader
Voice for All
2.0 Methodological Note

A number of research techniques were adopted throughout the research process in order to obtain a holistic overview of the issues at the core of the discourse on discrimination within each transnational partner country. These research methods were utilised by all the transnational partners to ensure validity across the entire research project. The research was built upon the following research methods:

- **Desk Research:** Various sources, including official Government documents, published and unpublished research studies, NGO reports, EU documentation, as well as official and unofficial statistical sources were used in the compilation of data.

- **Content Analysis:** This method was primarily used in the analysis of media reports and official State documentation to obtain a clear view of the importance the public, as well as authorities, place upon particular social issues.

- **Qualitative Interviews:** In-depth, qualitative interviews with a number of key informants relating to each of the grounds of discrimination, and across various target groups, were held. Key informants included representatives of State bodies and ministries; representatives of NGOs trade unions and other civil society bodies; representatives of the private and public sectors; and persons within the media sector; persons within the education sector.

- **Focus Groups:** These were primarily held with employees within the public sector, whereby issues related to gender equality in particular, were discussed within the context of a small focus group.
3.0 Malta Research Report: National Commission for the Promotion of Equality

Neville Borg
National Commission for the Promotion of Equality
**Introduction**

Notions of identity and difference are not new to the Maltese islands, with its colonial history bringing persons of various nationalities, cultures, and beliefs into contact with the indigenous Maltese population. Nevertheless, issues of discrimination were never directly tackled until recent decades. Gender and disability discrimination were brought to attention at the tail-end of the 20th Century, when a number of organisations dedicated to promoting gender equality, as well as the rights of persons with a disability, put the concept of equality in the limelight. However, other forms of discrimination are only coming to the public’s attention in recent years as a result of new social trends such as an increase in migration, and an increased visibility of LGBT persons.

This report seeks to understand the current local social conditions related to the various grounds of discrimination, and the manner in which each form of discrimination is being tackled at a political, legislative, and grass-roots level.

This report opens by giving a brief description of the demographic outline of the Maltese islands and the Maltese population, as well as a list of legislative safeguards adopted for the promotion of equal rights and opportunities.

Following this, an analysis of each of the six grounds of discrimination is provided. For each ground, a description of the legislative measures protecting persons falling within this description is given, followed by a statistical outline of the social situation, as well as an account of any other factors that may be relevant to the discussion on discrimination upon that particular ground. The first ground tackled in this report is Race/Ethnicity, followed by Gender, Sexual Orientation, Disability, Religion, and Age.

### 3.1 Demographics

The Maltese islands – comprised of Malta, Gozo and Comino – lie at the centre of the Mediterranean Sea, marking the EU’s southern-most border with North Africa. Malta’s size is 316km squared, and the population is estimated at 404,962, making it the most densely populated EU Member State, with an average of 1,285 persons per square kilometre. The mean age of the Maltese population is 38.5 and the dependency ratio is 44.7%.

The population is divided as follows:
- Total Population → 404,962
- Males → 200,819 (49.6%)
- Females → 204,143 (50.4%)

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Population</th>
<th>Percentage of Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-19</td>
<td>98,220</td>
<td>24%</td>
</tr>
<tr>
<td>20-39</td>
<td>111,294</td>
<td>28%</td>
</tr>
<tr>
<td>40-59</td>
<td>118,014</td>
<td>29%</td>
</tr>
<tr>
<td>60-79</td>
<td>65,442</td>
<td>16%</td>
</tr>
<tr>
<td>80+</td>
<td>11,992</td>
<td>3%</td>
</tr>
</tbody>
</table>

A 2006 National Statistics Office demographic review indicated that approximately 3.4% of the Maltese population consists of non-Maltese citizens. The population increase between 2005 and 2006 was of 2,804 persons. 24% of this increase (699 persons) is attributed to natural increase (the difference between the number of births and the number of deaths), whereas the remaining 76% is attributed to net migration. A prospected decline in the natural increase, caused by a diminishing birth rate, is set to cause a decrease in the total population, particularly within the 0-14 age group, where the population is to decrease by 32% by 2050. It is believed that this will result in an ageing population, with the population over the age of 65 increasing by 81%.

1 Demographic statistics obtained from National Statistics Office, Census of Housing and Population, 2005
2 National Statistics Office Demographic Review, 2006
3.1.1 Legislation & Policy

The following is a list of the main constitutional and legislative safeguards adopted by Malta to combat discrimination across the various grounds. The manner in which each of these seeks to protect individuals is discussed in the sections on each respective ground of discrimination.

• The Constitution of Malta
• Employment and Industrial Relations Act (Cap. 452)
• Equality for Men and Women Act (Cap. 456)
• Refugees Act (Cap. 420)
• Equal Opportunities (Persons with Disability) Act (Cap. 413)
• Equal Treatment of Persons Order (Legal Notice 85 of 2007, Cap. 460)
• Equal Treatment of Persons in Employment (Legal Notice 461 of 2004, Subsidiary Legislation 452.95)

One of the most important policy documents within the sphere of equality issues is the National Action Plan on Inclusion 2006-2008, which highlights the major spheres of action the Government intends to take in the upcoming years. Other important documents are Malta’s Operational Programmes I & II: Cohesion Policy 2007-2013, which highlight a number of national strategic objectives, and put forward a series of initiatives that will be undertaken throughout the relevant time period.

3.2 Race

Discrimination based upon race and ethnicity has arguably increased in visibility over the past decade in Malta. This can be attributed to the alteration in migration patterns which the country is experiencing, with an unprecedented number of immigrants entering Malta, many of them irregularly, over the past couple of years. The phenomenon of irregular imagination has captured the Maltese public’s collective imagination in a way that was not noticeable in the past, and brought forth new social issues regarding ethnic minorities in terms of housing, education, healthcare and employment.

Worries over these issues can be seen as having brought about xenophobic sentiments – reflected in the emergence of right-wing social movements, and also political parties, running on an anti-immigration ticket.

Although the political strength of these movements have so far remained politically negligible\(^3\), their cultural influence is arguably on the increase.

3.2.1 Legislation

Maltese legislation prohibits discrimination on the basis of race or ethnicity through the Equal Treatment of Persons Order\(^4\), established in 2007 to transpose the EU Race Equality Directive. Besides prohibiting discrimination on the basis of race in a number of sectors (including social security, healthcare, education, and the provision of goods and services), the Order also served to identify the National Commission for the Promotion of Equality (NCPE) as Malta’s National Equality Body on race discrimination.

Maltese immigration law employs a system of automatic detention whereby the Refugees Act\(^5\) states that asylum seekers are to file an asylum application with the Refugee Commissioner and be kept in detention until their asylum application is fully processed. Following an interview by an immigration officer, an asylum seeker is granted one of the following three statuses:

• Refugee status ➔ a person is entitled to a residence permit, an employment permit, State-provided services (free education, healthcare, and social services), and a Convention Travel Document (allowing the person to travel to and from Malta without requiring a visa).
• Subsidiary protection ➔ a person is entitled to an employment permit, but is not entitled to other forms of social assistance, such as unemployment benefits
• Rejected asylum application ➔ a person is not entitled to any form of social assistance

Unfortunately, particularly due to the vast quantities of asylum applications and the relatively low amount of human resources at the disposal of the Refugee Commissioner, it is not uncommon for asylum seekers to spend months on end in detention waiting for their asylum application to be determined. Maltese law dictates that the maximum detention period is 18 months, and asylum seekers can be detained for a maximum of 12 months if they have applied for asylum and not yet received the verdict of their application and for a maximum of 18 months if they have not applied for asylum or if their application has been rejected. Minors and vulnerable persons are not subject to detention rules, and are automatically placed within open centres.

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\(^3\) The 2008 general elections only saw 0.53% - equivalent to 1545 votes – of the electorate vote for the right-wing, anti-immigration parties Azzjoni Nazzjonali and Imperium Europa

\(^4\) Equal Treatment of Persons Order, Legal Notice 85, 2007 – Chapter 460 of the European Union Act

\(^5\) Refugees Act, 2001 – Chapter 420 of the Laws of Malta
3.2.2 Statistics
The number of persons applying for asylum status over the past few years is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>1,686</td>
</tr>
<tr>
<td>2003</td>
<td>502</td>
</tr>
<tr>
<td>2004</td>
<td>1,388</td>
</tr>
<tr>
<td>2005</td>
<td>1,822</td>
</tr>
<tr>
<td>2006</td>
<td>1,780</td>
</tr>
<tr>
<td>2007</td>
<td>1,072</td>
</tr>
<tr>
<td>2008</td>
<td>2,223</td>
</tr>
</tbody>
</table>

During the period between 1st January 2002 and 31st May 2008, the Refugee Commission processed 6153 asylum applications representing a total of 6725 persons (asylum applications of minors are processed together with those of their parents or recognized guardians). The results of these applications are as follows:

- 202 (3%) granted refugee status
- 3269 (49%) granted humanitarian protection
- 2450 (36%) asylum applications rejected
- 150 (2%) asylum applications withdrawn
- 654 (10%) asylum applications still in progress
- 510 (8%) asylum applications still in progress

These figures indicate that although a relatively low number of asylum seekers are granted refugee status, a significant proportion are given humanitarian protection, and are therefore entitled to temporary residence in Malta. In total, 52% of asylum applicants were granted some form of protection.

Statistics indicate that the majority of asylum applicants arrive from the African continent. 85% of the asylum seekers in Malta between 2002 and 2004 were from Africa, and in 2006, 25% of asylum seekers came from Sudan, 15% from Eritrea, 13% from Ethiopia and 10% from Niger. Asylum seekers from non-African countries were few and far in between, the highest figures being slightly under 2% for asylum seekers from Palestine and just over 1% for those from Iraq. Therefore, it can be concluded that “the nationality profile of illegal immigrants seeking asylum in Malta has remained characterized by sub-Saharan Africans, mainly from East, Central and West Africa”.

It is important to note that the majority of asylum seekers in Malta are of an employable age, indicating their intention to etch out a living in the labour market once they arrive at their destination. 46% of asylum seekers in 2006 were between the ages of 26-35, with another 36% between the ages of 18-26. 87% of asylum seekers during the same year were adult males, and 10% adult females.

3.2.3 Housing
Malta’s detention policy, and the lengthy asylum determination period, places great burden on the country’s detention centres, since they are forced to accommodate all asylum seekers either until their asylum application is determined, or until their detention period expires.

There are currently four detention centres in Malta – one in Hal-Safi, two in Hal-Far, and one at Ta’ Kandja – each accommodating a larger number of persons than originally planned. The living conditions within these detention centres have been criticised by various organisations, both at a local and European level.

After an asylum seeker’s detention period expires, or once the person is granted some form of protection, they are moved to open centres, where they are free to leave at will. However, these open centres suffer from similar problems of over-crowding as detention centres. The Hal-Far open centre, in particular – where a ‘tent village’ housing large numbers of persons in tents elevated onto concrete platforms – has caught the eye of the local and international media. Smaller open centres (many of which are run by non-State entities) fare better, with fewer over-crowding problems and better living conditions.

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6 Data obtained from the Office of the Refugee Commissioner Malta
7 As of 31st August 2008
10 ibid
11 ibid
12 For more information on this refer to the following documents: European Parliament, Report by the LIBE Committee delegation on its visit to the administrative detention centres in Malta, 2006; Amnesty International Report, 2007; European Commission against Racism and Intolerance, Third Report on Malta, 2007; European Network Against Racism Malta, ENAR Shadow Report 2007, 2007
13 Maltamedia, Rai Tre reports on Hal-Far tent village
Although the conditions of both detention and open centres remain poor, it is commendable that certain efforts are being made to improve the situation. Médecins Sans Frontier (MFS), an international aid organisation, has recently started providing medical assistance and personnel within these centres\(^{14}\), a project to improve the Marsa open centre is underway\(^ {15}\). This project, run by Fondazzjon Suret il-Bniedem\(^ {16}\), will see a structural embellishment of the building, alongside the creation of various other facilities such as an education centre (including a library), improved medical services (a new clinic will provide medical care three times a week), and a new kitchen.

3.2.4 Employment
As described previously, persons who are granted refugee status or subsidiary protections are provided with work permits that entitle them to regular employment. Persons whose asylum application has been rejected are not granted this permit. Empirical data on the presence of foreign workers in the Maltese labour market are not available, so it is difficult to gauge the participation of the non-Maltese workforce accurately.

According to a 2007 Parliamentary Question\(^ {17}\), there were a total of 6,610 non-Maltese persons in possession of a valid work permit. 2,947 of these were EU nationals, while the remaining 3,663 were non-EU nationals. Yet, the proportion of these persons who were actually in fixed employment remains unclear.

Although statistical data is unavailable, it is widely recognised that a number of foreign nationals, including asylum seekers, are victims of illegal and undeclared employment. The General Workers Union (GWU), one of the largest trade unions in Malta, recently brought this issue to light through the issuing of a policy paper titled Il-Haddiem Immigrant\(^ {18}\). This paper argues that many employers choose to employ non-Maltese nationals illegally, therefore forcing them to work for fewer wages and under poor conditions, as well as not paying National Insurance contributions for these workers. The victims of illegal employment, on the other hand, are grateful for the opportunity to earn a wage, and are therefore unwilling to raise their objections to this exploitation. It can be argued that this has led to a catch-22 situation, whereby the cycle of illegal employment and exploitation is reinforced.

The casual nature of the employment of asylum seekers is evidenced but what is often referred to as the ‘Marsa phenomenon’, where a number of persons living in the nearby Marsa open centre congregate at a busy junction each morning hoping to be picked up by a passing prospective employer who is looking for a short-term employee (often for merely a few days). Various social bodies have voiced their concerns over the precarious position of migrants in employment\(^ {19}\).

Unfortunately, as yet, little is being done to regularise the employment situation of migrants. On the other hand, a number of initiatives have been undertaken with the aim of teaching asylum seekers basic literacy and skills which are vital in increasing a person’s employability. The EQUAL 7 project, run by APPOGG\(^ {20}\), trained a total of 107 asylum seekers, 63 of whom have either regularised their employment or else were provided with assistance to find a suitable job. This project incorporated three separate training modules – one focusing on the teaching of the English language, another concentrating upon the teaching of life skills, and the third focusing on labour market orientation. The EQUAL 7 project aimed at enabling asylum seekers to build up a certified portfolio which they could use to find legal and stable employment. Training for this project was run by various social bodies, including the General Workers Union\(^ {21}\), the Malta Red Cross\(^ {22}\), and the Employment and Training Corporation\(^ {23}\).

Various other organisations, such as the Jesuit Refugee Service (JRS) and the United Nations High Commissioner for Refugees (UNHCR) also ran courses on basic legislation and literacy, aimed at empowering migrants and providing them with better employment prospects. The Organisation for the Integration and Welfare of Asylum Seekers (OIWAS), a State-run organisation created to manage the integration of asylum seekers in

14 Times of Malta, Medicins Sans Frontiers to assist Malta deal with migrants, 29th July 2008
15 Times of Malta, Marsa Open Centre to get makeover, 3rd October 2008
16 Fondazzjon Suret il-Bniedem is a voluntary NGO that carries out a number of humanitarian functions, including running temporary shelters for adult males and females, adolescents and children, running a community home for persons with mental illness, and running an open centre for immigrants
17 Parliamentary Question 27196, Sitting 552, 17th July 2007
19 Times of Malta, Easier work permit system for migrants required, 19th June 2008
20 APPOGG forms part of the Foundation for Social Welfare Services, which incorporates the three main agencies within the Ministry for Social Policy which provide community programmes of prevention, support and treatment. APPOGG focuses primarily on providing social work services to children, their families, and adults or communities at risk of social exclusion.
21 The General Workers Union is one of the largest Maltese trade unions
22 The Malta Red Cross is the Maltese society of the international organisation tackling health and humanitarian issues
23 The Employment and Training Corporation is Malta’s Public Employment Service
Maltese society, has also recently engaged in a project aimed at teaching asylum seekers certain essential skills. The project, titled COPE, will see asylum seekers being detained in detention centres taught skills such as language training, cultural orientation and CV writing.

Although these initiatives are commendable, it is undeniable that there is the need for a more extensive and far-reaching programme whereby a larger number of asylum seekers are empowered to contribute to the formal economy, thereby cutting down on illegal employment. There is currently no national integration programme whereby asylum seekers and third country nationals are introduced to the formal labour market, and the projects described above only have the resources to cater for a relatively small number of individuals. As is the case with accommodation, the large numbers of persons arriving on Maltese shores each year make it difficult for authorities to allocate adequate resources to this cause, yet it may be argued that a national programme encouraging all asylum seekers to formalise their employment would also help increase government revenue and productivity, besides minimising discrimination and xenophobia.

3.2.5 Education

Maltese legislation allows for the children of migrant workers to be provided with free State education between the ages of five and sixteen. Whereas this measure is a positive step in the integration of ethnic minorities in the field of education, it does not successfully tackle the intricacies required to obtain a truly inclusive educational system. One of the principles of the National Minimum Curriculum (1999) is a commitment to “Respect for Diversity”, yet the manner in which this is to be ensured is not explicitly revealed. Unfortunately, there is no exact empirical data focusing upon the presence, and performance, of ethnic minorities within the educational system. This lack of data makes it difficult to identify whether the principle of “Respect for Diversity” is truly being met.

Interviews for this study have revealed how Maltese schools fail to adapt to the needs of pupils originating from ethnic minorities. As in other areas, there is a lack of an over-arching integration policy in the field of education. Whereas providing children with access to education is an essential first step, it must not be assumed that this guarantees an inclusive, non-discriminatory educational process.

Respondents in this study have pointed out various ways in which the introduction of an inclusion policy in schools could facilitate ethnic minorities’ integration in the sphere of education. Foremost amongst these is the creation of an orientation period (possibly to commence within open centres, where many asylum seekers reside), through which children can be introduced to basic concepts related to Maltese schooling (such as timetables, uniforms, and also a basic knowledge of the Maltese language). Other suggestions have included regular formal training on multiculturalism and cultural sensitivity for teachers and head teachers, as well as a revision for the University’s Bachelor in Education course to include extensive study units focusing upon teaching issues of cultural diversity (including any linguistic and cultural barriers that may be encountered within a culturally diverse classroom).

The lack of an organised inclusion policy has led to a situation whereby what is considered reasonable accommodation for the integration of ethnic minorities varies between each individual school. Interviews have revealed that whereas a number of schools seek to incorporate cultural diversity within the classroom, others are more resistant, and provide less assistance in overcoming cultural obstacles.

A clear example of an initiative undertaken that promotes inter-cultural cooperation within a scholastic setting is the Arrupe programme run by St. Aloysius College. This programme targets issues of discrimination and social justice and incorporates them within the school environment by adapting the formal curriculum to promote ideas of non-discrimination. The Arrupe programme also involves a number of other activities, including monthly themed workshops and awareness days that are to be promoted throughout the school.

Another welcome measure in the field of education is the ESTEEM programme, run by the University of Malta, whereby socially disadvantaged persons undergo a short preparatory course aimed at empowering them to enter formal training and education. Although this programme was originally intended to primarily target persons with a disability, it has proven to be equally effective with asylum seekers, many of whom choose to undergo this course in the hope of subsequently engaging in formal training.

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24 Migrant Workers (Child Education) regulations, Legal Notice 259/2002, Subsidiary Legislation 327.220
Various organisations have held activities aimed at promoting the integration of ethnic minorities in schools. The Ministry of Education also backed a number of projects – carried out by organisations such as Amnesty International Malta, the Jesuit Refugee Service and KOPIN\textsuperscript{26} – which involved training lessons on human rights and non-discrimination issues for both students, as well as Personal and Social Development (PSD) teachers.

However, as in the areas of employment and accommodation, these initiatives must be sustained if they are to gain a long-term sustainability. A formal inclusion policy in schools would ensure that all schools are similarly equipped to accommodate ethnic minorities, and all teachers and headmasters are adequately trained in issues of cultural sensitivity.

3.2.6 Healthcare
The healthcare services provided to asylum seekers, particularly those residing in detention centres, have long been criticised by various organisations who have commented upon the issue of irregular immigration in Malta\textsuperscript{27}. However, a number of improvements in this respect have been registered over the past few years. Foremost amongst these is the humanitarian mission carried out by Médecins du Monde in 2007, whereby persons residing in open centres were provided with free medical consultations twice weekly\textsuperscript{28}.

Following this, it was announced that the State had struck a deal with Médecins sans Frontières (MSF), through which MSF are to provide medical assistance in detention and open centres\textsuperscript{29}. MSF will be providing doctors, nurses, psychologists, a health promotion expert as well as interpreters and cultural mediators.

The presence of cultural mediators is particularly important – interviews have revealed that the primary concern in the field of healthcare is the presence of cultural barriers (language, differing perceptions of the body, different medical practices), rather than the access to healthcare services. Whereas “asylum seekers, independently of their refugee status, are entitled to the same range of services a Maltese Pink-Card holder\textsuperscript{30} is entitled to”\textsuperscript{31}, interviews have suggested that it is often the case that problems arise during the actual interaction between a medical practitioner and the client. These problems are often of a linguistic or cultural nature, where the medical practitioner and the client are unable to communicate effectively to diagnose the ailment. Also, cultural boundaries are also evident in cases where the client perceives a particular form of treatment as a possible inappropriate invasion of privacy. Furthermore, there are often problems related to poor bureaucratic management – an example that was often brought up throughout the research was that of persons residing one particular open centre being forced to visit a public health centre on the other side of the island, rather than one in a nearby village.

3.2.7 Media
The issue of irregular immigration, as discussed earlier, has caught the public eye and therefore proves fertile ground for discussion within all aspects of the Maltese media. Press coverage of issues related to irregular migration often choose to focus upon statistical data such as the number of arrivals and the proportion of irregular immigrants reaching Maltese shores compared to other EU countries. It can be argued that this form of sensationalist reporting panders to the populist, often xenophobic, elements within society, and does not allow for a constructive discussion on the issue at hand. Although this form of media coverage is commonplace, it can be argued that on the whole the media coverage of racial and ethnic issues is mixed, since there are also instances where these issues are discussed in a positive and productive manner.

Legislation with the aim of ensuring racial equality in the media was introduced in 2007\textsuperscript{32}. Under this legislation, broadcasters are obliged to adopt a pro-active approach to racial equality by ensuring representation of ethnic groups in their broadcasts, as well as providing space to inform the public on the presence and customs of ethnic minorities.

The People for Change Foundation (together with the Broadcasting Authority, the Journalists’ Committee, and the Institute for Maltese Journalists) have recently embarked on a project aiming at ensuring accurate and fair media coverage of asylum seekers. This project

\textsuperscript{26} KOPIN is a Maltese voluntary organisations working to alleviate poverty and promote social and economic emancipation

\textsuperscript{27} See Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), 2005

\textsuperscript{28} Médecins du Monde, Access to health care and human rights of asylum seekers in Malta – experiences, results and recommendations, 2007

\textsuperscript{29} Times of Malta, Médecins sans Frontières to assist Malta deal with migrants, 29th July 2008

\textsuperscript{30} A Pink-Card is awarded to persons living in a precarious socio-economic condition who are unable to purchase their own medication.

\textsuperscript{31} Médecins du Monde, Access to health care and human rights of asylum seekers in Malta – experiences, results and recommendations, 2007

\textsuperscript{32} Requirements as to Standards and Practice on the Promotion of Racial Equality. Subsidiary Legislation 305.26
will involve the monitoring of newspaper coverage on issues related to irregular immigration and the drafting of a voluntary code of practice, containing accurate information, for journalists to use in their work. This voluntary code of practice is aimed at aiding journalists to implement the 2007 legislation on racial equality in broadcasting.

### 3.2.8 Formal Institutions and Civil Society

The National Commission for the Promotion of Equality (NCPE), through Legal Notice 85 of 2007, has been appointed the National Equality Body on issues of racial and ethnic discrimination. NCPE’s role is restricted to discrimination on the grounds of race and ethnicity within the sphere of the provision of goods and services. Through this Legal Notice, NCPE was granted the authority to receive complaints of racial/ethnic discrimination in the provision of goods and services, as well as to initiate investigations of its own accord.

Issues of racial or ethnic discrimination within the field of employment fall outside NCPE’s remit, and are tackled by the Industrial Tribunal. Other State-run bodies, such as APPOĞ and the Organisation for the Integration and Welfare of Asylum Seekers (OIWAS), also conduct a significant amount of work within the field of racial and ethnic discrimination.

As mentioned throughout this chapter, a number of civil society organisations and NGOs play a direct role in the protection of ethnic minorities. NGOs such as Fondazzjoni Saret il-Bniedem, the Malta Red Cross, Amnesty International Malta, the Jesuit Refugee Service, KOPIN, and ENAR Malta, amongst others, are highly active within the fields of housing, formal and informal care, education, employment and human rights. Other bodies, such as the Today Public Policy Institute (TPPI)\(^33\), have also issued a number of documents\(^34\) discussing the issue of migration and racial discrimination.

A clear example of collaboration between State and non-State agencies is the DAR Assisted Voluntary Return (AVR) project, co-ordinated by the Ministry of Foreign Affairs, in collaboration with SOS Malta\(^35\) and Med-Europe. Through this project a number of irregular immigrants were repatriated through the provision of a financial grant to help individuals open a small business in their country of origin. Although this project was only held on a small-scale level, it is undoubtedly a measure with room for further expansion.

### 3.2.9 Conclusions

Although a number of periodic projects have been undergone to improve the living conditions, as well as the employability and educational standards of asylum seekers, it is evident that Malta still lacks an overarching integration policy. Maltese authorities have so far adopted a reactive stance – identifying problems and working towards solving them – rather than a pro-active stance with regards to discrimination on the grounds of race and ethnicity.

In light of this, an integration policy would work towards streamlining the concept of integration and non-discrimination into all aspects of society; albeit, the full implementation of any such integration policy will require a degree of financial resources, as well as political will. The introduction of an integration policy, together with the practices currently being undertaken to promote racial equality, will work towards providing ethnic minorities with better living conditions, improved employment prospects and a stable education. All aspects of policy making must incorporate an immigration integration aspect, as this will not only benefit ethnic minorities, but also Maltese culture and economy.

### 3.3 Gender

Although arguably not as directly visible a form of discrimination as that based on the ground of race and ethnicity, discrimination on the basis of one’s gender is still not uncommon in Maltese society, particularly in the fields of employment and political involvement. Cultural assumptions often still work towards promoting traditional gender roles, and this is reflected in the high female inactivity rate and low level of female participation in decision-making. It is important to note that, as discussed later on in this chapter, there is a clear divide in employment rate (and subsequent gender roles) between females under the age of 30 and those above this age, with statistics showing a significant drop in employment rate once this age is reached.

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33 TPPI is an autonomous, voluntary NGO conducting research on national social issues
34 Foremost amongst these is: Today Public Policy Institute, *Managing the Challenges of Irregular Immigration in Malta*, 2008
35 SOS Malta is an NGO providing support services and promoting advocacy for social causes.
3.3.1 Legislation
The concept of gender equality is entrenched in Maltese legislation through the Maltese Constitution’s pledge to “promote the equal right of men and women to enjoy all economic, social, cultural, civil and political rights”\textsuperscript{36}. The Employment and Industrial Relations Act\textsuperscript{37} and the Equality for Men and Women Act\textsuperscript{38} also render gender discrimination illegal – the former in employment\textsuperscript{39} and the latter in vocational or educational training. The Education Act\textsuperscript{40} and the National Minimum Curriculum (NMC) work towards ensuring gender equality in the field of education and pledge to “strengthen the educational community’s commitment to guaranteeing equal opportunities for everyone, irrespective of their gender”\textsuperscript{41}.

3.3.2 Statistics
Despite this legislative commitment towards gender equality, statistics show that males and females are still not entirely on an equal footing in Maltese society. The Labour Force Survey for January-March 2008 states that only 29.3\% of the employed population is female, and a total of 68.4\% of females are currently inactive (compared to 33.6\% of males). This disparity is not so distinct amongst younger age groups, where the employment disparity is only 7.8\% amongst the 15-24 age group (male employment at 56.2\%, and female employment at 48.4\%). However, amongst the 25-54 age group there is a disparity of 50.3\%, with 94.2\% of males in employment, compared to only 43.9\% of females\textsuperscript{42}.

It is also worth noting that various studies have indicated that a larger proportion of females are employed in part-time labour than males. It has been found that 19.3\% of employed females are in part-time employment compared to 4.3\% of employed males\textsuperscript{43}, and that women constitute 67\% of all part-time workers\textsuperscript{44}.

This gender disparity is particularly evident in the low proportion of females in decision-making positions. In fact, statistics show that just over 20\% of persons in top management in Malta are female\textsuperscript{45}. Furthermore, females are vastly under-represented in political life, with only 6 females in the House of Representatives out of a total of 69 seats (equivalent to 8.7\%).

3.3.3 Employment
As stated above, gender inequality is evidenced most starkly in the disparity between male and female employment rates. A number of initiatives have been taken to address this imbalance, with the public sector being particularly targeted for the implementation of gender mainstreaming.

A study carried out by the World Economic Forum\textsuperscript{46} ranked Malta at the 83\textsuperscript{rd} position (out of 130 countries) in gender equality. A significant part of this poor showing is related to the low level of female employment, where Malta was ranked 107\textsuperscript{th}, and the poor economic participation and opportunities available to women, where Malta placed 98\textsuperscript{th}.

Over the past years, various family-friendly measures have been introduced in the public service, many of them with the implicit aim of increasing female participation in the employment and encouraging women who have left their job due to family commitments to re-enter the labour market. These family-friendly measures include maternity leave; birth leave (available to fathers); parental leave; career break; reduced hours; telework; and flexible hours\textsuperscript{47}. Interviews conducted during this project have revealed how, although the introduction of these measures have been welcomed by the workforce, there is the need for a more efficient counterbalance whereby persons are able to make use of such measures without too great a decrease in their department’s performance and productivity. Furthermore, many of these measures are as yet only available in the public sector, whereas organisations in the private sector are not obliged to provide a number of these measures. It is important to note that recent legislation\textsuperscript{48} has laid out clear guidelines for the minimum requirements in the provision of telework within the private sector.

\textsuperscript{36} Article 14, The Constitution of Malta, 1964
\textsuperscript{37} Chapter 452 of the Laws of Malta
\textsuperscript{38} Chapter 456 of the Laws of Malta
\textsuperscript{39} This includes job recruitment, remuneration and employment conditions
\textsuperscript{40} Chapter 327 of the Laws of Malta
\textsuperscript{42} National Statistics Office, Labour Force Survey January-March 2008
\textsuperscript{43} Employment and Training Corporation Women and Work, 2007
\textsuperscript{44} National Commission for the Promotion of Equality, Gender Mainstreaming – The Way Forward, 2006
\textsuperscript{48} Telework National Standards Order, Legal Notice 312 of 2008
Unfortunately, this research has also revealed that many employees believe that the childcare facilities at the disposal of working parents are not up to scratch, and this creates a glass ceiling for persons (in many cases females, who often take upon the traditional, maternal gender role within the context of the family) who are seeking to balance their private life with their careers. A report by the European Commission has recently confirmed this, and placed Malta within the bottom tier of EU Member States for the provision of childcare services, with only 8% of children under the age of 3 years making use of childcare services (significantly lower than the EU average of 26%)\(^56\). One can argue that there is a correlation between the limited childcare service provision in Malta and the low female employment rate, since “it is very evident that the lack of services being provided in Malta is keeping many mothers at home”\(^57\).

Furthermore, a gender pay gap can still be identified within the Maltese labour market, where a study carried out by the National Commission for the Promotion of Equality (NCPE) found that “male respondents have a higher weighted mean monthly pay (Lm444.15 /€1,034.59) than females (Lm374.28/€871.84), with the biggest discrepancy featuring in the private sector”\(^58\). It is important to note that the greatest gender pay gaps were found in higher-paid occupations.

The State has recently introduced laudable measures in an attempt to increase female participation in the workplace. These measures include a one-year tax break for mothers who have had a child since January 2007 and have returned to work. The State has also pledged to work towards improving childcare services by opening two childcare centres over the next year\(^59\). Nonetheless, despite these efforts, certain issues such as the compatibility between working schedules and childcare services’ timetables have not yet been addressed adequately\(^60\).

Studies have shown how the perceptions of traditional gender roles still play a part in determining a woman’s career choices. A study by the National Council of Women (NCW) and the National Statistics Office (NSO)\(^54\) found that only 49% of married women, compared to 57% of married men were interested in obtaining a promotion in their current job. Furthermore, 84% of respondents stated that childcare responsibilities were an obstacle to women obtaining decision-making posts. In fact, Malta fared relatively poorly in a World Economic survey on gender equality, ranking 64\(^{rd}\) out of 130 countries when it came to female political empowerment and only 108\(^{th}\) related to women in parliament\(^55\).

### 3.3.4 Education

Fortunately, unequal access to education according to gender is not an issue in Malta. As a testimony to this, Malta ranked first overall in the World Economic Forum survey in the areas of female literacy rate and female enrolment in secondary and tertiary education\(^56\). In fact, female participation in tertiary education is regularly higher than that of males, with 52% of persons in tertiary education throughout 2006 being female\(^57\), and 58% of students enrolled at the University of Malta in the 2007/2008 scholastic year also being female\(^58\).

However, it can be argued that this female participation in education implicitly works towards promoting traditional gender roles. There is a clear separation between the subjects selected by males and females at University, with the former predominantly enrolling in courses related to IT and engineering, and females primarily enrolled in courses related to arts, education and the caring professions\(^59\). These findings, together with the low female employment rate over the age of 25\(^60\), indicate that although female participation in post-secondary education is high, cultural assumptions on traditional gender roles are still prevalent and may direct females towards a more maternal role.


\(^{50}\) Times of Malta European Commission spokesperson, as cited in *Malta failing miserably on childcare facilities – EU Report*, 5\(^{th}\) October 2008


\(^{53}\) Times of Malta, *Still much to be done in local childcare*, 23\(^{rd}\) October 2008

\(^{54}\) National Statistics Office *Perceived obstacles to the participation of women in decision-making positions*, 2007


\(^{56}\) ibid


\(^{59}\) Debono et al., *Career Outcomes of Graduates*, 2004

\(^{60}\) For more information see: National Statistics Office, *Labour Force Survey January-March 2008*
3.3.5 Formal Structures and Civil Society

The National Commission for the Promotion of Equality (NCPE), which acts as the Maltese National Equality Body for discrimination based on the ground of gender, was set up through the Equality for Men and Women Act61. It has received 204 complaints of gender discrimination since its inception in 200462, and has also carried out, and collaborated in, various research studies and awareness raising initiatives in the field of gender equality. APPOGG, as part of the Foundation for Welfare Services, have set up a Women’s Refuge and an Emergency Shelter for Women, where female victims of domestic violence are offered protection and help with the aim of empowering women as to the rights they enjoy.

Other civil society organisations, such as the National Council of Women (NCW) and the Malta Confederation of Women’s Organisations (MCWO), amongst others, are also active within the field of gender equality, both in terms of employment, as well as in terms of social protection, such as the provision of shelters, formal and informal care, and other forms of social work and services.

3.3.6 Conclusions

Although various legislative measures to ensure gender equality are in place, one can still observe a degree of gender inequality within Maltese society. This is particularly evident in the field of employment, where Malta has a very high female inactivity rate and a gender pay gap.

This inequality does not originate from the educational sphere, where there is a higher female representation in tertiary education. Despite this, there is a clear degree of gender segregation in the subjects chosen, with females often opting for more traditionally female-oriented subjects such as education and the caring professions, rather than the stereotypically male areas of science, finance and IT.

This knowledge, coupled with the fact that the disparity between female and male inactivity rises drastically once a woman reaches the age of 25 (child-bearing age), indicates that traditional gender roles play a powerful role within women’s career and life choices, since it suggests that a male breadwinner model is still prevalent in Maltese society.

3.4 Sexual Orientation

The issue of sexual orientation is still a somewhat taboo subject in Malta, where religious beliefs still exude a strong moral, and legislative, authority63. In fact, the discussion on Lesbian, Gay, Bi-sexual, and Transgender (LGBT)64 rights is often cast under the light of sexual deviance rather than human rights. Authorities often appear unwilling to participate in the discussion on LGBT rights, regularly expressing their reservations on the issue65, and neither of the two main political parties place LGBT issues high on their agenda during the 2008 electoral campaign.

3.4.1 Legislation

Sexual orientation is not mentioned in the Constitution, as opposed to other potential causes of discriminatory treatment such as race, gender, disability and religion. The only legal provision towards the prohibition of discrimination on the basis of sexual orientation was introduced through Legal Notice 461, which amended the Employment and Industrial Relations Act66 to include sexual orientation as a ground upon which discrimination is prohibited. However, since this Act only deals with the sphere of employment and occupation, Maltese legislation still does not completely prohibit discrimination on the basis of sexual orientation in other aspects of social life such as healthcare, housing and education. Maltese legislation has also been criticized for not overtly prohibiting demonstrations or hate speech that incite discrimination on the basis of sexual orientation67.

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61 Chapter 456 of the Laws of Malta
62 Data obtained from the National Commission for the Promotion of Equality, correct as of November 2008
63 For a discussion on this see Grech, A., Religion, Tolerance and Discrimination in Malta, 2005
64 This term is often extended to include persons who are questioning their sexual identity, therefore the term LGBTQ (Lesbian, Gay, Bisexual, Transsexual and Questioning)
66 Chapter 452 of the Laws of Malta
67 For further discussion on this see European Union Agency for Fundamental Rights, Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States, 2008
Same-sex partnership is not currently permitted by law, and although transgender persons are able to change their identification documents in accordance with their new gender identity, this provision appears not to apply to official social functions such as marriage. This conundrum has been highly publicised through the case of a Civil Court invalidated a previous ruling allowing a transgender woman to marry her male partner, accusing the woman to be in breach of Malta’s Marriage Act, which prohibits the union between persons of the same sex.\(^6\)

### 3.4.2 Statistics

There is currently very little empirical data dealing with the issue of sexual orientation, particularly in light of the fact that a person’s sexuality is a considered a private affair. The State does not gather statistics on the prevalence or size of the Maltese LGBT community, and there have been no formal, large-scale studies of this social group.

The only empirical data on the LGBT community available is that resulting from studies carried out by the Malta Gay Rights Movement (MGRM). One particular study\(^7\) found that 50.2% of all respondents had suffered some form of harassment due to their sexual orientation, with 3% stating that they were denied a job and a further 4% suspecting that this was the case. 39.5% of respondents stated that they were harassed at work. 12.5% experienced discrimination in accommodation, and 34% had suffered discriminatory treatment in the bars, discotheques, restaurants or other similar locales. An important finding of this study was that 73.5% of respondents claimed that, as a result of the discrimination they had suffered, they would choose to emigrate if it were practical for them to do so.

A survey carried out by a local newspaper\(^8\) found that only 29% of respondents favoured the introduction of same-sex marriages. However, there was a clear discrepancy in views according to the respondents’ age group – 54% of respondents under the age of 34 supported gay marriage, but over 82% of those over the age of 55 oppose it. A Eurobarometer study\(^9\) found that 59% of Maltese believe that discrimination on the ground of sexual orientation is widespread, and that – contrary to the studies cited above, as well as perceived knowledge – the Maltese are very comfortable with the idea of having a gay person as their next door neighbour (8.4 on a scale of 1 to 10, with 10 being the most comfortable and 1 being the least comfortable).

### 3.4.3 Employment

Although Maltese legislation prohibits discrimination on the basis of sexual orientation in the field of employment, studies have shown that discrimination in the workplace persists.\(^10\) The situation may be particularly precarious for persons who are transgender, since “many trans people are found within the lower-skilled jobs, not necessarily because they are less skilled but for the simple fact that they are not hired.”\(^11\)

It is not uncommon for LGBT persons be the victims of degrading jokes or teasing at the workplace, and an MGRM study\(^12\) found that 39.5% of respondents felt the need to conceal their sexual orientation in at least some jobs, whilst a further 36.5% chose to hide their sexual orientation in all jobs. These statistics indicate that “the homosexual often cannot afford to express his or her true personality because in so doing s/he would be exposing him/herself to hostile reactions.”\(^13\)

MGRM, in an effort to sensitise employers on transgender issues in the workplace, has recently published guidelines for employers detailing the way in which they can aid transgender persons in the workplace. These guidelines include a glossary listing a series of terms related to transgender issues, besides providing a brief summary of the legal provisions and recommendations on how an employer can protect LGBT persons in the workplace. Furthermore, a series of training sessions were held with representatives of

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68 For further details on this see Times of Malta. Woman born a man insists on right to marry. 30th July 2008, available online at http://www.timesofmalta.com/articles/view/20080730/local/woman-born-a-man-insists-on-right-to-marry
69 The Malta Gay Rights Movement is a socio-political NGO which seeks to educate the public on issues of sexual orientation and prevent discrimination on this ground.
70 Malta Gay Rights Movement, Sexual Orientation Discrimination in Malta, 2003
71 Respondents in this study consisted of members of the general public, rather than being necessarily members of MGRM, and were primarily contacted at gay bars or during gay events.
73 Eurobarometer, Discrimination in the European Union, 2008
74 For a discussion on this see: Malta Gay Rights Movement, Sexual Orientation Discrimination in Malta, 2003
75 Malta Gay Rights Movement, Inclusion of transgender individuals in the labour market, 2008
76 Malta Gay Rights Movement, Sexual Orientation Discrimination in Malta, 2003
77 ibid
various organisations (in both the private and the public sector), as well as trade unions, equality bodies and employment corporations, where the guidelines were distributed and transgender issues were discussed directly with employers.

3.4.4 Civil Society

Discourse on LGBT issues in civil society are primarily raised through the work of MGRM, which has conducted a number of initiatives aimed at combating discrimination on the basis of sexual orientation. MGRM runs a National Gay Helpline, as well as face-to-face support for persons who are facing any problems due to their sexual orientation. In 2007, a monthly e-newsletter titled Alegre was launched, containing information on MGRM’s activities, as well as any milestones related to LGBT issues across the world.

Furthermore, MGRM also issued two information booklets – one aimed at LGBTQ youth and the other at parents and friends of LGBTQ youth – that were aimed at dispelling myths and misconceptions on LGBTQ issues, as well as providing help to persons seeking to come to terms with their own sexual orientation or that of those around them. These booklets contained brief personal accounts of the experiences of a number of LGBTQ youths living in Malta. The information booklets were distributed to teachers, counselors, social workers, and psychologists, as well as the general public.

Another organization working towards ensuring equality for LGBT persons is Drachma, which organises weekly meetings for Catholic LGBT persons. During these meetings, LGBT issues are discussed within a Catholic context and a prayer session is carried out. Drachma also organises specific meetings for parents, relatives and friends of LGBT persons, where LGBT and non-LGBT persons alike come together to express their faith. Recently, Drachma has organised a number of awareness-raising events, including public talks by foreign speakers renowned for their involvement in LGBT issues and the Catholic Church (these speakers included a theologian, a Roman Catholic nun prominent for her work with the Catholic LGBT community, and an artist). These events garnered considerable media attention, and encouraged a more open public discourse on the relationship between LGBT issues and religion.

3.4.5 Conclusions

The issue of sexual orientation discrimination has not yet succeeded in obtaining a similar degree of visibility – and subsequent social mobilisation – as other forms of discrimination. Although MGRM has conducted numerous awareness raising initiatives, relatively few other social bodies have adopted the issue of discrimination on the ground of sexual orientation and organised activities based specifically on this issue.

This lack of initiative can be partly seen as a result of a set of traditional values strongly influenced by the moral authority enjoyed by the Catholic faith. These values, although not static, are felt throughout Maltese society, particularly in the lack of political will to regularise the legislative measures prohibiting discrimination on the ground of sexual orientation to cover all aspects of social life, and to introduce provisions to counter this discrimination. Organisations such as Drachma seek to act as a bridge between religious values and the LGBT community, by demonstrating how a person’s faith need not negatively influence their self-perception, or their perception of other people’s sexual orientation or gender identity.

However, there is the need for a more widespread effort to promote information about, and acceptance of LGBT issues into different spheres of social life. It is believed that there is a degree of confusion on LGBT issues and that “there is a lack of information on what transgender is”. This lack of information may lead to unwillingness on behalf of employers, to employ LGBT persons, therefore forcing a number of LGBT persons to hide their sexual orientation or gender identity.

3.5 Disability

As is the case with discrimination on the grounds of sexual orientation, the influence of certain traditional values often inadvertently lead to a discriminatory perception of persons with a disability. It may be argued that in certain cases, “the paternalistic aspect of strong family structures, have had a negative effect on the aspirations of disabled people”. If this is truly the case, the need for the increased integration of persons with a disability into mainstream social and economic activity is

78 Available online at http://www.maltagayrights.net/node/13
79 The Constitution of Malta (1964) explicitly declares Malta’s official religion to be Roman Catholicism. For a discussion on religion’s influence in the moral, social and political sphere in Malta see: Grech, A., Religion, Tolerance and Discrimination in Malta, 2005
80 Malta Gay Rights Movement, Inclusion of transgender individuals in the labour market, 2008
particularly pertinent, in light of the vast potential such persons possess.

3.5.1 Legislation
The first legislative provision protecting the rights of persons with a disability was 1969’s Persons with a Disability (Employment) Act\(^{82}\), which was the tool that led to the creation of a register of persons with a disability. The 1988 Education Act\(^{83}\) obliged the State to provide special schools for children with special educational needs, and led to the publication of various policy papers, including the 1994 Inclusion Policy in all Maltese Schools, and the focus on disability issues in 1999’s National Minimum Curriculum (NMC)\(^{84}\). These were followed by the Inclusive Education Policy\(^{85}\), which aimed to ensure that all students, regardless of their disability, were provided with the same standard of education, as stipulated in the NMC.

The year 2000 also saw the enactment of the Equal Opportunities (Persons with Disability) Act\(^{86}\). This Act sought to create a comprehensive legislative tool to prohibit discrimination on the ground of disability in various aspects of social life, including employment, education, access to, provision of goods and services, and accommodation. This was followed by Legal Notice 461, which amended the Employment and Industrial Relations Act\(^{87}\) to further reinforce the prohibition of discrimination on the ground of disability within employment.

3.5.2 Statistics
The 2005 Census\(^{88}\) identified a total of 23,848 persons with some form of long-term disability – equivalent to 5.9% of the total Maltese population. These disabilities are divided as follows:

<table>
<thead>
<tr>
<th>Type of Disability /Impairment</th>
<th>Number of Persons</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical Impairment</td>
<td>7,702</td>
<td>32.3%</td>
</tr>
<tr>
<td>Visual Impairment</td>
<td>3,770</td>
<td>15.8%</td>
</tr>
<tr>
<td>Mental Health Condition</td>
<td>1,912</td>
<td>8%</td>
</tr>
<tr>
<td>Hearing Impairment</td>
<td>1,870</td>
<td>7.8%</td>
</tr>
<tr>
<td>Intellectual Impairment</td>
<td>1,311</td>
<td>5.5%</td>
</tr>
<tr>
<td>Other Impairment</td>
<td>3,520</td>
<td>14.8%</td>
</tr>
<tr>
<td>More than one type of impairment</td>
<td>3,763</td>
<td>15.8%</td>
</tr>
</tbody>
</table>

Source: National Statistics Office, Census of Housing and Population, 2005

A number of statistics are testimony to the fact that persons with a disability are not sufficiently integrated into the labour market. The 2005 Census shows that 81.7% of persons with a disability are inactive and only 15.3% are employed\(^{89}\). It has also been calculated that persons with a disability constituted a mere 4.15% of the total working population\(^90\). Furthermore, there is evident gender segregation, in terms of employment, between males and females with a disability – 85.6% of employed persons with a disability were males, whilst only 14.4% were female.

A study by the National Commission for Persons with a Disability (KNPD)\(^{91}\) found that only 28.1% of the persons listed in the register of persons with a disability (a total of 7,610 persons) were in employment – the majority of which (55.3%) worked in the public sector. Furthermore, participation in civil society is manifestly low, with only 0.8% active in politics, 2.4% in social organisations, 13.4% in religious organisations, and 12.4% in organisations for persons with a disability.
3.5.3 Employment
The poor levels of integration, particularly in the labour market, of persons with a disability can be seen as an undesired waste of social and economic potential. This fact has long been acknowledged, and a number of measures aimed at improving the employment prospects of persons with a disability have been introduced over the years.

The Employment and Training Corporation (ETC) currently runs a number of schemes aimed at easing the integration of persons with a disability in the workplace. Foremost amongst these is the supported employment scheme titled ‘Bridging the Gap’, whereby unemployed registered persons with a disability are trained over a period of weeks and matched with relevant job vacancies. This scheme allows individuals to enter into a period of work exposure in the job which has been identified for them, thus gaining skills relevant to that employment and being provided with greater employment opportunities. Furthermore, through this scheme employers are provided with a greater awareness of the potential and abilities of persons with a disability.

APPOG is also providing training and support for the integration into the labour market of socially excluded persons, including persons with a disability. This programme includes a number of one-to-one mentoring sessions, as well as the creation of educational and informative material aimed at empowering long-term unemployed persons.

3.5.4 Education
The vital role played by education in changing the paternalistic perception of persons with a disability has been recognized through the introduction of a number of initiatives organised within schools and educational institutions aimed at promoting the potential of persons with a disability.

Initiatives such as the Arrupe programme and ESTEEM have recently been introduced within educational settings – the former raising awareness on the capabilities of persons with a disability, and the latter providing these individuals with the possibility of entering formal education or training through the provision of a preparation course and individual mentoring sessions.

The Institute for Tourism Studies (ITS) has recently concluded a project whereby persons with learning difficulties are trained for employment within the hospitality trade. This course was divided into a number of modules, each tackling a relevant area of the hospitality trade, and a trainer was dedicated to each group of four students. Learning assistants were also available to provide students with further individual attention. This course sought to encourage a participatory approach towards training and education, and allowed persons with learning difficulties the opportunity to gain valuable first-hand experience which will help individuals find employment within the hospitality sector.

ACCESS, the University Disability Support Unit, works towards ensuring the full integration of persons with a disability within the University setting. This is done primarily by ensuring the full physical accessibility of the University campus, and also by providing the appropriate equipment (tools such as speech synthesizers, specific computer programmes and other audio-visual tools) to ensure that students with a disability are in a position to participate fully within University life.

Another commendable initiative is the training of Learning Support Assistants – persons who provide assistance to children with learning difficulties within educational institutions – being organised by ETC and KNPD. These courses aim to increase the availability of Learning Support Assistants to ensure that every child with learning difficulties is provided with the necessary assistance.

There are currently five specialised schools in Malta which cater specifically for children with special educational needs, with a total of 265 students enrolled. 770 facilitators are employed within schools to aid students who require assistance, and it is estimated that approximately 1,000 students with disabilities currently attend State schools, whilst 380 attend private or Church-run schools. The State also offers home education services which are provided to students who are unable to attend school. Furthermore, it has been calculated that a total of 876 students – 621 males (71%) and 255 females (29%) – were enrolled in State kindergartens and primary schools. However in this case, a large proportion of students, 392 or 45%, are said to suffer from ‘moderate learning difficulties’.

92 For more information on these initiatives see section 2.5 on Racial/Ethnic discrimination and Education.
These figures demonstrate that, despite the low participation rates of persons with a disability in the labour market, efforts are being made to ensure that access to educational opportunities are provided to all individuals, regardless of their disability. Initiatives, such as the aforementioned Arrupe programme, are also being made to eliminate the perception of dependence and inability that is unfortunately often attributed to persons with a disability, by focusing on the individual’s ability and positive contribution, rather than any possible limitations.

3.5.5 Formal Structures and Civil Society
A major step in the development of disability issues was the setting up of the National Commission Persons with Disability (KNPD) in 1987. The KNPD acts as the National Commission working with disability issues, and provides a number of services including:
- Maintenance of the Register for Persons with Disability
- Monitoring of the implementation of the Equal Opportunities (Persons with Disability) Act
- Provision of recommendations on State policy
- Investigation of complaints on discrimination on the ground of disability

KNPD also runs, or assists in a number of support and educational services, including the Assistive Apparatus Fund (where a subsidy for the purchase of assistive apparatus is provided to individuals), the Day Centres for persons with disability, and the provision of a number of lectures on disability issues within various educational settings. The Foundation for Social Welfare Services, particularly through Agenzija SAPPORT, also seeks to enhance the quality of life for persons with a disability, particularly through the provision of support services. ACCESS, the University Disability Support Unit, is also active within the educational sphere, by working towards the full integration of students with a disability at University.

A number of NGOs, such as, Dar tal-Providenza, and Richmond Foundation provide a number of community services to persons with a disability. These services include residential services, day centres, as well advocacy and empowerment services.

Furthermore, a number of awareness raising activities, aimed at promoting the abilities of persons with a disability, are currently being initiated. One such activity is the Open Doors Theatre Festival, which sees adults with learning disability engaging with theatre to promote a positive image of disability and raising the profile of the contributions persons with learning difficulties can make to their communities.

3.5.6 Conclusions
It has often been argued that within Maltese society there exists a cycle of “inadequate benefits, ineffectual educational systems, low rates of employment, limited choices in mobility and housing, and low self-esteem” that is created by the ongoing perception of persons with disabilities are objects of charity, rather than equal, active participants in society.

This paternalistic attitude is reflected in the significantly low activity rate of persons with disabilities, whereupon it appears that employers often struggle to appreciate the abilities and potential of such individuals. In this light, it is vital that, besides a strong primary care structure, initiatives that empower persons with disabilities, by providing them with skills required for employment, are promoted. Furthermore, activities, such as awareness-raising events, that educate the public on the contributions persons with disabilities make to the community have an important role to play.

The implementation of these practices are to be considered a step towards a broader cultural change which will see a shift from a paternalistic view of disability issues, focused on care and protection, towards “a strategy of integration, whereby the disabled, in their own manner, and at their own pace, are given equal opportunities as the able-bodied citizens to participate in Society to the greatest extent possible and not be seen as a mere burden”.

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95 Dar tal-Providenza is a voluntary organisation providing therapeutic, medical and educational care, as well as respite services, to persons with a disability
96 Richmond Foundation is a voluntary organisation that helps persons with mental illness by providing services such as housing services, rehabilitation facilities, and training and employment opportunities
98 Troisi, J., Full Participation and Equality of the Disabled: Myth or Reality?, 1992
3.6 Religion

The issue of religious discrimination in Malta is often closely associated to the issue of racial diversity. Malta has long been a largely Catholic nation and, although not an entirely new phenomenon, a religiously diverse population is considered a relatively new phenomenon brought about by the recent increase in irregular immigration. The relative novelty of this situation has caused Maltese society to struggle to adapt to this reality, and led to a degree of misconceptions on differing religious beliefs.

3.6.1 Legislation

The Constitution of Malta constitutes the primary tool through which the issue of religion and discrimination on the ground of religion is discussed within local legislation. In fact, the Constitution declares that the Roman Catholic Apostolic Religion is the official religion of Malta, and shall therefore form part of the compulsory education curriculum to be taught in State schools. This obliges the State to provide and finance these Roman Catholic religion lessons in State schools. The Constitution seeks to protect religious diversity by stating that “All persons in Malta shall have full freedom of conscience and enjoy the free exercise of their respective mode of religious worship”, and by prohibiting discrimination on a number of grounds, amongst them religion. The amended Employment and Industrial Relations Act also prohibits discrimination on the basis of religion or religious belief in the field of employment. However, religious discrimination is not extensively covered by any other Maltese legislation.

3.6.2 Statistics

Official empirical data on religious diversity in Malta is largely unavailable, and the presence and spread of religious communities can only be calculated using estimates and figures from unofficial sources. It is estimated that 95% of the Maltese population adheres to the Roman Catholic religion, with the second largest religious community being Islam, which boasts some 3,000 adherents. 2,250 Muslims are non-Maltese citizens, whilst a further 600 are naturalized Maltese citizens, and 150 are Maltese-born individuals. The Church of England is estimated to have 270 members, Presbyterian and Methodist Churches 120 members, and the Evangelical Church of Germany 70 members. The Maltese Jewish community is estimated at 120 members. A number of other religions or denominations are believed to total slightly fewer than 5% of the population. These include: a union of 16 groups of evangelical Churches comprising Pentecostal and other non-denominational Churches; Jehovah’s Witnesses; Church of Jesus Christ of the Latter-Day Saints (a.k.a Mormons); Bible Baptist Church; Seventh-Day Adventist Church; Zen Buddhism; and Baha’i Faith. Furthermore, it is believed that a number of new faiths or denominations, such as the Ahmadiyya Muslim Community, are on the rise within the Maltese Islands.

Despite the high percentage of the population being to the Roman Catholic, there are indications that the influence of the Roman Catholic Church is on the decrease. Studies show that Sunday Mass attendance is decreasing, from 75.1% in 1982 to 63.4% in 1995 and 52.6% in 2005.

Discrimination based on religion is generally believed to be relatively frequent. A 2008 Eurobarometer report found that 13% of Maltese believe that discrimination based on religion is ‘very widespread’ in the provision of goods and services (nearly double the EU average of 13%), and 25% believe that it is ‘fairly widespread’ in terms of housing. Meanwhile, 56% ‘very much agree’ with the need for legislation prohibiting discrimination on the ground of religion or belief in the fields of healthcare and education. An earlier study examining values and social attitudes of the Maltese population found that in 1999 28% of the population did not want Muslims as neighbours (up from the 15% registered in 1991) and a further 21% did not want Hindu believers as neighbours.

99 The presence of Islam in Malta can be traced back to the Arab and Ottoman rule of the island for a number of years prior to 1798. Malta’s colonial past as a member of the British Empire also ensured that other Christian denominations, besides Catholicism, were introduced to the island.
100 Article 40. The Constitution of Malta (1964)
101 Chapter 452 of the Laws of Malta, as amended by Legal Notice 461
102 The Maltese Jewish Community official website, http://www.jewsomalta.org/
105 Eurobarometer, Discrimination in the European Union, 2008
3.6.3 Education

The issue of religion is closely tied to the education sphere within the Maltese islands. The largest sector of non-State schools is that of Church-run schools, which easily eclipse private-run schools. Whereas, as mentioned earlier, the State is obliged to provide lessons on Roman Catholicism within State schools, Church schools follow a similar curriculum and also provide lessons on the Roman Catholic faith. In the vast majority of cases, private schools also choose to educate their pupils on Roman Catholicism.

It can be argued that the national curriculum only places a perfunctory emphasis on the teaching of religions other than Roman Catholicism. In practice, this often consists of no more than a few hours tuition on the other major world religions, with little focus on the positive impact of inter-faith dialogue within a community.

The most evident exception to this situation is the Mariam al Batool School, run by the World Islamic Call Society. This school, although the majority of staff members employed is Catholic, was set up to provide the Maltese Muslim community with an educational institution that caters for their faith. Therefore, although basic tuition on Roman Catholicism is maintained, the focus of the Mariam al Batool School’s religious teaching is clearly on Islam.

The Mariam al Batool school also works towards helping Muslim children overcome any cultural problems that may be encountered in other schools (such as the importance placed upon Catholic festivities), and adapting any perceived bias against the Islam community within the national curriculum. Interviews revealed how a number of Maltese Muslims believe that the manner in which Maltese history is taught throughout State schools places excessive emphasis on the negative image of Islam, through events such as the Great Siege and the Islamic occupation of the Maltese Islands.

The Mariam al Batool School receives no form of Government funding, therefore it depends on voluntary donations to supplement the percentage of funding provided by the World Islamic Call Society. In this respect, one significant discrepancy between Catholic and non-Catholic (in this particular case, Muslim) students emerges – whereas Catholic families are free to choose between paid private or Church schools and free State education, non-Catholic families do not have such an option if they wish for their child to obtain a degree of religious education within the school. This is particularly pertinent in the case of Islam – the second largest religion in Malta – where a number of Muslim families, unlike Catholic families, are unable to provide their children with free schooling that includes religious tuition.

Another function of the Mariam al Batool School is that of promoting inter-faith dialogue through the elimination of false stereotypes on Islam. This issue was further developed through the publication of a booklet by the World Islamic Call Society. The booklet, titled “L-Islam u L-Impressjonijiet Zbaljat Dwaru”\(^\text{107}\) tackles the various misconceptions surrounding Islam within Maltese society, in an attempt to highlight shared values and beliefs amongst various religious\(^\text{108}\).

3.6.4 Conclusions

Although instances of religious discrimination are not directly evident, it may be the case that differential treatment according to a person’s faith may be institutionalised. This can be seen in the case of State education only providing religious tuition on the Roman Catholic faith, thereby depriving non-Catholic individuals of access to free education that includes any degree of religious tuition on other faiths other than Catholicism.

Nonetheless, interviews conducted for this study have revealed that instances of direct religious discrimination are also present in employment. In fact, it has been revealed that Muslim women, particularly when they choose to dress in Islamic attire, are victims of multiple discrimination, since they find numerous obstacles to employment due to their gender and their religion.

Although the number of inter-faith events have been few and far between\(^\text{109}\), it is encouraging to report that collaboration between the Maltese Catholic Church and Islamic Centre has increased over the past few months. In August 2008 a new Maltese translation of the Quran was presented to the Archbishop of Malta by the Imam of the Islamic Centre\(^\text{110}\), and a few months earlier the

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\(^{107}\) Translation in English: “Islam and its Misconceptions”

\(^{108}\) This booklet is given out free of charge from the Malta branch of the World Islamic Call centre in Paola.

\(^{109}\) A particularly noteworthy inter-faith initiative was the “Faith and Development: A Commonwealth Dialogue” seminar organised by the Commonwealth Foundation held at the Millennium Chapel. For more information on this seminar see: www.commonwealthfoundation.com/uploads/documents/commonwealth_dialogue_faith_report1.pdf

Archbishop and Imam had held an inter-religious meeting at the Mosque where they held a brief prayer session together\textsuperscript{111}.

Whereas the Catholic and Muslim communities have recently engaged in increased collaboration, there remains the need for a broader discourse involving representatives of the various faiths in Malta, including the Jewish community and the numerous Christian denominations. Inter-faith collaborations are essential in the promotion of religious dialogue and mutual respect, since they allow individuals a greater understanding of the values shared by the various religions within a community.

3.7 Age

The issue of age discrimination is often not seen as problematic within Maltese society – access to education for the young is widespread, and health and social services for the elderly are often provided by the State. Nonetheless, it is difficult to argue that age discrimination is not present, for both the young as well as for persons above a certain age group, in a more indirect manner. This is particularly visible in paternalistic social attitudes towards the young and the elderly – attitudes which focus on the person’s needs at the expense of their abilities and potential.

3.7.1 Legislation

The 2002 Employment and Industrial Relations Act\textsuperscript{112} as amended by Legal Notice 461 in 2004, prohibits age discrimination within the field of employment. This remains the only form of local legislation dealing directly with the issue of age discrimination – there is currently no form of legislation explicitly prohibiting age discrimination outside the field of employment. The rights of young persons in employment are protected through the Protection of Young Persons at Work Places Regulations\textsuperscript{113} by defining the specific working conditions under which young persons can be employed. The minimum working age in Malta is 16, although it is suspected that a small degree of underage labour – particularly within family-run businesses – is often informally tolerated.

The Education Act\textsuperscript{114} sets the compulsory school age between the ages of 5-16, and obliges the State to provide appropriate educational facilities for all persons who fall between this age bracket. The minimum age for marriage is also 16, as set by the Marriage Act\textsuperscript{115}. In terms of criminal conduct, the Criminal Code\textsuperscript{116} states that children under the age of nine are exempt from any form of criminal responsibility.

The protection provided to citizens on this issue generally takes the shape of policy measures designed to provide financial and humanitarian aid to individuals in need. The primary form of financial aid provided to the elderly is the pension, which is currently undergoing a reform which will see the pension age rise to 65 for both males and females, from the previous ages of 61 for males and 60 for females\textsuperscript{117}. Families with custody of persons under the age of 16 are provided with a yearly Children’s Allowance.

3.7.2 Statistics

The Maltese population remains younger than the EU average, with 17.2% of the population under the age of 14 and 13.8% over the age of 65. 14.8% are between the ages of 50-59 and just below a quarter of the population (24%) is under the age of 19. There is a clear correlation between age group and activity rate, which is highest between the 20-29 age group (where the employment rate lies at 73% and inactivity rate is at 21.3%). The activity rate sees a clear decline of 12% in the 50-59 age group, dropping to 48.4\textsuperscript{118}. The policy of mandatory retirement ensures that the inactivity rate of persons over the age of 60 is significantly high at 94\%\textsuperscript{119}.

3.7.3 Employment

As stated earlier, Malta enforces a mandatory retirement age that will be set at the age of 65 in the upcoming years, and has a minimum working age of 16.

\textsuperscript{112} Chapter 452 of the Laws of Malta
\textsuperscript{113} Subsidiary Legislation 424.10 as amended by Legal Notices 91 and 283
\textsuperscript{114} Chapter 327 of the Laws of Malta
\textsuperscript{115} Chapter 255 of the Laws of Malta
\textsuperscript{116} Chapter 9 of the Laws of Malta
\textsuperscript{117} For more information on the pension system being phased in see: www.mfss.gov.mt/pensions/documents/maltesepensionsystem.doc
\textsuperscript{118} National Statistics Office, Census of Housing and Population, 2005
\textsuperscript{119} It is important to note that this statistic was gathered before the pension reform was undertaken, therefore at a time when the mandatory retirement age was still at the ages of 60 (for females) and 61 (for males)
\textsuperscript{120} Available online at http://etc.gov.mt/site/page.aspx?pageid=2151
show that in 2008 33% of registered unemployed individuals were over the age of 45. The average age of employment termination was 60.3 years, with a slight discrepancy between males and females – 60.5 for males, and 59.5 for females. Furthermore, the employment rate for older workers’ (persons over the age of 45) lay at 30% in 2006, a decrease of 2.6% since 2004. The government has pledged to raise the employment rate of persons over the age of 45 to 40% by the year 2010, and adopted a number of initiatives in an effort to do so, particularly through the ETC.

In 2001 ETC set up the Older Workers Section, a division directly involved in providing measures allowing older persons to increase their employment prospects through training, re-skilling, awareness raising and research on the issue of employability of older workers. This section has also developed a number of employment schemes including:

• Training and Employment Exposure Scheme → a year-long scheme, available to persons over the age of 40, involving a six month training period and six month employment period
• Re-deployment Scheme → a scheme aimed at encouraging employers to minimise redundancies by re-training employees to perform different tasks
• Employment Training Placement Scheme → a training scheme, available to persons over the age of 40 who have been registering for employment for a period of over a year
• Work Start Scheme → a work-exposure scheme targeting adults who have been inactive for a period of over five years

Besides these schemes, the Older Workers Section organises a number of motivational seminars and training sessions tackling issues such as CV writing, the importance of regular upskilling, work ethics and job searching techniques. A manual including this information, amongst other things, was also published and distributed. Furthermore, a Personal Action Plan for each participant is created in order to properly identify the job opportunities available to the individual.

In terms of youth employment, statistics indicate that youth employment levels increased to reach 48.5% in 2007, an increase of 3% on the previous year. Gender segregation is not evident at this stage, with an employment rate of 48.8% for males and 48.1% for females. A 2006 study found that young people tend not to shift jobs frequently, with 49.2% of those aged 19-21 and 53.8% of those aged 22-24 having been in their job for 3-5 years. 33.9% were denied a job because they lacked work experience and a further 19.2% because they were too young. However, the study also indicates that there is a relatively smooth transition from school to work, with 64.4% of the respondents having found immediate employment after leaving education.

The ETC’s use of Personal Action Plans is not restricted to older workers, but also extends to youth seeking employment. Furthermore, ETC also provides career guidance, attempting to help young people entering employment to identify a suitable career path. The YouthStart initiative also seeks to aid young people to enter employment by providing job search seminars, job skills courses, and motivational seminars.

3.7.4 Education

The Education Act establishes a compulsory schooling age up to the age of 16. During the 2004/2005 academic year, a total of 106,814 youths were registered as students in the various educational institutions in Malta. The same academic year saw a 4% decrease in students at post-secondary level, but a significant increase of 19.8% in the University population. Although the increase in full-time University students lay at 10.5%, there was a considerable increase in part-time students (65.9%), indicating that there may be a rise in the number of mature students enrolled at University.

During 2005, a total of 17,490 persons were active in some form of adult education, constituting 5.5% of the total adult population. There was no gender disparity in the participation in adult education, with an equal rate of participation for both males and females. The largest proportion of persons enrolled in adult education

121 More information on these schemes is available online at http://www.etc.gov.mt/site/page.aspx?pageid=2151
123 Employment & Training Corporation Malta, The School to Work Transition of Young People in Malta, 2006
124 More information on these initiatives can be found in Employment & Training Corporation Malta, Youth Strategy 2008/2009, 2008
125 Chapter 327 of the Laws of Malta
was attending private evening classes, followed by those attending State-run evening classes. Other forms of adult education available include evening classes run by MCAST (Malta College of Arts, Science & Technology), Government adult literacy classes, and the University of Third Age – an institution run by the University of Malta that provides study courses on a number of topics to persons over the age of 60.

Interviews held throughout this study indicate that although a number of formal educational institutions cater for mature students, many people often make use of adult education as a diversion, rather than as a tool to enhance their employability and empowerment. This may be reflected in the fact that the areas attracting the most adult students were arts and humanities – areas which are not traditionally directly market-oriented, but are often perceived as more recreational study-topics. It has also been pointed out that certain adult education institutions, particularly in the case of the University of Third Age, are perceived to cater for persons of a high socio-economic background, therefore dissuading potential students of a lower socio-economic status.

3.7.5 Care

The issue of elderly care has long been a thorny issue within Maltese society, often centering around discussions on the role of the State and the role of the family when caring for dependent persons. It has been estimated that 40.8% of persons aged 65 or over suffer from some form of long-term health problem. At the end of 2002, a total of 1,609 persons resided at State-run homes for the elderly. In 2004, it was calculated that a further 1,730 persons were residing in Church-run or private homes. Meanwhile, 1,102 elderly persons were regular members of day care centres within the various localities in the Maltese islands.

In terms of childcare, it was estimated that in 2001 there were a total of 264 children (60.2% boys and 39.8% girls) residing in residential homes, as well as 28 children (equally divided amongst boys and girls) in Church day centres. The primary reason given for children being in care institutions was mental or physical health problems on the part of their parents, followed by neglect, and drug-related problems.

3.7.6 Conclusions

The discussion on age discrimination can be seen to draw parallels with that of discrimination on the grounds of disability, particularly when one recognizes the paternalistic attitude often adopted towards issues of the elderly in particular. This paternalism is reflected in the focus on care and financial remuneration within social policy, rather than a thorough commitment to the social inclusion of the elderly. The clear drop in employment rate over the age of 50 indicates that although a number of persons participate in formal adult education, this is not translating into an increased employment rate for older workers.

The arguably dismissive perception towards older workers may be seen reflected in the focus on youth, even in terms of employment. The high rate of youth employment, and the relative ease of the transition between formal education and employment indicate that employers may prefer to obtain the services of young employees at the expense of older workers.

Nonetheless, there are also shortcomings in terms of children’s protection. Interviews conducted for this study have revealed that there is a lack of awareness on the participatory rights of children – whereas the protection of children and youth is generally safeguarded, their right to participation may not always be observed.

The establishment of the Office of the Commissioner for Children in 2003 saw the first step in the creation of a body dedicated to the protection of children’s and youths’ rights. Furthermore, the National Youth Council is seeking to encourage the active participation of youths within the political and decision-making sphere, through the promotion of initiatives such as the Youth Parliament and the Youth Local Councils.

3.8 Concluding Remarks & Recommendations

Malta’s particular geographical location – and the subsequent increase in irregular immigration – has ensured that the issue of racial and ethnic discrimination has been pushed to the forefront as a priority policy issue. The other grounds of discrimination have not quite caught the attention of popular discourse to the same degree, but remain pertinent issues that require in-depth study and analysis.

Issues of discrimination are still present within Maltese society across all grounds, and within all aspects of social life. As discussed throughout this report, factors such as demographic constraints, cultural traditions, and moral issues have affected the degree to which certain social groups have succeeded in integrating within the wider social sphere. The following are a series of recommendations for the improved integration of these social groups.

Methodological and updated data collection: Many issues related to the six grounds of discrimination within this report remain unexplored. There is the need for more complete and accurate statistical data in order to correctly analyse the social problems faced by a number of social groups, and the manner in which these problems can be tackled. This is the case particularly for issues of racial/ethnic discrimination, sexual orientation, and religious diversity.

Educational focus on cultural and social diversity: Education has a key role to play in instilling notions of cultural and religious diversity and mutual respect. Education needs to be tackled by providing teachers with the adequate tools and skills to encourage inter-cultural dialogue within the classroom.

The creation of a National integration policy for the treatment of irregular immigrants: A widespread policy is required to ensure the fair treatment of all persons within all spheres of social life. Such a policy would regulate the action social institutions, such as schools, are to take towards promoting integration.

Improve the provision of family-friendly measures: Family-friendly measures are to be extended to the private sector, which still lags behind the public sector in this respect. Furthermore it is important that these measures are designed in a manner which truly seeks to empower females, rather than merely forcing women to append their career to a culturally imposed maternal role. For this reason, it is important to raise awareness on the fact that such family-friendly measures are aimed at males, as much as at females. Unfortunately, the perception that family-friendly measures are only intended for females, and that the uptake of such measures may constitute an obstacle to a person’s career progression is still widespread.

Provide free secular or non-Catholic schooling alternatives for children wishing to follow a non-Catholic curriculum: Children from non-Catholic backgrounds, who cannot afford private or non-public schooling, currently have no option other than to opt out of religion lessons and receive no religious tuition at school whatsoever. This creates a discriminatory situation whereby non-Catholic families are forced to pay separately in order to provide their child with the appropriate non-Catholic religious education.

Widespread campaign to extend knowledge and understanding of LGBT issues: Public discourse on LGBT issues are often subject to misinformation and misconceptions. Therefore there is the need for a widespread information campaign informing the public on LGBT issues and the rights LGBT persons are to enjoy.

Work towards increased participation of certain social groups within decision-making positions: A number of social groups, particularly females and persons with a disability, are perennially under-represented within decision-making positions. Although this is a highly complex situation, with no singular solution, it is vital that this situation is addressed to ensure the participation in social and civil life of all members of society.

Increase participatory opportunities for children, youths, and elderly persons: As discussed throughout this report, it is the case that persons falling within certain age brackets are deprived of opportunities to participate within decision-making forums in civil society. It is important that children and youths are provided with the possibility to express themselves and offer their input within society. With regards to elderly citizens, active ageing is to be encouraged by allowing elderly persons the possibility to participate fully within decision-making roles.
**List of Interviewees/Contributors**

The following is a list of persons who have been interviewed and consulted throughout this research project:

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- Dr. Andrew Azzopardi (Department of Youth & Community Studies, University of Malta)
- Ms. Gabriella Calleja (Malta Gay Rights Movement)
- Dr. Frances Camilleri Cassar (Social Science Research Specialist)
- Mr. Joseph Camilleri (Kummissjoni Nazzjonali Persuni b’Dizabilità)
- Fr. Adrian Cassar Pulis (HelpAge Unit, Caritas Malta)
- Mr. Josef Debono (ÛaghaΩ Azzjoni Kattolika)
- Mr. Mario Farrugia Borg (World Islamic Call Society - Malta)
- Mr. Mario Friggieri (Refugee Commissioner)
- Mr. Jean-Pierre Gauci (The People for Change Foundation o.b.o European Network Against Racism Malta)
- Mr. Mario Gerada (Drachma)
- Mr. Adrian Mamo (Institute for Tourism Studies)
- Ms. Bernardette Mercieca (Kunsill Nazzjonali Żgħażagħ)
- Mr. Clayton Mercieca (Drachma)
- Ms. Claudia Taylor-East (SOS Malta)
- Mr. Alexander Tortell (Organisation for the Integration and Welfare of Asylum Seekers)
- Mr. Stephen Vella (Foundation for Social Welfare Services)
- Ms. Roberta Vella (Arrupe Programme, St. Aloysius College)
- Ms. Carmen Zammit (Commissioner for Children)

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Institute for Conflict Research
Introduction

The 1998 Agreement signalled a commitment by all of the signatories to an agenda focused upon equality and human rights in Northern Ireland. According to O’Cinneide (2005), the single most extensive positive duty imposed in the UK in recent years has been the implementation of Section 75 and Schedule 9 of the Northern Ireland Act (1998).

The Northern Ireland Act (1998) Section 75 (1) imposes a duty on public authorities, when carrying out functions with reference to Northern Ireland to have due regard to the need to promote equality of opportunity (a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; (b) between men and women generally; (c) between persons with a disability and persons without; and (d) between persons with dependents and persons without.

Section 5 (e) of the Agreement provided for the establishment of the Equality Commission for Northern Ireland (ECNI) to monitor the implementation of Section 75 and the ECNI have been responsible since the 1st January 2000 for ensuring that all public bodies have due regard for their statutory duty. These obligations are implemented through Equality Schemes, approved by the Equality Commission, and by carrying out Equality Impact Assessments (EQIAs) on policies.

The following sections of this report will not therefore refer to Section 75 legislation covering each of the six areas of discrimination to reduce duplication. However, it is worth noting a few points about the impact of the legislation in this section.

According to the ECNI, Section 75 legislation has led to a positive approach to the promotion of equality of opportunity (through a positive duty incumbent upon public bodies) and increased awareness within the public sector of equality of opportunity in the development of public policy, as well as leading to a more evidence based approach to policy making (ECNI 2007b). The review of the effectiveness of Section 75 in 2007 suggested that this impact had tended to be restricted to the development of public policy, although it was noted that the legislation had, for the first time, ensured that public policies were assessed for any adverse equality impacts they may have on carers. Similarly, with regards disability the ECNI found that Section 75 has encouraged public authorities to anticipate the needs of disabled people and has been important in the process of public authorities (including several of the education and library boards) putting a system in place which should result in an increase in the recruitment of individuals with a disability (ECNI 2007b: 29).

Despite these developments, there is less evidence that the legislation has had the intended impact and outcomes for individuals (ECNI 2007b). Part of this lack of impact at an individual level may be related to a distinct lack of public awareness around Section 75. Only 28% of respondents in a 2006 survey were aware of the legislation, and awareness of the existence of the ECNI and its role would appear to be reasonably low. Of those respondents who were aware of Section 75, 50% were unable to name any of the activities which public bodies are required to carry out under their statutory duty. The report noted that these findings indicated: [...] a need to promote a greater level of understanding of which groups are covered by this legislation, as well as the public bodies under the legislation (ECNI 2006a: 53).

The following report discusses each of the six areas of discrimination as identified by the Amsterdam Treaty, documents the legislation in place relating to the potential area of discrimination (aside from Section 75 which has been documented above), highlights a number of statistics to indicate the presence of possible discrimination and notes some of the current good practices being implemented to promote inclusion and equality for all.

131 Since 2001 part-time employees (those working less than sixteen hours per week) have also been monitored (ECNI 2008: 3).
132 EQIAs are designed to screen for any adverse impact that policies may have on the Section 75 groups.
133 A number of initiatives such as NICIE’s anti-bias approach to education aim to address multiple forms of discrimination, but for the purposes of this report have been included in the section where the most recent work has been done to promote equality and tackle discrimination.
4.1. Religion

4.1.1 The Fair Employment and Treatment Order (FETO)
Historically one aspect affecting the development of anti-discrimination legislation in Northern Ireland was linked to the position of northern Irish Catholics within the state vis-à-vis their Protestant counterparts. Debate continues about the extent of this discrimination, but there is general consensus that at the very least Catholics were treated less favourably than their Protestant counter-parts in many aspects of daily life. Partly as a response to this what was known as Fair Employment legislation was enacted in 1976 to make discrimination based on religious/political grounds in seeking employment unlawful.

In more recent years this legislation has been strengthened, most recently with the Fair Employment and Treatment (Northern Ireland) Order 1998 (FETO), which makes unlawful any discrimination based on the person's religious belief and/or political opinion in the area of employment; in the provision of goods, facilities and services; in further and higher education, as well as in the sale and management of land or property. FETO places a number of duties on employers. These requirements, for historic reasons are unique to Northern Ireland and are not found in legislation operating in any other part of the UK. They include: the requirement on all private employers to register with the Equality Commission if they employ ten or more people; the requirement to provide the Commission with monitoring information; and - in the case of large employers with staff exceeding 250 (including public sector employers) - the requirement to provide the Commission with details of all those who were promoted or who left employment in a given year. The Equality Commission for Northern Ireland has the power to investigate the employment practices of any employer at any time. FETO covers four forms of discrimination, direct discrimination, indirect discrimination, victimisation and harassment.

4.1.2 Statistical Information
In general terms it would appear that FETO has proved successful as there have been significant increases in the proportion of the Catholic share of the workforce over the past two decades. Since 1990, the Catholic male share of the full-time monitored workforce has increased by 8.8% from 32% in 1990 to 40.8% in 2006, while the Catholic female share has risen by 7.1% during the same period from 38.5% in 1990 to 45.6% in 2006. The overall composition for 2007 of the monitored Northern Ireland workforce was 56.3% Protestant and 43.7% Catholic (ECNI 2007a) and this corresponds generally to the population make up, with the 2001 Census indicating that 43.76% of the population were Catholic and 53.13% Protestant (NISRA 2001).

Aside from the obvious benefits, there have been a number of difficulties associated with the implementation of Fair Employment legislation. The first is that some organisations tend to still have an imbalance in the monitoring figures they return to the ECNI, despite numerous attempts to encourage under-represented groups to work for them. Ironically, the ECNI who are tasked with overseeing the implementation and compliance of Fair Employment legislation themselves currently have an under-representation of Protestants (and males). Secondly, it remains the case that employers with ten employees or less are not required by the law to complete monitoring returns to the ECNI. In total in 2007, 73.2% of all employee jobs in Northern Ireland (DETINI 2007) were monitored, meaning that over one-quarter of jobs still remain unmonitored. Thirdly, the adoption of Fair Employment legislation has been perceived by some members of the Protestant community as discriminating against them in seeking employment. A 2006 survey of attitudes by the Equality Commission revealed that almost a third of respondents (32%) believed that “equality laws protect one group of people at the expense of another”, with Protestants more likely to agree with this statement (36%) than Catholics.

134 Fair Employment legislation is only concerned with the religious composition of the workforce in Northern Ireland, and does not relate to any of the five other areas of discrimination.
135 Following amendment in 2003, the provisions of FETO meet the requirements of the EU Framework Directive for Equal Treatment in Employment and Occupation.
136 A development which is somewhat unique to the teaching profession and perhaps fairly indicative of the nature of the education system in Northern Ireland is that under Article 71 of the Fair Employment and Treatment Order (FETO), school teachers in Northern Ireland, namely those employed in primary, secondary and grammar schools, are exempt from the provisions of the Order. The “teacher exception”, has been in place since the original Fair Employment Act of 1976 (Dunn and Gallagher 2002).
137 Despite this, between 2002/2003 and 2004/2005 there were 514 and 673 complaints respectively of religious and/or political discrimination to the Fair Employment Tribunal (Office of the Industrial Tribunals and the Fair Employment Tribunal 2005).
138 The ECNI have appealed for applications directly from Protestant males in advertisements.
139 This remains a difficult area, as a number of smaller employers would argue they do not have the resources to comply with such strict policies.
140 In a similar vein the Royal Victoria Hospital, which is located on the predominantly Catholic/Nationalist Falls Road, has attempted to encourage Protestants to apply for jobs within the hospital to address their current under-representation among the workforce. The ‘business case’ for promoting diversity would appear to be the best way to ‘sell’ the approach to employers, and employers who remove barriers to the employment of minority and under-represented groups can reap the benefits financially. It is important that opposition towards change needs to be faced by strong leadership and managers and staff provided with adequate training in the field. There should be no reason for the abandonment of the principles of promoting equality and challenging discrimination due to potential opposition from the shop floor, however employees and indeed the general public need to be educated and informed about the reasoning behind the approach, otherwise certain groups in society may come to view any legislative efforts to increase the inclusion of minority groups as legislating against them.

4.2 Sexual Orientation

4.2.1 Legislative Framework

Legislation relating to sexual orientation in Northern Ireland was introduced as a direct effect of EU Directives rather than any specific circumstances regarding the situation in Northern Ireland. The Human Rights Act 1998 (HRA, came into force in 2000) and incorporates into the UK law the provisions of the European Convention on Human Rights (ECHR), and its Protocols. 141

Discrimination relating to sexual orientation in employment, as well as in education and the provision of goods, facilities and services, is prohibited in Northern Ireland by the provisions of the Employment Equality (Sexual Orientation) Regulations (NI) 2003 and the Equality Act (Sexual Orientation) Regulations (NI) 2006. Similarly to other legislation, the Regulations in their application cover direct discrimination, indirect discrimination, victimisation and harassment. In relation to employment, the Regulations cover all employees, as well as agency workers and office holders. 142

140 The application of the Regulations also extends to: vocational organisations (trade unions and professional bodies); employment agencies; bodies that confer qualifications; providers of vocational training; partnerships; contract workers; police and police bodies; barristers; trustees and managers of occupational pension schemes; institutions of further and higher education.
The Regulations outlaw discrimination in further and higher education, however unlike as is the case with FETO, this prohibition extends to schools of all levels. It is worth noting that the Regulations provide an exemption for religious organisations, unless they are an organisation with a commercial purpose or constitute an educational body.

A further legislative enactment, The Civil Partnership Act came into force in December 2005, which enables same-sex couples to obtain legal recognition of their relationship. Statistics would appear to confirm the need to increase public knowledge on recent legislative enactments as only 21% of respondents to a recent survey were aware of the Civil Partnership Act (ECNI 2006a: 53). Indeed, the ECNI have contended that: [...] there is a need to increase public awareness of more recently enacted legislation especially that relating to sexual orientation (ECNI 2006a: 53).

4.2.2 Statistical Information
In Northern Ireland, as is the case elsewhere, it is extremely difficult to establish the size of the LGBT community given the sensitive nature of the subject and lack of readily quantifiable data (census or otherwise) which is used for other categories such as race, religion, or disability. It is much easier in the Northern Irish context to quantify the generally negative societal attitudes of a number of individuals towards members of the LGBT community. A recent controversy at a political level in Northern Ireland has involved comments made by the MLA for Strangford, Iris Robinson of the DUP (the wife of the current Northern Ireland First Minister Peter Robinson and current Chair of the Health Committee of the Northern Ireland Assembly) who suggested that homosexuality was an “abomination” which could be “cured” by counselling.

Surveys of public attitudes reveal that Mrs Robinson may not be alone in her views regarding the LGBT community. According to an international survey conducted in 1998/1999 and involving 34,557 individuals across 29 countries, Northern Ireland was the sixth least tolerant of the 29 nations with regards to homosexuality (Sikora 2001). This evidence does not appear to exist in isolation. Borooah and Mangan (2007) found that in every country except Greece and Italy, people were more tolerant of homosexuality than in Northern Ireland.

More locally, almost one in three people (29%) stated that they would mind if a close relative were in a relationship with an LGB person (ECNI 2006). Jarman and Tennant’s research (2003) involving 186 individuals from the LGBT community found that 82% had experienced harassment and 55% had been subjected to homophobic violence at some point (Jarman and Tennant 2003: 6). Indeed, there have been a number of recent violent attacks on individuals as a result of their sexual orientation and police statistics relating to hate crime record that between the 1st April 2007 and the 31st March 2008 there were 160 homophobic incidents and a further 7 transphobic incidents (PSNI 2008).

4.2.3 Good practices
Perhaps one way to effectively challenge the formation of the negative attitudes towards the LGBT community (and other minority groups) is to challenge perceptions at a young age through education. Although they work to challenge all forms of bias and prejudice, the Northern Ireland Council for Integrated Education (NICIE) have (since 1998) implemented an anti-bias curriculum in their integrated schools which identifies the “hidden curriculum” as stemming from biases held by teachers, which can then be transmitted to pupils in the classroom. NICIE believe that teachers can help children respect and value diversity and advocate an inclusive approach to education that makes all children feel welcome regardless of their background. The approach focuses on four main themes within the school environment: the policies and practices of how the schools is run; the experiences and activities provided for or created by the children; the language used between the children and between the teachers and the children; and the physical environment of the classroom and the school.

143 Only 55% of respondents believed that “gay, lesbian and bisexual couples should be entitled to the same rights as married heterosexual couples” while a further 30% of respondents were “unsupportive” of this statement (ECNI 2006: 22).
144 Robinson officially replaced Ian Paisley as First Minister on Thursday 5th June 2008.
146 See BBC news story from Friday 6th June 2008 at: http://news.bbc.co.uk/1/hi/northern_ireland/7439296.stm
147 The police have been recording data on homophobic incidents since July 2000. (Jarman and Tennant: 2003: 5).
One aspect of the anti-bias approach has involved providing anti-homophobic training for teachers and other school staff to equip them with the skills to tackle homophobic attitudes in the school environment. This is particularly relevant given that research into the needs of young people in Northern Ireland who identified as lesbian, gay bisexual and/or transgender (LGBT) found that 44% of young people were bullied at school because of their sexuality; 48% of lesbian and gay students had been violently attacked and nearly half of these attacks occurred in schools (Youthnet 2003).

There are also a number of organisations ‘working on the ground’ in Northern Ireland on behalf of members of the LGB and LGBT communities. One such organisation is the Coalition on Sexual Orientation (COSO), which is a coalition of organisations that represent and provide services to the LGBT Community in Northern Ireland. The group represents the LGBT community on issues around sexual orientation and sexuality by consulting with public bodies to ensure that they fulfil their statutory duty to promote equal opportunities irrespective of sexual orientation, but they also aim to raise awareness amongst the LGBT community themselves as to their rights and entitlements.

Summary
It is too early to comment on elements of the anti-bias approach in education which have been formulated in the last ten years, although attitudinal results based on the traditional sectarian/religious divide would appear to indicate positive development towards diversity and increasing tolerance of the ‘other’ (Hayes et al 2006) and one would hope therefore that the curriculum may invoke a similar response with respect to attitudes towards the LGBT community in Northern Ireland. At present the approach is somewhat limited given that it is only used in integrated schools, which account for less than 6% of the Northern Ireland school population.

For similar initiatives in other jurisdictions it is important that such an educational approach cover all of the relevant categories, regardless of their presence in the school environment or not, otherwise the traditional focus will be to place more emphasis on some categories at the expense of others. It would also appear to be a prerequisite that adequate training be provided for staff to equip them with the knowledge and skills to implement such an anti-bias approach.

4.3 Age

4.3.1 Legislative Framework
Age discrimination legislation, introduced in 2006, is the ‘youngest’ piece of anti-discrimination law in Northern Ireland. The Employment Equality (Age) Regulations (Northern Ireland) 2006 prohibit discrimination in employment, vocational training and further and higher education. Significantly, they do not extend to the provision of goods and services, or any other area. Similarly to other legislation, the Age Regulations in their application cover direct discrimination, indirect discrimination, victimisation and harassment. The Age Regulations allow for some lawful exceptions. These include, for example, the exception on the basis of genuine occupational requirement; exception for retirement and exception for provision of certain benefits based on length of service. The Age Regulations do not apply at all to service in the army, navy or air force.

4.3.2 Statistical Information
According to the 2001 Census, age had a substantial effect on the highest educational qualification achieved by either men or women. The proportion of both men and women with no qualifications increased with age (ECNI 2006: 32). A report published by the ECNI in 2008 indicated that a difficulty in obtaining employment was perceived as the main work-related issue facing both younger (54%) and older respondents (47%) (ECNI 2008a).

There have been numerous concerns raised as to the social exclusion of older people in recent years. Over 80,000 older people in Northern Ireland live alone (NISRA 2001), with the Equality Commission outlining that their social isolation is caused by a number of factors which include the lack of affordable transport, differentials in access to health and social care and to financial services (ECNI 2007c: 20). The ECNI further note the difficulties in accessing services and facilities, such as leisure opportunities, with the risk that older people may become increasingly isolated as a result.

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148 COSO is made up of Belfast Lesbian Line; Belfast Pride; The Butterfly Club; Cara Friend; Foyle Friend; Foyle LGB Line; LGB Branch of National Union of Students/Union of Students in Ireland; Northern Ireland Gay Rights Association; QueerSpace; The Rainbow Project and individual members.

149 The Age Regulations also prohibit discrimination on the basis of age by: trade organisations; employment agencies; bodies that confer professional qualifications; people providing vocational trainings or services; partnerships; people for whom work is done under contract; police and police bodies; barristers; trustees and managers of occupational pension schemes; institutions of further and higher education; persons who appoint office holders; persons with statutory power to select employees for others; government departments and agencies.
facing older women particularly as their participation in society is constrained by pensioner poverty since most of the current pension schemes are based on the traditional models of work (and ignoring the upbringing of children) (ECNI 2007c: 20).

4.3.3 Good Practices
The ECNI (2008a) have highlighted a plethora of negative assumptions about the capacity of older people, even with the introduction of the Employment Equality (Age) Regulations (NI) in 2006. In response to this situation facing many ‘older’ individuals in Northern Ireland, the Changing Ageing Partnership (CAP) was developed to bring together Age Concern Northern Ireland, Help the Aged, Queens University Belfast (QUB) and the Workers Educational Association. CAP’s vision is of “a strong, informed voice capable of challenging and changing attitudes and approaches to ageing”; and one part of CAP’s work is to organise Age Awareness Week between September 29th and October 3rd every year to highlight the issue of discrimination which can affect older people within Northern Ireland. Again, the CAP utilise research by working with the Institute of Governance at QUB to bring information to light and highlight any gaps in equality relating to age with a view to influencing government policy into being more reflective to the needs of older people.

Summary
Data from the ECNI (2007c) would appear to reveal that age is becoming an issue of increasing importance. During the first thirteen months of the Age Regulations being in force (October 2006 – November 2007), the Commission received 277 enquiries relating to age discrimination, or 9% of the total number of inquiries during that period (ECNI 2007c). A recent case of an industrial tribunal has indicated the potential for the success of the implementation of the Employment Equality (Age) Regulations (Northern Ireland), when the ECNI provided support to a man who has been discriminated against as a result of his age and as a consequence the individual concerned was awarded £70,000 compensation.

4.4 Disability
4.4.1 Legislative Framework
The protection from discrimination on the basis of disability is ensured in Northern Ireland in accordance with the provisions of the Disability Discrimination Act (DDA) (1995), amended subsequently by a number of pieces of legislation, not least the Special Educational Needs and Disability Order (Northern Ireland) (SENDO) (2005). While covering the areas of employment, education and training, as well as access to goods, services and premises, the legislation also creates a positive duty on employers and service providers to make ‘reasonable adjustments’ to enable the person’s employment or access to other means. The DDA and SENDO cover a number of types of discrimination against persons with disabilities: direct discrimination; disability related discrimination; failure to make reasonable adjustments; victimisation; and harassment.

Under DDA, employers 152 are required to make such adjustments as are reasonable so that employment arrangements/workplace arrangements do not place a disabled person at a substantial disadvantage when compared to non-disabled co-workers. The duty to make reasonable adjustments encompasses the provision of training, mentoring or support to enable the person to

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150 Available at: http://www.equalityni.org/archive/pdf/AgeSurveyResearchUpdate(F)180608.pdf
151 The Tribunal drew an inference of discrimination from the use in the recruitment advertisement of the phrase “youthful enthusiasm” as the gentleman in question was 58 years old.
152 The legislation also applies to: trade organisations; bodies that confer qualifications; providers of work placements; partnerships; contract workers; barristers; councillors; trustees and managers of occupational pension schemes, and office holders.
take up employment. It also encompasses the need to alter the hours of work as required, allow for absences for rehabilitation/treatment; re-allocation of minor duties, etc.

The legislation makes it unlawful for the providers of goods, services or premises to discriminate against people with disabilities, in particular by refusing to provide a service; failing to make a reasonable adjustment that would enable the disabled person to use the service; providing a lower standard of service to the person with a disability or altering the terms on which such service is provided.

4.4.2 Statistical Information
Recent research has shown that almost one in five people of working age in Northern Ireland are disabled (DETINI 2007). The Troubles undoubtedly had an effect on the mental and physical well-being of a significant number of the population given that more than 40,000 individuals were physically injured or maimed as a result of the conflict (Morrissey and Smyth 2002: 3).153

According to the ECNI (2006a: 6) there is an extremely limited amount of data available on educational outcomes for people with disabilities. In terms of the overall population however, 41% of disabled people had no qualifications, more than twice the proportion of non-disabled people (17%) (ECNI 2006b).

The employment rate for those individuals without disabilities (79%) is more than twice the rate for those living with disabilities (32%) (DETINI 2007) and disability in Northern Ireland is also linked to high levels of poverty and deprivation. More than double (13%) the number of economically active disabled individuals were unemployed compared to 6% of the economically active who were not disabled (ECNI 2006b).154

The Equality Commission (2007a) noted a number of key barriers impacting upon disabled people’s access to employment in particular:

**Education** – Over twice the amount of disabled individuals have no qualification when compared to non-disabled persons (DETINI 2007).

**Societal Attitudes** – Research by the Disability Rights Commission in 2005 found that 45% of those small employers surveyed felt it would be “quite/very difficult” to employ a disabled person. Significantly, this figure is much higher than the corresponding figures for women, minority ethnic groups and older people.

**Transport** – It would appear that access to reliable transport remains a significant barrier to employment for people with disabilities. In the past, the Equality Commission argued that under the Disability Discrimination Act (1995) disabled individuals have limited protection with regards to transport provision in comparison to other provisions such as access to goods, facilities and services (ECNI 2005).

The barriers facing a number of disabled individuals in either seeking or securing employment resulted in 153 cases of alleged discrimination being brought to industrial tribunals between April 2004 and March 2005, an increase of just over 3% on the previous year (Office of the Industrial Tribunals and the Fair Employment Tribunal 2005).155

4.4.3 Good Practices
The implementation of Section 75 legislation has also been credited with encouraging public authorities to anticipate the needs of disabled people and involve service users and has been important in a number of public authorities (including several of the education and library boards) putting a system in place which should result in an increase in the recruitment of individuals with a disability (ECNI 2007b: 29).

One practical outcome of this has been the development of an initiative which aims to increase the numbers of individuals with a disability into employment (and indeed other minority and under-represented groups) and relates to the inclusion of equal opportunities statements in the advertisement of job vacancies. The ECNI have produced a series of guides to assist employers in how to advertise positions and avoid direct or indirect discriminatory advertising.156 There also appears to be a rationale behind the approach which is evidence based. Research has found that individuals in Northern

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153 Antidepressant prescribing in Northern Ireland has increased over fivefold in the decade 1989 to 1999 and this has in part been ascribed to social and political factors specific to Northern Ireland (Kelly et al. 2003).

154 The Northern Ireland 2001 census defined disability as “any long-term illness, health problem or disability which limits daily activities or work”.

155 Industrial Tribunals are independent judicial bodies in Northern Ireland that hear and determine claims to do with employment matters. These include a range of claims relating to unfair dismissal, breach of contract, wages and other payments as well as discrimination on the grounds of sex, race, disability, sexual orientation, age, part time working and equal pay.

156 Indeed, employers may be required to make a ‘reasonable adjustment’ for a person with a disability, for example, if it is not a necessary job requirement to have a driving licence but this is included within a job advertisement. This phrasing may therefore be deemed to have a discriminatory impact upon some individuals with a particular disability and should be removed from the job criteria.
Ireland, in applying for a job in a company with an under-representation of employees from their community background would be more likely to apply for a job if the company’s advertisements said that they particularly welcomed applications from members of their community (53%) (ECNI 2006b: 3).

Summary
The significance of the role of the media in being utilised as a tool to raise awareness, create discussion and promote the inclusion of previously marginalized minority groups should not be underestimated. The practice of promoting equality of opportunity through the media has been used by a number of organisations in Northern Ireland to encourage individuals with a disability, in particular, to apply for a job. The Belfast Education and Library Board (2004) were one such organisation that included the following statement in their job application advertisements:

We particularly welcome applications from individuals with a disability (BELB 2004).

It remains the case that despite these attempts to advertise more widely and encourage applications from individuals with a disability, the employment rate for those individuals without disabilities (79%) remains more than twice the rate for those living with disabilities (32%) (DETINI 2007a). The ECNI have recommended that employers advertise through as many mediums as possible to reach the largest possible audience, and despite the disparity in the figures at present the very existence of the practice can at the very least be viewed as a proactive attempt on the part of employers to encourage under represented or minority groups to take up employment with them.

4.5 Gender

4.5.1 Legislative Framework
The longest-standing piece of legislation relating to the prohibition of discrimination in Northern Ireland is the Equal Pay Act (Northern Ireland), introduced in 1970. Provisions of the Act, as amended by subsequent legislation, guarantee equality for women in relation to pay for work: like that of a man; rated as equivalent to that of a man or work of equal value to that of a man. Discrimination based on gender has been outlawed in Northern Ireland by the Sex Discrimination (Northern Ireland) Order (1976), later amended by, among other laws, the Employment Equality (Sex Discrimination) Regulations (Northern Ireland) 2005. The sex discrimination legislation covers a number of types of unlawful behaviour: direct discrimination; indirect discrimination in employment; indirect discrimination in the provision of goods, facilities and services; victimisation; discrimination due to pregnancy/maternity; sexual harassment and discriminatory advertisements.157

4.5.2 Statistical Information
In total, women in Northern Ireland comprise 45.2% of those currently in employment compared to 46.4% in Great Britain (DETINI 2007). Despite the unprecedented numbers of females entering the Northern Ireland labour market: [...] there are notable gender differences in employment rates and in the nature of employment between the sexes in NI (DETINI 2007: 1).

One aspect of the gender differential in the labour market is related to childcare. Recent statistics show that 41% of working age economically active women in Northern Ireland have dependent children (DETINI 2007). The number of individuals living with a long-term limiting illness or a disability in the Northern Ireland context has historically been exacerbated by the effects of the conflict, and in part the responsibility of caring for family members disproportionately affects women, who account for 66% of the recipients of care allowance (DSD 2005). The Equality Commission in their submission to the UN Committee on CEDAW stated: The unequal sharing of caring responsibilities means that, of those females who are economically inactive, almost half (45%) are unavailable for work due to family/home commitments (ECNI 2008b: 24).

The work life balance is not the only aspect of employment practices which disproportionately affects women more. Despite the introduction of the Equal Pay Act (Northern Ireland) 1970 (as amended), and the Sex Discrimination (NI) Order 1976 (as amended) statistics indicate that in general in Northern Ireland women still tend to earn less than their male counterparts. It is the case that although female hourly earnings as a percentage of male hourly earnings continue to be much

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157 For example, gender neutral language should be employed in advertisements, not terms such as ‘Waiter required’.
higher in Northern Ireland (99.8%) than in the rest of the UK (87.4%) (DETINI 2007), the GMB General Union have suggested stated that: this is not a reflection of high women’s pay, instead it highlights the exceptionally low pay of men in these areas (Press release, GMB, 19th January, 2004).

4.5.3 Good Practices
There are a number of organisations in Northern Ireland currently working to improve the situation for women with particular focus on the disproportionate role of women as carers (in terms of the work/life balance) and the lower levels of pay generally for females compared to their male counterparts.

One organisation working to remove gender inequalities in relation to employment is Business in the Community Northern Ireland (BICNI). BICNI have worked closely with Northbrook Technology who decided to focus their activities on trying to recruit more women (and particularly those women aged between 30 and 40 years) in what is traditionally perceived as a male dominated sector with a high staff turnover. In order to attract more female employees the company undertook a gender equality and diversity programme which actively targeted women as potential employees. The company managed to reduce the average annual number of sickness days from nine to three, more flexible working opportunities were offered and an increasing focus on finding the right ‘work-life’ balance encouraged more women to apply for posts\(^{158}\). The company now has a 100% return to work rate following maternity leave.\(^{159}\)

The Northern Ireland Committee of the Irish Congress of Trade Unions (NIC-ICTU) recommended flexibility in working hours as a means of promoting improved efficiency in the workplace through improved employee job satisfaction (ICTU 2007: 14). A number of local businesses have recently adopted similar policies to maintain a ‘work-life’ balance amongst their employees, and recruit and retain more female members of staff. There are some practical examples where local businesses have taken the initiative and reformed their work practices accordingly. Botanic Inns Ltd began providing financial assistance with childcare costs during maternity/paternity leave and offered more flexible working hours which reduced short-term absenteeism to 1.9%.\(^{160}\) This approach enabled the company to retain a number of employees (and particularly female employees in senior posts) and the company has a low turnover for the industry at 65%, and has managed to keep the skills of the workers who otherwise would have left due to childcare and other caring commitments.\(^{161}\)

Summary
The difficulty in terms of the private sector remains that the largest companies with the most to gain from adopting such far-sighted approaches to narrowing gender inequalities are few and far between. Most businesses are small, family owned and with many pressures particularly at a time of a global ‘credit crunch’. Although one of the most practical ways to encourage businesses in the private sector to change their working practices is to highlight the fact that in the long-term it makes ‘good business sense’, in reality many smaller businesses are more concerned with their immediate survival rather than any more abstract notions of the desirability of promoting equality and good relations in the workplace.\(^{162}\) A combination of factors have led to the fact that: A generation on from the Sex Discrimination (Northern Ireland) Order, it is noteworthy that gender issues still comprise the largest single category of complaint – almost 40% of the total number of legal enquiries received by the Commission since 2001 (ECNI 2007c: 37).

Gender is perhaps the one category which would indicate that the presence of legislation alone is not enough to promote equality and remove discriminatory practices. Strong legislation is one aspect of this approach, but a proactive stance by employers and other organisations who recognise that promoting gender equality makes good business sense and is in their best interests is also required, otherwise, as we have seen as is still the case in Northern Ireland, women still tend to be at a disadvantage particularly in terms of employment opportunities, prospects and earnings than their male counterparts.

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\(^{158}\) As previously discussed, since women are primarily the main carers for family members rigid working hours disproportionately impact upon them more so generally than men.

\(^{159}\) Northbrook won a Morgan Stanley Diversity Award for this programme in 2006 (Jarman and Byrne 2007: 33).

\(^{160}\) http://bitc.org.uk/workplace/diversity/opportunity_now/exemplar

\(^{161}\) These examples of best practice were officially formalised in 2006 when BICNI launched the ‘Regional Recognition Awards’ with the top accolade being the ‘Responsible Company of the Year’. In 2008 the categories of award increased to include Diversity and the Women in Local Councils Award in association with the Local Government Staff Commission in Northern Ireland.

\(^{162}\) This is highlighted elsewhere in the UK by the fact that as of March 2008, a benchmarking report on the top ten performers in the private and public sector indicated, that without exception, the top performers are all large multi-nationals such as Lloyds TSB (1), British Telecom (2) and The Royal Bank of Scotland (5) (BITC 2008).
4.6 Race/Ethnicity

4.6.1 Legislative Framework
Discrimination on the grounds of colour, race, nationality or ethnic or national origin is made unlawful in Northern Ireland by provisions of the Race Relations (Northern Ireland) Order (1997) (the RRO), amended in 2003 by the Race Relations Order (Amendment) Regulations (Northern Ireland) (the Regulations). The RRO prohibits discrimination in the fields of employment, education, sale or management of property or premises, as well as in access to goods, services or premises. The RRO specifically identifies the Irish Traveller community as a racial group protected under the legislation, and states that any segregation on racial grounds constitutes discrimination. As is the case in the provisions mentioned earlier in this section, the RRO covers a variety of types of discrimination: direct discrimination; indirect discrimination; victimisation; and harassment.

The RRO includes some important exceptions from the principle of race discrimination. They include, among others:

- access to facilities or services which meet the special needs of racial groups with regard to their education, training or welfare; or in relation to the provision of education or training for persons not ordinarily resident in Northern Ireland;
- certain restrictions based on nationality or residence or length of residence in the UK with regard to employment by the Crown;
- certain judicial and legislative acts; and
- certain acts in immigration cases.

The RRO makes provision for positive action in favour of members of a particular racial group, when such action enables them access to particular work, training, education or services, and where a particular racial group is under-represented or absent.

4.6.2 Statistical Information
Northern Ireland over recent years has undergone something of a transformation in terms of the increasing numbers of migrants coming to live and work here. This development has been partly linked to the peace process thanks to which Northern Ireland is proving to be a more attractive option as a place in which to live and work. However, a number of studies have identified the difficulties in establishing the exact numbers of new migrants residing in Northern Ireland (Bell et al 2004; Jarman 2006; McVeigh 2006; Martynowicz and Jarman 2008).

There have been some attempts to provide accurate statistical data. The latest Labour Force Survey estimate relating to the period between July and September 2007 recorded 44,000 non-UK or Irish nationals of working age, 39,000 of whom were in employment (89%). The Department for Employment and Learning estimated, therefore, that this figure equates to 5% of the Northern Ireland workforce as of mid-2007 (DEL 2008).

McVeigh (2006) suggested that there was widespread exploitation and abuse of migrant workers across Northern Ireland with the distinct possibility that the situation may get even worse, and that “there was ample evidence of unlawful discriminatory practice by some companies in the recruitment agency sector”. There is an increasing recognition that migrant workers are often employed in jobs well below the level of their skills and experience. Problems regarding recognition of relevant overseas qualifications and reluctance of employers to count relevant experience into the requirements of a particular position largely contribute to this situation (Holder et al 2006; Martynowicz and Jarman 2008: 13).

4.6.3 Good Practices
A combination of many of the factors which have been discussed above led to the establishment in 2004 of a Minority Ethnic Employability Support Project (MEESP) by Belfast GEMS. GEMS identified a number of barriers facing ethnic minorities with regards to their entry into the labour market. These included language barriers, the transferability of skills, work experience, cultural issues and protection against exploitation by unscrupulous employers. The programme involved the recruitment of 150 people from Ethnic Minority backgrounds in areas of South Belfast and areas within East Belfast who were furthest away from the labour market to support them back into the labour market. This support included assistance in preparing a CV, verification of qualifications, assistance with application forms, signposting to English language classes and basic interview skills and techniques. By November 2007, MEESP had supported 203 clients, and according to an external evaluation of the project in 2008, 155 participants had successfully found employment (GEMS 2008: 19).

Similarly, another initiative which originally began as a fire-fighting exercise to put a stop to racist attacks in South Belfast is the South Belfast Roundtable (SBR). An example of best practice in working in partnership, the SBR has developed over the past four years into a body capable of taking a proactive stance in promoting
better relations between the local and minority ethnic communities in the area. The fact that the SBR sees itself as a “community initiative” rather than simply a minority ethnic initiative has been a key aspect of the success of the organisation to date and has contributed to the ongoing viability of events such as the intercultural festival which was organised in 2008, as well as the provision of accredited monthly training to community organisations, schools and youth groups in community relations and other programmes to challenge myths and misinformation, prejudices and stereotypes about ‘other’ communities.

Summary
Given the recent demographic changes which have occurred in Northern Ireland, there is currently no shortage of programmes or initiatives which have been established with the expressed aim of improving the situation facing migrant workers in a number of areas, including, but not limited to, education, employment and accessing health and social services. A number of these programmes face ongoing uncertainty with regards to their funding, and if one looks at a number of attitudinal surveys, it is possible to ascertain the need for such programmes, and particularly those training programmes which aim to challenge stereotypes and prejudice amongst the general public. 163

4.7 Conclusions
Given the historical context within Northern Ireland and the nature in which equality and anti-discrimination measures have tended to have developed in relation to the two main communities, the terms ‘equality’ and ‘discrimination’ have traditionally focused on addressing religious discrimination and have therefore in some senses become politicised. In the increasingly ethnically diverse society of Northern Ireland today there is a danger that the focus of the debate on equality and tackling discrimination will shift, and quite rightly so, but there is a danger (which seems to be the case at present) in which diversity is equated with racial diversity. There is a possibility that the other categories of discrimination as identified by the Amsterdam Treaty will be ignored, indeed the majority of the general public are not even aware of the Equality Commission, never mind what they are doing to promote equality. This development is highlighted by the overwhelming number of initiatives at present which focus on race as an issue, but tend to ignore many of the other potential grounds for discrimination.

Legislative developments have made a significant impact in terms of promoting equality, and Fair Employment legislation has, by and large, been very successful in addressing historic imbalances and increasing the Catholic share of the labour market, while the positive action required of public bodies to promote equality of opportunity under Section 75 has encouraged a number of bodies to develop proactive responses to increasing the inclusion of minority and under-represented groups, who otherwise (in all likelihood) would not have done so to such a degree.

There is also the issue of multiple forms of discrimination which continues to face a number of individuals, which is something that the proposed single equality bill may address in more depth, although this legislative development would appear to be on hiatus for the time being. The history and development of Northern Ireland politically, socially, culturally and economically over the last 30 years has indicated that there are a number of valuable lessons which can be shared with other countries, but any lessons which attempt to simply transpose policies which worked in Northern Ireland, may not be an appropriate response, and approaches need to be tailored to the dynamics of the specific situation and context they find themselves trying to address.

163 Results from the Omnibus Survey published in January 2007 showed high levels of perceived prejudice towards migrant workers. The study indicated that 24% of respondents thought that people were very prejudiced towards migrant workers, with a further 60% stating that people in Northern Ireland are ‘fairly prejudiced’ (NISRA 2007).
References


5.0 Cyprus Research Report: Reconciliation
/Συμφιλιωση
/Uzlaşma

Nicos Trimikliiotis
Reconciliation/ Συμφιλιωση/ Uzlaşma
Introduction

The historical setting of Cyprus has been dominated by the ethnic relations between the two constitutionally recognised communities, Greek-Cypriots and Turkish-Cypriots, as well as the role of foreign forces, something also reflected in the political, economic, ideological, social and cultural life of the Country. Inevitably, historically the research agenda on Cyprus, which focused on the central political problem that still dominates Cyprus and the restoration of the unity and constitutional order of the country and has thus, resulted in the relative neglect in initiating studies on the various grounds of discrimination. Indeed, tackling discrimination on grounds, particularly if related to the troubled relationships between Greek-Cypriots and Turkish-Cypriots, as well as issues relating to other than ethnic or racial origin was somehow subsumed in the ‘national question’. Even when dealing with the ground of ethnic or racial origin there the emphasis has been on studying the relations between the two communities, undervaluing discrimination as such, or looking at the treatment of the smaller minorities. Even though the Cyprus problem remains unresolved and there is currently another initiative for the resolution of the problem, following the rejection of the UN plan to reunite Cyprus (the Annan plan) in the referendum in April 2004,164 the situation has changed dramatically: as regard the question of knowledge, research, institutions and actual policies there has been enormous development since the first report written on the subject of combating discrimination in Cyprus as a result of transposing the anti-discrimination acquis.165 However, on an everyday level there is widespread discrimination and, as it will be shown in this report, which draws on all serious studies conducted so far, a great deal more needs to be done before various forms of discrimination are combated and society is free from discrimination. Good practices can be utilised, but these measures need a great deal more enhancement if they are to be effective instruments in the struggle against discrimination.

5.1 Historical Background: the dominance of the ‘national question’ and ethnic conflict resulted in a weak anti-discrimination tradition

Given the background of ethnic conflict and war, it is hardly surprising that historically there has been very little to be said about the general discriminatory practices in Cyprus. The dominance of the ‘national question’ resulted in a very weak tradition in the operation of anti-discrimination laws and policies, with the exception of sex anti-discrimination, where some measures existed: before accession to the EU, research on discriminatory practices was virtually non-existent as the monitoring systems are either archaic or non-existent.166 However, recent studies on the subject show a new interest in matters of discrimination with the development of research centres working on migration/discrimination,167 gender and migration, gender equality, labour and employment issues,168 NGOs, researchers and a more pluralistic media.

5.2 Demographic Overview

This report only covers the people residing in the area under the control of the Republic of Cyprus and therefore the vast majority of Turkish-Cypriots, tens of thousands of whom hold Cyprus Republic passports are not counted. It has to be noted that the reliance on a census conducted prior to the opening of the checkpoints in April 2003 means that we have little reliable data that that properly takes in to account the numbers of Turkish-Cypriots who have moved to south since then, and more importantly the few thousands of Turkish-Cypriots working in the south, who every day cross over to go to work. Statistical data is also provided from other sources on current estimates of minority ethnic populations, as well for those individuals living with a disability and finally the section contains a number of key labour market characteristics.

164 See the relevant section on page 5.
167 Such as the Centre for the Study of Migration, Interethnic and Labour Relations at University of Nicosia which is dealing with the RAXEN and FRALEX projects and other.
5.2.1 Gender and Age & General Characteristics
The general characteristics of the population are found in the 2001 census: the total population as at census date was 703,529; of these 345,322 were males and 358,207 females. Population living in institutions numbered 4,285 or 0.6% of the total. Of the total population 485,304 (or 69.0%) resided in urban areas and 218,225 (or 31.0%) in rural areas. Children aged 0-14 accounted for 21.5% of the total population, 66.8% were in the working ages 15-64 and 11.7% in the old ages of 65 and over.

5.2.2 Disability
Figures are drawn from the censuses statistics (1981, 1991 and 2001 census). In 1981 only 22.6 disabled persons per 1000 persons were recorded, compared to 39.5 per 1000 recorded in 2002, presumably reflecting the social attitudes prevailing over the matter. In 2001, a total of 23000 persons were recorded as having disabilities, although there is a question as to the definition of disability employed. According to the Labour Force Survey of 2006, 65.9% of the persons in retirement, retired because they had reached compulsory retirement age, 15.6% due to family/or personal reasons, 7.7% due to favourable financial arrangements to leave and 5.4% because of own health or disability problems.

5.2.3 Religion/Belief
According to the 2001 census the vast majority of the enumerated population were of Christian Orthodox religion with 94.8% followed by Roman Catholics 1.5%, Church of England 1.0%, Moslem 0.6%, Maronites 0.6% and Armenians 0.3%. A total of 0.9% reported various other religions, 0.1% did not report any religion and 0.2% reported atheists.

5.2.4 Language
The question asked about language related to the best spoken language and allowed for only one answer to be recorded. Of the total population, 91.7% reported Greek, 2.3% English, 2.0% Russian, 0.7% the language of Sri Lanka, 0.6% Arab and 0.5% Philippino. Various other languages were reported with smaller percentages.

5.2.5 Minority ethnic statistics/estimates
The Census of Population has given the following distribution of the Cyprus population in the Government controlled area: Greek Cypriots 618,455, Armenians 1,341, Maronites 3,658, Latin 279 and Turkish Cypriots 361. The census report notes that the number of persons recorded as Armenians, Maronites, Latinos and Turkish Cypriots may not represent the actual figures. Due to the small percentage of persons belonging to these groups, it is frequently observed in Censuses that the true group may not be recorded or stated correctly, which results in underreporting of the small groups. Moreover, the figures are problematic as they do have separate headings for smaller communities such as the Roma (most may be included in the Turkish-Cypriot category) and in any case the figures are outdated as they do not represent the situation following the opening of the checkpoints.

5.2.6 Vulnerable Groups
Below there are categories of persons that constitute vulnerable groups in Cyprus in the sense that, due to the specific characteristics ascribed to them, they are in risk, collectively and/or individually, of being discriminated on a single or multiple grounds. The groups selected are known to be discriminated against; however the various vectors of discrimination (gender, ethnic/racial, religion, sexual orientation, disability and age) have to be seen contextually and in combination of various grounds that intersect in order to properly appreciate the social and legal relationships and how to combat them.

A number of initiatives of good practices cover all the grounds of discrimination raising awareness on all grounds in the specific field of employment. Such a general good practice initiative is the Capacity building training seminar for trade unions and NGOs in the non-discrimination field, which was organised by Symfilos, Migration Policy Group, International Society for Diversity Management, Human European Consultancy. It was funded by the EU Commission to improve capacity aiming to benefit NGOs, trade unions and employees as Symfilos organised a two-day anti-discrimination follow-up seminar targeting NGO activists and trade unionists who had attended one of the previous anti-discrimination seminars held in 2005 and 2007. It was useful for capacity building and for allowing cross field, cross-section and trade unions and NGOs working different grounds is innovative; allows for issues to emerge from civil society to drive training and define the agenda. However, not all NGOs continue to function or remain interested; NGOs and trade unions require regular support of by experts not just training session; a main problem remains the training of lawyers who will push the anti-discrimination agenda.

169 Published in 2004 the census can be found at http://www.pio.gov.cy/mof/cystat/statistics.nsf/All/B7493AFE7CC36B25C2256D48002F312B/$file/CENSUS%20OF%20POPULATION%202001-VOL.1.pdf?OpenElement
Another general good practice initiative is the Awareness Raising Activities in Cyprus against Discrimination on Ground of Race, Ethnicity, Religion and Age, which was organised by the Cyprus Labour Institute (INEK-PEO) and the trade union PEO, a project is supported by PROGRESS (funded European Commission 79,74% and own resources 20,26%). It had national coverage and aimed at SME in private sector, large company in private sector, public sector, civil society and NGOs, trade unions. The beneficiaries were trade unions, public authorities, general public; youth (children, young people, students); women; ethnic minorities; Roma; migrants; asylum seekers, refugees; public authorities: employees and their associations. It ran from November 2007 to October 2008. The grounds covered were Race, Ethnicity, Religion and Age. All the activities to be implemented within the framework of this project are aiming at raising awareness against discrimination, as well as supporting antidiscrimination efforts. The project aimed at improves capacity of NGOs and competence of young workers: it covers different towns and villages; seminars focusing migrants their rights held in Turkish, Rumanian and Bulgarian opens up awareness to EU anti-discrimination legislation and Cyprus targeting migrant workers and Turkish-Cypriots as well as youth. Its weakness was short span of life: it should be repeated regularly and extended if it is to have a deeper impact.

Also a number of initiatives of good practices cover all the grounds of discrimination in terms of raising awareness on all grounds in education. Such a good practice is the initiative of the English School called which a training programme is called: Intercultural Education for European Citizens: Diversity, Anti-discrimination, and Reconciliation. It covers the specific school and focuses on education. The beneficiaries are Teachers, pupils, employees and parents at English School: the training is targeted to 30 volunteers (in sessions of 15) from the staff and it is funded by the School budget on training; part funded by the Human Recourses Development Authority. It deals with all the grounds (Gender, Race, Ethnicity, Religion, Disability, Sexual Orientation and Age). The school environment needs to be safe, open and inclusive for all students and members of staff; to enhance anti-discrimination and to recognize the diversity of Cypriot society and reconciliation. General aim: to provide the staff with vital tools to combat discrimination, and to enhance diversity and reconciliation in the teaching, the educational methods and the general conduct in the school working environment. It provides participants with the necessary theoretical, practical and empirical tools to manage, to direct and to enhance the goals of education for all and raise awareness amongst the pupil population and staff. It includes a 12 session course on different aspects of the subject. It introduces means by which teachers can best play their role as educators, who have the ability and capacity to direct their classes, to properly fulfil their school functions in general, both in terms of the teaching content and methods in combating discrimination, enhancing diversity and reconciliation.

The main weakness is that it covers only a number of teachers at this point (about 30) and not the entire staff, student and parent population. The ones that mostly are in need of this training are those who do not participate in the training, or are openly hostile to such initiatives.

5.2.6.1 Definitions of most vulnerable groups

The Cyprus National Action Plan for Social Inclusion 2004-2006 considers that ‘immigrants’ are one of the ‘groups at risk’, recognising that it is a group whose members are “at risk of exclusion”170, following the 2nd ECRI Report on Cyprus, which referred to migrants as “a vulnerable group”. There are no statistics concerning racism and discrimination in employment, however there is a great deal of evidence to support that the 2nd ECRI Report executive summary findings still apply: “Problems of racism, xenophobia and discrimination persist, however, and immigrants appear to be in a particularly vulnerable position in this respect. The rights of immigrant workers, notably domestic employees, are often not respected and the remedies available in these cases are not always effective”,171 as research has shown: there is an abundance of evidence of ‘racial’ discrimination, particularly in employment.172 The number of complaints to the Ombudsman for violations of employment terms and conditions primarily due to the nation or ethnic origin by migrant workers, even before assuming the function of the specialised anti-discrimination body,173 is indicative. The 3rd ECRI Report (2005) follows in a similar vein, despite the references to the improvements in the institutional level of combating discrimination.

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173 Under the Combatting of Racial and Some Other Forms of Discrimination (Commissioner) Law on (42/1) of 2004
5.2.6.2 The 'vulnerable position of migrants’

Migration of labour to Cyprus is a new phenomenon that started in the 1990s. The “vulnerable position of migrants” is reflected in the education system and schooling. In spite of the officially proclaimed educational policies of tolerance, integration and respect for various cultures. It is now estimated that there are between 50000 to 70000 migrant workers from different ethnic backgrounds in Cyprus. Migrant workers themselves regularly complain about mistreatment and racial discrimination from the police and other authorities, such as social workers. Most of the migrants are third country nationals from south East Asia, Arab countries, Eastern Europe and some are EU citizens. A large number includes the Pontian Greeks, who form a special category because most of them are holders of Greek passports and can settle in the Republic with their families without too many formalities. They live in the margins of society and take up low paid manual jobs. Pontians are concentrated in the lower strata of society and live by and large in specific depressed areas and generally attend specific schools. Particularly vulnerable are undocumented migrant workers who are treated as ‘illegal migrant’. The Archive of Population and migration informed the author that the estimated number of undocumented workers is said to be between 10000 and 30000; however, no explanation is often given as to how they made the calculation. Most of these are migrant workers, whose main areas of employment are: domestic workers, service industry (tourism, trade), manufacturing industry, agriculture and construction. It is estimated that there are between 10000-30000 undocumented migrant workers, as there is no actual research on the subject; instead we have some rough estimates by the Police, immigration officers and politicians, but there is no consistency even in the estimates each as there are issues of political expediency and public concern at stake. The Cypriot authorities have included an annex to the Third ECRI Report on Cyprus (2005), which refers to the rise of the number of non-Cypriots from 20000 in 2000 to 75000 in 2005 “which includes an estimated 15per cent of illegal immigrants and another 7-8per cent on average asylum seekers”, a number that includes the Europeans and non-Europeans of various categories but does not include “a considerable number of visitors”, such as retired persons, students and those on a permanent resident permits.

Some initiatives have been taken by trade unions to deal with the problems that migrant workers face. One good practice is a campaign by the Pancyprian Labour Federation (PEO) of sectors of building, wood, mine and general workers’ sector to provide information and understanding of migrant workers’ rights via the use f the member’s handbook. It was part funded by the European year of Equal Opportunities 2007 and PEO. It covers all grounds and aims to raise awareness on the rights of workers who are vulnerable such as migrant workers. Trade union leaflet is issued in several languages: “Members’ handbook” for the sectors of building, wood, mine and general workers’ sector. The leaflet describes the rights and benefits available in those sectors in terms of social insurance, annual leave, provident fund, trade union health centres, holiday and gratuity fund. This new edition is now available in five languages (Greek, Turkish, English, Russian, Slovak, Romanian and Polish) which cover the languages spoken by a large percentage of migrant workers in Cyprus. The handbook contains rights of workers, including anti-discrimination, in five languages this covers the languages spoken by a large percentage of migrant workers in Cyprus and has an impact on protecting the rights of workers who are in vulnerable position. However, it has to be pointed out that the initiative only covers members of the union; the most vulnerable migrant workers are those which have no trade union traditions or are working SMES or private homes with no opportunity for unionisation (agricultural sector and domestic work).

5.2.6.3 Turkish-Cypriots and Roma residing in the south

A few hundred Turkish-Cypriots and Roma remained

174 This is only an intelligent estimation. There is wild speculation as to the numbers of the undocumented workers, who are primarily overstayers and their number is estimated between 5000 and 30000. A fair examination of the number proposed is to take an average around 10000 to 15000. See Cyprus Labour Institute (INEK) Εκθέση για την Κυπριακή Οικονομία και Απασχόληση 2004 (Annual Report on the Economy and Employment 2004). See also Trimikliniotis, N. and Pantelides, P. (2003) “Mapping Discriminatory Landscapes in the labour market”.


in the south after 1974\textsuperscript{179} most of whom reside in the Turkish sector of Limassol\textsuperscript{180} and some elders are to be found sporadically in some villages. Since the partial lifting of restrictions in movement in April 2003, a few thousands of Turkish-Cypriots have taken up residence or employment in the south or travel to the south to seek public services, many of whom are non-Greek speakers. There are regular reports of discrimination against them by the authorities.\textsuperscript{181} The majority of Cypriot Roma are Turkish-speaking and have been classified as belong to the Turkish-Cypriot community. Most Cypriot Roma\textsuperscript{182} who arrived in 2001 from north of Cyprus to the Republic controlled territory, reside in concentrated areas such as the old quarter of Limassol, whilst some were temporarily settled in the village of Kofinou.\textsuperscript{183}

5.2.6.4 Greek-Cypriots residing in the northern (Turkish controlled) territories

The research on this issue is scant\textsuperscript{184} at the moment. However, it is expected that interesting developments will emerge shortly, as a Greek secondary education school was permitted to operate for the first time in September this year in the Turkish-Cypriot controlled north, in the village of Rizokarpasso, which is bound to create the dynamics for further settlement of Greek-Cypriots in the area and contact with the Turkish-Cypriot people and administration.

5.2.6.5 The Constitutionally Recognised ‘Religious Groups’

The figure for the Greek-Cypriot population includes 8,000 people from Maronite,\textsuperscript{185} Armenian\textsuperscript{186} and Latin\textsuperscript{187} groups who opted to join the Greek-Cypriot community; however they are not considered as a discriminated group when compared to other minority populations.

5.2.6.6 Women

Women, when compared to men, are in a disadvantaged position in most areas of social, economic and political life, as various studies indicate.\textsuperscript{188} Although the legal tradition on combating gender / sex discrimination is the longest, discrimination against women persists and various structural, socioeconomic and cultural barriers are obstructing gender equality.

An important good practice on gender is the code of practice for sexual harassment at work that was made by the Cyproit Equality Body. It has national coverage on the employment sector. The Good Practice is implemented all sectors where there is employment including SME in private sector, Large company in private sector, Public sector, Media & Advertising, Civil society & NGOs, Education, general public; however it primarily employers, managers and administrators as well as victims or potential victim, employees. It is funded by the European year of Equal Opportunities 2007: although its’ time frame was for 2007 and 2008; it will be republished when run out. The aim was to inform the employers of their duties and obligations; to raise awareness to victims, employees in the public and private sectors. The main positive elements are that some public corporations and large private companies have amended their internal disciplinary regulations in line with code of practice; the employers association has welcomed this and produced its own code. The main weaknesses or obstacles are that it has not reached the vast majority of SMEs, despite the engagement with medium and small business associations and trade unions. It is directed primarily at employer as it is a large and analytical document. The code is not legally binding as the law on gender discrimination does not cover this area as does the law on other types of discrimination.

Another gender-based good practice that affects a vulnerable group is the Shelter for victims of trafficking. Although based in Limassol it aims at national coverage. It is running since 2004 was funded by the European Commission; private donations; voluntary work. The basic idea is to empower and support victims of
trafficking and exploitation; estimated by the Shelter organisers that there are up 5000-6000 victims. The Shelter offers support to victims of trafficking to empower them to go through the process of dealing with perpetrators, including going through the court process; it supports them to contact family; offers translation and prepare them for repatriation. Already 270 women victims of trafficking were supported by the shelter. It offers shelter, food, psychological and moral support and counselling throughout the ordeal. It is the only shelter other than the state shelter; it has not lost any of the victims it supports; it has a most committed and supportive staff which relies to a large extent on voluntary work; victims are able to keep the whole of the state benefit they receive, whilst in the state shelter only offers them 17 euros per week. The main problem is that funding and support cannot cover the demand; no support from the state and welfare office; unable to offer victims some vocational training.

5.2.6.7 Lesbian and gay persons
The discrimination against lesbian and gay persons is widespread as the studies on homophobia show. This is a population which has been systematically discriminated against in employment and social life but which has received little attention by media and policy-makers.

The difficulty and obstacles when it comes to dealing with homosexuality is illustrated with one of the very few good practices designed to deal with the grounds of Sexual Orientation. The title of the good practice is Myths and Truths about Homosexuality and Sexual Orientation and the actors involved were Cypriot Gay Liberation Movement (AKOK), the Family Planning Bureau and ASTARTIS organisation. It aimed to reach organised groups such as teachers and police (among others), as well as the general public and was funded by the European year of Equal Opportunities 2007. It was thought that this would be an important first step to redress this problem the production and circulation of a leaflet on myths and truths about homosexuality and sexual orientation and the objective was raise awareness for the police and for teachers so that at an early age pupils learn to dispel the myths on the subject: this is a vital step in the direction of opening up a taboo subject and such a debate, on the basis of human rights and anti-discrimination with the full blessing of the Government is a very positive development. However, the leaflet has been published but it is still to be disseminated. The teachers, the Ministry of Education and the Police are reluctant to take such initiative, hence the leaflet has been published but it is still to be disseminated. This resistance may block the project. However, it is a matter of political will.

5.2.6.8 Persons with disability
Further to the demographic data, it has to be noted that persons with disability have a strong confederation that has managed to push the disability agenda to the extent that we can report important progress in combating disability discrimination. However, a great deal more is required in the question of access to services, education, buildings etc. A good practice for disability is the Supported Employment for Persons with Mental Illness. The main actor involved is the Committee for the Protection of Mentally Retarded Persons & Service for the Welfare of the Disabled of the Ministry of Labour & volunteer organisations. It covers SME in private sector but mostly large company in private sector, with the support of civil society and its beneficiaries are Persons with mental illnesses as well as employers in the private sector. In terms of funding, 70% comes from the Service for the Welfare of the Disabled (Ministry of Labour) and 30% by the implementing volunteer organisation. The sheltered employment option available to persons with mental disabilities has failed to achieve integration into the open labour market and to society at large of the persons concerned. By contrast, this programme offers to persons with mental disability the possibility for socialization and integration in the real labour market with personalised support. Evaluations of the programme which are carried out every few years show an increasing satisfaction of all actors concerned with the institution of supported employment and an increasing independence of persons with mental disability from public benefit and from their families. 60% of the persons employed have stated that they were very happy with their work, even though the pay was very small (Euros 1.70 per hour). The main weakness is that very few have found employment in

191 See the chapter 7 on the conditions of employment of young persons, labour precariousness and uncertainty [Οι συνθήκες εργασιακής των νων στην Κύπρο: Ερευνα για την ένταξη και αφελήτωρες], INEK (2004: 109-124).
the service industry, which according to the organizers, renders it questionable whether the preferences of the persons with mental disability were taken into account. Also, the pay is extremely low and below the poverty line. Some families have discouraged their disabled member from participating in the scheme as this would result in losing their state benefit, which is often a higher amount than the remuneration received at supported employment.

2.6.9 Elderly and Young persons
Age discrimination is a new concept in Cyprus. Discrimination on the basis of age is widespread: advertisements retain age discrimination provisions; the situation of older workers warrants attention, whilst persons of a certain age face ageism on a routine basis.

There is also the other side of ageism. Studies show that there is widespread discrimination against young workers, who face precarious working conditions, higher unemployment rates and general insecurity in work.193

Table 1. Population and Ethnic Groups in Cyprus

<table>
<thead>
<tr>
<th>Community</th>
<th>1960 Thousands</th>
<th>%</th>
<th>1992 Thousands</th>
<th>%</th>
<th>2000 Thousands</th>
<th>%</th>
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<td>78.2</td>
<td>599</td>
<td>83.9</td>
<td>647</td>
<td>85.2</td>
</tr>
<tr>
<td>Turkish Cypriot community</td>
<td>104</td>
<td>18.1</td>
<td>95194</td>
<td>13.3</td>
<td>88*</td>
<td>11.6</td>
</tr>
<tr>
<td>Others</td>
<td>21</td>
<td>3.7</td>
<td>20</td>
<td>2.8</td>
<td>24</td>
<td>3.2</td>
</tr>
<tr>
<td>TOTAL</td>
<td>573</td>
<td>100.0</td>
<td>714</td>
<td>100.0</td>
<td>759</td>
<td>100.0</td>
</tr>
</tbody>
</table>

[Source: http://www.pio.gov.cy/cyprus/people.htm]

Table 2 where a broad outline of basic statistical information is given.

Table 2. Economic Indicators and Migration

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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Gainfully employed population</td>
<td>306</td>
<td>3076</td>
<td>3111</td>
<td>3182</td>
<td>3249</td>
<td>3299</td>
<td>326133</td>
<td>341203</td>
<td>354686</td>
</tr>
<tr>
<td>% of unemployment</td>
<td>3.1</td>
<td>3.4</td>
<td>3.3</td>
<td>3.6</td>
<td>3.4</td>
<td>2.9</td>
<td>3.9</td>
<td>4.1</td>
<td>4.7</td>
</tr>
<tr>
<td>Transformation of unemployment %</td>
<td>9.67</td>
<td>3</td>
<td>9</td>
<td>-5.55</td>
<td>14.7</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[Legal] Immigrants</td>
<td>16723</td>
<td>1931</td>
<td>20713</td>
<td>24059</td>
<td>26398</td>
<td>30196</td>
<td>57504</td>
<td>62705</td>
<td>71434</td>
</tr>
<tr>
<td>% of immigrants with active population</td>
<td>5.5</td>
<td>6.28</td>
<td>6.66</td>
<td>7.6</td>
<td>8.12</td>
<td>9.16</td>
<td>17.86</td>
<td>19.27</td>
<td>21.44</td>
</tr>
<tr>
<td>Transformation of immigrants employment in Cyprus (2000-05)</td>
<td>16723</td>
<td>19310</td>
<td>20713</td>
<td>24059</td>
<td>21744</td>
<td>26602</td>
<td>31888</td>
<td>37393</td>
<td>44816</td>
</tr>
<tr>
<td>Net migration</td>
<td>5300</td>
<td>4800</td>
<td>4200</td>
<td>4200</td>
<td>3960</td>
<td>4650</td>
<td>6885</td>
<td>12342</td>
<td>15724</td>
</tr>
</tbody>
</table>

192 Estimated number of Turkish Cypriots living in the occupied area of Cyprus (since 1974). The population does not include a number of Turkish settlers exceeding 115,000 illegally residing in the Turkish-occupied part of Cyprus. As previously mentioned, the figure of the Greek-Cypriot population includes the 8,000 Maronites, Armenians and Latins who opted to join the Greek Cypriot community.


5.3 Overview: Socio-economic Changes & Inequality in Employment

5.3.1 Statistical Background

First, we set out some basic statistical information regarding the migrant population in Cyprus (see Table 1 below).

The dramatic economic growth in the 1980s and 1990s, referred to as ‘the economic miracle’, was structured by a number of ‘external’ factors such as the Turkish occupation of the north since 1974. Prior to 1990 immigration policy was restrictive hence very few migrants were allowed. Today, the total number of resident non-Cypriots in the Republic of Cyprus is estimated to be between 115000-150,000. The policy assumption for the employment of migrant workers formulated in 1990s was that their stay was to be short-term, temporary and restricted to specific sectors. Although the actual developments of the past decade reversed this presumption, a number of institutional devices, designed with those goals in mind, have resulted in an institutional framework which carries the following characteristics: (a) Work permits are granted on the condition that the migrant worker applied for is attached to a specific employer (the applicant) without the freedom to change jobs unless the original employer consents to such change; (b) Work permits are granted on an annual basis and with a maximum ceiling of six years in order to exclude the possibility of having to grant citizenship to migrants, structurally producing and reproducing a framework of precariousness and exclusion. (c) Evidence of non-compliance by employers with labour laws is abundant, whilst few initiatives have taken place to unionise or otherwise organise migrant workers.

The change of immigration policy in 1990 to meet the labour shortages is the most important event as it opened up the island migrants. Of course there are regional and international reasons that account for the migratory flows to Cyprus. On the one hand, economic developments such as the worldwide growth in tourism and migration flows resulted in economic growth which increased the demand for labour in Cyprus. On the other hand, political developments such as the collapse of the Soviet Union resulted in the migration of labour from ex Soviet countries but also to the migration of a large number of Pontians from the Caucasus region who were granted Greek nationality and were thus able to enter Cyprus without too many formalities. In addition, the Gulf war, successive crises in the Gulf region and unrest in Israel/Palestine has caused the inflow into Cyprus of both economic as well as political refugees from the affected countries.

The process of accession to the EU has allegedly made Cyprus an attractive destination for migrants and asylum-seekers and the response of policy-makers was to keenly transform themselves to ‘border-guards of Europe’. Cyprus is a prime instance of a southern European country which ‘functions as the entrance hall’ to the EU, and often serves as a ‘waiting room’ for many migrants who have the Northern European countries as a destination (Anthias and Lazaridis 1999: 3). New migration has the conditions for the ‘racialisation of migrant workers’ (Trimikliniotis 1999) and the patterns of discrimination and ill treatment, particularly of migrants are well documented.

In the field employment, gender and migration a good practice was the project called Integration of Female Migrant Domestic Workers: Strategies for Employment and Civic Participation. The coordinator is the Mediterranean Institute of Gender Studies. The Good practices were implemented in the following sectors: Media; Civil Society and NGOs; General Public and Policy Makers. It was funded under the Integration for third-country nationals of the European Commission and run from September 2006- February 2008. The main aim of the project was to stimulate transnational cooperation involving a wide range of actors at the local, regional and EU level, and consisting of the transfer of information, lessons learned, and best practices in order to develop recommendations for an integration model responding to the specific needs of female migrant domestic workers and their host countries, and adaptable to different contexts. The outcome of the project where publication of the resource book entitled Integration of Female Migrant Domestic Workers: Strategies for employment and Civic Participation and various useful reports of the five studies visits in all partner countries as well as two awareness raising leaflets. The main benefits of the projects were the interaction between female

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196 During his address to the EU summit in Thessalonica, the President of Cyprus referred to the experience of Cyprus in dealing with migrants and asylum-seekers and offered to share ‘expertise’ with the European Community.
migrant domestic workers and policy makers and the participation of female migrant domestic workers.

5.3.2 Employment: Statistical Evidence of Inequality

5.3.2.1 Ethnic Inequality

Unemployment is still very low in Cyprus, despite a slight rise from 1.8% in 1990 to over 3.0% in 2004 and 4.5% for 2005. There are no figures of unemployment amongst migrants, as third country migrants are not allowed to claim any unemployment benefit. There are no figures of unemployment on the basis of racial or ethnic origin.

All major studies on the third country migrant workers in society point to the same conclusion that they remain ‘a vulnerable position’, as the Second ECRI Report on Cyprus200 described them: they continue to be in a vulnerable position in spite the improvements of the institutional and legal framework, as the Third ECRI Report on Cyprus (published on 16 May 2006). This is particularly the case as regards their employment situation: the Third ECRI Report records that the working conditions in the sectors of the farming and agriculture industry, which is almost entirely made up by migrant workers and are sectors open to the employment to asylum seekers, are ‘extremely poor’: wages are well below the minimum fixed by collective sectors of the economy’. The Report refers to non-governmental organisation reports that asylum seekers are pushed towards the irregular labour market’ (para.55) and recommends that the Cypriot authorities ensure that asylum-seekers are not discriminated against in exercising the right to employment granted to them by law’ (para. 60). Patterns of inequality in the labour market can be located if one examines the kind of jobs migrant from third countries and some other numerically smaller ethnic groups are concentrated in. Third country migrants are by policy design concentrated in the lower echelons of the labour hierarchy, as it is a condition for granting them employment and entry permit that they take up jobs that Cypriots do not wish to do: typically these are low skill, pay and status. However, what is particularly problematic is that migrant workers have little, if any opportunity for training and betterment, and no opportunity whatsoever to progress or advance in the employment ladder in terms of promotion or career move, as their stay is dependent on the particular job and employer.201

Similarly the Third ECRI Report on Cyprus refers to ‘manifestations of racism and discrimination affecting Turkish-Cypriots’. Other three studies record evidence of discrimination against migrant workers, as well as Turkish-Cypriots working in the southern territory under the control of the Cyprus Republic (para. 82) and the few Roma, who reside in the south (para. 83).202

The Cyprus Equality Body (Ombudsman) has ruled that the treatment of foreign domestic workers is discriminatory on the ground of race or ethnic origin as there is indirect discrimination against them: the Ombudsman referred to the low salaries paid to migrant domestic workers203 compared to Cypriot workers, pointing out that the number of migrant female domestic workers now in Cyprus is about 18.000.204 The data is used to demonstrate the acuteness of the problem, based on the large size of this group and on the disparity in the salaries of migrants and locals. It certainly illustrates that there is indirect discrimination. The fact that there is evidence of discrimination and violation of the employment working condition of domestic workers was already recoded by the Second ECRI Report, as well as other studies.205 Moreover as regards the newly adopted regulations restricting access to the labour market for asylum seekers, who are now forced to work only in the farming and agriculture, the Third ECRI report criticises the authorities for presenting this restriction as a means to deter people from applying for asylum in Cyprus (para.57).

In a self-initiated investigation by the Equality Body into labour accidents where the victims are migrants dated 18.06.2008: The report notes that, in 2007, 45 criminal cases were tried by the Court regarding violations leading to industrial accidents, 12 out of which (26%) concerned

201 Calculated at CYP0.82 per hour, contrasted with CYP4-Cyp5 per hour for Cypriots carrying out the same work: Cyprus Ombudsman Report File No. A.K.I 2/2005, dated 4.11.2005, page 4.
202 This figure is based on the data of the Ministry of Interior, according to which the number of migrant female domestic workers in Cyprus in 2003 was 17.855.
204 See the relevant EIRO entry at http://www.eurofound.europa.eu/eiro/2004/01/feature/cy0401103f.htm
205 These were presented by the Department of Labour Relations, part of the Ministry of Labour and Social Insurance (Υπουργείο Εργασίας και Κοινωνικής Ασφαλίσεως, MLSI) to the members of the Equality Commission the interim conclusions of a study entitled Analysis of the pay gap between men and women in Cyprus and practical recommendations for reducing it on 11 July 2007.
 accidents involving migrants. At the same time, during 2007, 27 more cases were sent to the Attorney General in order for criminal cases to be instigated, out of which nine (27%) concerned migrants. With regard to accidents involving migrants, in 2007 out of a total of 2015 accidents, 357 accidents (17%) had migrants as victims, whilst out of 15 fatal industrial accidents, seven (47%) concerned migrants.

5.3.2.2 Gender Inequality and Industrial Relations

In general there is a lower employment rate for women when compared to men and a higher unemployment rate, and are more likely to work part time or on a temporary basis, while their average pay is lower than men’s. Continues today. The legislation on workplace gender equality has been introduced only recently, and bargaining does not appear to deal with equality matters. Women’s share of overall employment (i.e. the proportion of employed women in the total number of employed people) is significantly lower than that of men. The gap between the numbers of employed men and women in Cyprus is greater than in most of the current EU Member States. According to Labour Force Survey data, in 2006 the overall employment rate (i.e. the number of employed people aged 15+ as a percentage of the whole population aged 15-64) in Cyprus was 60.7%. The rate for men was 70.60% and for women 51.4%. In mid July 2007, the Ministry of Labour and Social Insurance presented to the members of the Equality Commission the interim results of a study on the pay gap between men and women in Cyprus. The study contains some disappointing results in relation to the current situation for both women and men, as well as preliminary proposals for addressing the issue. The gender pay gap in the economy as a whole stands at 24%, which puts Cyprus at the top of the EU Member States in terms of wage differences. Of particular interest is the difference in the size of the pay gap between public and private sectors: “The pay gap is quite small in the public sector at 3.8%, but dramatically higher in the private sector at 30.6%. In the semi-state sector, the gap is 29.3%. In the semi-state sector, three quarters of the pay gap can be explained by differences in characteristics – personal, job or enterprise related – between the sexes; only one quarter of the pay gap can be attributed to discrimination between the sexes. In other words, if women’s characteristics were the same as men’s, the pay gap would automatically fall to 6.8%.

It is also important to note the differences seen in the private sector, where the pay gap appears to be wider in the manufacturing industry, trade, transport and communications, as well as in business services. Taking the age factor into account, the pay gap appears to widen gradually with age. Thus, it is lower among young people at around 5%, increasing to 25% in the 35–55 years’ age group and rising to even higher levels among those aged 56 years or older. Other findings of the study reveal the following:

- the pay gap is lower among workers with a technical or third-level education;
- the concentration of women in certain sectors of production has a negative effect on the average sectoral wage;
- by the end of a person’s career, the wage gap shrinks to nothing as length of service with the same employer increases;
- overtime (an important factor in raising men’s pay but not women’s) helps widen the pay gap.”

A number of factors are determining pay gap according to the report, which lists factors which can influence the pay gap such as better education for women can reduce the pay gap; previously accumulated job experience widens the pay gap; when hiring, employers place greater importance on men’s previous experience than on women’s; prior service with the same employer widens the pay gap; women have less professional experience; they leave their job more frequently to take up other positions and interrupt their careers more often due to family obligations; the discrimination bonus offered by the labour market to women of Cypriot nationality reduces the pay gap; trade union organisations, which exercise their bargaining power at both enterprise level and sectoral level, favour men’s wages over women’s, thus increasing the wage gap; the concentration of women in traditional female occupations increases the pay gap.

Qualitative data on women’s employment confirm the gender gap. According to the data available from the National Statistical Service (Labour Statistics 2006), in 2006, 2001 and over the eleven-year period 1995-2006, a distinct concentration of women can be seen in certain occupations and fields, mainly in the services sector and in unskilled work. According to the National Statistical Service’s Labour Force Survey, in 2006 there was an

207 Ελληνικά ΚΥΡΩΣΑ (Κυπριακή Συνομοσπονδία Οργανώσεων Αναπροσανατολίσμου) it represents all disability organisations.
208 The negotiations between the community leaders are set to start on 3 September 2008.
increase in overall part-time employment compared with 2001: in 2001, the number of part-time workers stood at 26,000, or 8.4% of total employment, increasing 2006 to 27,441 or 7.2% of total employment. Of these, 8,000 were men (4.4% of total men’s employment) and 18,912 were women (13.7% of total women’s employment) in 2006, while the corresponding proportions for 2001 were 5.1% for men and 12.9% for women. With regard to part-time employment undertaken out of necessity and not by choice, the data indicate that in 2006 some 31.54% of part-timers (8655 workers) turned to part-time employment because they were unable to secure work on a full-time basis.

In conclusion, despite the greater numbers of women in the labour market and, to a certain extent, a shift in the ‘patriarchal’ structure of employment, the overall situation of women is particularly disadvantageous vis-à-vis that of men. As seen above, women’s employment rate lags significantly behind that of men, women’s unemployment rate is almost double, and women prefer or are preferred in positions of flexible employment, particularly part-time and temporary employment. At the same time, they continue to be over-represented in low-skilled jobs, and there are indications that they fill a significant number of jobs in the clandestine economy. This last category includes the large number of female migrant workers employed in the so-called ‘sex industry’, as well as many migrants employed as domestic workers. In addition, women as a whole constitute the majority of unpaid workers in family enterprises.

5.4 Legislative Framework and Good Practices

5.4.1 Legal developments in combating discrimination

In April 2003 a partial lifting of the ban in freedom of movement allowed several thousands of Turkish-Cypriots to cross the dividing line from north to south on a daily basis to work, to access public services or just to visit. This has resulted in a novel situation, which opens up the possibility for on-going discrimination against Turkish Cypriots on the ground of language as well as ethnic origin in the field of access to public services, employment and housing, resulting from the non-use of the Turkish language in, inter alia, official state documents and from the suspension of other constitutional rights of the Turkish Cypriots, such as the right to their properties. An ECHR decision pursuant to a successful application from a Turkish Cypriot ruled that the ‘doctrine of necessity’ must be exercised in a manner that does not violate the nucleus of rights or the principle of equality; this principle, however, was not consistently followed either by the Courts in Cyprus or by the equality body, as both have issued decisions upholding the ‘doctrine of necessity’ as legal justification for the suspension of the constitutional rights of the Turkish Cypriots. Anti-discrimination is not a priority issue for the government, whose measures are limited to only a handful of one-off awareness raising events. It is not a priority for civil society either, with the exception of a few NGOs who are usually vulnerable groups themselves.

There are no NGOs for the rights of the Turkish Cypriots or the Roma and only 2-3 NGOs for the rights of migrants and asylum seekers. By far the most organised of all anti-discrimination NGOs are those dealing with disability, whose actions are coordinated by a national confederation, 209 recently afforded the status of a social partner, who regularly makes use of the procedure before the equality body. There is only one gay rights NGO, with only one or two of its members being ‘out of the closet’ to fight openly for gay rights. Discrimination on the ground of sexual orientation is widespread amongst Cypriot society, despite decriminalisation of homosexuality since 2000, to the effect that homosexuals make little or no use of the rights and the procedures created under Directive 2000/78; only one complaint has so far been submitted to the equality body alleging discrimination on the ground of sexual orientation, and that was done by a non-Cypriot. An opinion survey carried out for the Equality Body in early 2006 revealed very high levels of prejudice amongst Cypriot society against homosexuals; unfortunately the momentum was not seized by the equality Body to create a code of conduct aimed at eradicating prejudice against homosexuals. In recent years, Cyprus has seen the emergence of anti-immigrant organisations and ultra nationalist groups using Nazi symbols that have on a number of occasions used violence against Turkish Cypriots.

Overall, the Republic of Cyprus has recently introduced a comprehensive system of anti-discrimination that covers all six grounds. The system is operating effectively but there is considerable room for improvement, for better implementation in the public sector, whilst discrimination in the private sector is widespread as the legislation has so far not been changed matters in that front. As for the situation in the occupied north of the island, the European Court of Human Rights has ruled that the government of Turkey was responsible for restrictions imposed on Greek Cypriot residents in the north with regard to their access to their places of

worship and participation in other areas of religious life. However, recently there have been some moves by the EU, NGOs and some policy-makers to introduce legislation in line with the acquis, particularly as hopes for a resolution of the political problem of the division have been rekindled.\textsuperscript{210}

More analytically the various laws on discrimination are the following:

5.4.1.1 Constitutional provisions on human rights and equality

The legal regime in the field of discrimination prior to Cyprus’ EU accession was to a large extent based on the Cyprus Constitution. Article 28(1) of the Cyprus Constitution, which corresponds to Article 14 of the ECHR provides that “[a]ll persons are equal before the law, the administration, and justice, and are entitled to equal protection thereof and treatment thereby” whilst Article 28(2) enshrines the enjoyment of rights and liberties by all persons without any direct or indirect discrimination on the grounds of community, race, religion, language, sex, political or other conviction, national or social descent, birth, colour, wealth, social class or any ground whatsoever. Part II of the Constitution which applies in full to natives and non-natives alike, sets out the “Fundamental Rights and Liberties”, incorporating verbatim and in some instances expanding upon the rights and liberties safeguarded by the ECHR. However, Article 11 of the Constitution allows for detention of aliens with a view to deportation or extradition. Article 30 of Part II of the Constitution guarantees the right of access to the Courts as one of the fundamental rights and liberties. This is afforded to everyone, non-citizens and citizens alike and irrespective of ethnic origin.

Age, disability and sexual orientation are not covered by the Constitution. The Constitution does not recognise any groups as ‘national minorities’. It recognises only two ‘communities’ (the Greek and the Turkish) and three ‘religious groups’ (the Latins, the Maronites and the Armenians). The stay of migrants is considered to be too short-term and precarious to be afforded the status of a ‘minority’. In practice this means that the Framework Convention for the Protection of National Minorities, although ratified, has no applicability in Cyprus. Cyprus has also ratified most major international conventions on discrimination.

5.4.1.2 International conventions on human rights

Cyprus has ratified a number of international conventions on human rights which include anti-discrimination provisions, although not necessarily creating complaint procedures for victims. By the end of the year 2000, when the second ECRI Report on Cyprus\textsuperscript{211} was adopted, Cyprus had signed but not ratified: the Additional Protocol 12 to the European Convention on Human Rights, which widens the scope of application of Article 14 of the Convention; the European Charter for Regional or Minority Languages; the Convention on Participation of Foreigners in Public Life at Local Level; and the European Convention on Nationality. The European Convention on the Legal Status of Migrant Workers has not been signed. In 2002 Cyprus ratified Protocol 12 to the Convention for the protection of Human Rights and Fundamental Freedoms\textsuperscript{212} which will enter into force three months after the date on which ten member states of the Council of Europe will have ratified the Protocol. Also in 2002 Cyprus ratified the European Charter for Regional or Minority Languages by means of a ratification instrument deposited on 26.08.2002. The Convention on the Participation of Foreigners in Public Life and Local Level has not been ratified yet, in spite of recommendations from the Ombudsman to proceed with ratification and despite the Ombudsman’s criticisms for the lack of governmental policies towards social integration of migrants.\textsuperscript{213} In spring 2007, Directive 2003/109/EC was finally transposed, after more than a year’s delay, by amending the existing Aliens and Immigration Law Cap. 105. The scope of the amending law (Law 8(II)/2007) covers third country nationals staying lawfully in the areas controlled by the Republic for at least five uninterrupted years.\textsuperscript{214} Excluded from the scope of the law are the foreign students, persons on a vocational training course, persons residing in the Republic under the Refugee Law, persons staying in the Republic for reasons of a temporary nature and foreign diplomats.\textsuperscript{215} However a decision by the Supreme Court has stalled the process as it excludes the vast majority of third country migrants residing in Cyprus.\textsuperscript{216}

\begin{footnotes}
\item[211] Cyprus Ombudsman Report No. AKR 61/2004. dated 10.06.2005. The Report was communicated by the Ombudsman to the Ministers of Interior, External Affairs and Justice and to the House of Representatives.
\item[212] Aliens and Immigration Law, as amended by Law 8(II)/2007, article 18Z(1).
\item[213] Aliens and Immigration Law, as amended by Law 8(I)/2007, article 18Z(2).
\end{footnotes}
5.4.1.3 Legal provisions in Employment

In the area of employment, the Law on Unfair Dismissal No. 24/1967 renders dismissal on grounds such as race, colour, family condition, religion, political opinion, national origin or social descent ‘unfair’ and therefore actionable. However, a recent decision by the Limassol Labour Tribunal has thrown doubt as to whether the courts themselves would interpret their jurisdiction in the context of the ‘employment relationship’, as covering combating discrimination in cases of advertising, recruitment and selection, even when the laws on discrimination empower them to do so. The first case under anti-discrimination acquis on the ground of age was decided by the Limassol Labour Tribunal Avgoustina Hajiaavraam v. The Cooperative Credit Company of Morphou no. 258/05 delivered on 30.07.2008) examined the claim that the maximum age limits for an advertised job post of secretary amounted to unlawful age discrimination. However, the court considered it had no jurisdiction: since there was no employment relationship between the parties there was no labour dispute at all. This very restrictive definition of the scope of ‘employment’, if adopted by the Cyprus Supreme Court in the upcoming appeal, it will mean that there is no protection from discrimination prior to appointment and in the process of advertisement, selection and hiring as the employment tribunal has no jurisdiction.

5.4.1.4 Gender Equality and the EU Anti-discrimination Acquis

As the only legal anti-discrimination was essentially on gender, it is worth referring to some of the key cases that form part of the jurisprudence of Cyprus, prior to accession to the EU. A number of cases have been decided by the Supreme Court that have established the right to equality between men and women, as provided for in Article 28 of the Constitution, as a fundamental right that the Courts are obliged to uphold. Save for some exceptions, the way the Court approaches the right to equality is similar to that of the European Court of Justice, as the relevant case law indications.

5.4.1.5 Disability Laws and the EU Antidiscrimination Acquis

In 2000 the basic disability law came into force which included the prohibition of discrimination. The term ‘disability’ is defined in the Law concerning Persons with Disabilities No. 127(I)2000 enacted prior to the new anti-discrimination laws of 2004. The scope of the Law on Persons with Disabilities excludes activities where, by virtue of their nature or context, a characteristic or ability which a person with a disability does not have,

214 The case of Motilla stands out amongst these as a most significant development in the transposition and implementation of Directive 2003/109/EC on long term residency of third country nationals, affecting many thousands of migrants who will not be able to access the residency rights provided in the Directive.

215 This law uses the term ‘disability’ and not ‘special needs’, as used in the Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law of 2004.

216 The Attorney General’s office holds the view that a Supreme Court judgement of 2001 (Yiallourou v. Evgenios Nicolaou) establishes a precedent whereby any person suffering discrimination in the enjoyment of his/her Constitutional rights on the ground of, inter alia, race, community, colour, religion, language or national origin, can sue the state or private persons and claim damages or other civil law remedies. The Attorney General’s office also considers this remedy to be “...additional, and of wider ambit...” than the procedure offered by the law transposing the Race Directive: Information on developments since the Second Report on Cyprus (adopted on 15 Dec 2000) pp. 2-3.

217 The relevant section reads: “Cyprus has ratified all major human rights conventions and signed Protocol 12 to the European Convention on Human Rights on 4 November 2000 prohibiting discrimination on any grounds. Whereas Art. 28 (2) of the Constitution prohibits any direct or indirect discrimination against any person on the grounds of his community, race, religion, language, sex, political or other convictions, national or social descent, birth, colour, wealth, social class, or any ground whatsoever, there is no specific implementation legislation for the EC non-discrimination directives adopted in 2000.”
constitutes a substantial and determining precondition, provided the aim is legitimate and the precondition is proportionate, taking into consideration the possibility of adopting 'reasonable measures', within the meaning which these take in this law. Also the same law does not apply to the armed forces, to the extent that the nature of the occupation is such that it requires special skills which cannot be exercised by persons with disabilities. The disability law was amended in 2007 to impose an obligation on employers to provide reasonable accommodation so long as the burden on the employer is not disproportionate. In addition to that provision, the law provides for the duty to adopt 'reasonable measures' to the extent and where the local economic and other circumstances allow. These measures are not restricted to the work place but cover also: basic rights (right to independent living, diagnosis and prevention of disability, personal support with assistive equipment, services etc. accessibility to housing, buildings, streets, the environment, public means of transport, etc. education, information and communication through special means, services for social and economic integration, vocational training, employment in the open market, etc); supply of goods and services, including the facilitation of accessibility for safe and comfortable use of such services; and telecommunications. The duty to adopt 'reasonable measures' is so widely phrased that it falls short from creating a mandatory regime. The law does not provide that failure to meet the duty of reasonable accommodation amounts to discrimination. However, a person who without due cause commits or omits an act which amounts to discrimination against a person with a disability is guilty of an offence and liable to a fine and/or to a prison sentence, none of which has ever been imposed so far.

5.4.1.6 Laws transposing the EU Antidiscrimination Acquis on the 5 other grounds
Until the eve of its EU accession, Cyprus lacked a comprehensive primary anti-discrimination legal framework: the pre-accession anti-discrimination framework did not provide an effective enforcement mechanism, even though there was one case that provided that human rights created rights against the state and individuals. This ineffective regime was noted by the Second ECRI Report on Cyprus (2001), as well as the European Commission Report of 2002, under the heading On the issue of human rights and the protection of minorities, states that significant work still needs to be done in the area of anti-discrimination.

On 01.05.2004 three laws came into force purporting to transpose Directives 43/2000/EC and 78/2000/EC: (a) The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law purporting to discharge of the Republic's obligation to appoint a national Equality Body under Article 13 of the Race Directive (hereinafter Law No. 42(1)); (b) The Equal Treatment (Racial or Ethnic Origin) Law purporting to transpose the Race Directive; and (c) The Equal Treatment in Employment and Occupation Law purporting to transpose the Framework Directive. Cyprus has not taken the option to defer implementation of the provisions of Directive 78/2000/EC relating to age and disability to 02.12.2006. The relevant laws came into force on or before 1st May 2004, the date of Cyprus' accession into the EU.

Law No. 42(1) appoints the Commissioner of Administration or Ombudsman, an independent officer appointed by the President of the Republic, as the specialised body to (i) combat racist and indirectly racist discrimination as well as discrimination forbidden by law and generally discrimination on the grounds of race, community, language, colour, religion, political or other beliefs and national or ethnic origin; (ii) promote equality of the enjoyment of rights and freedoms safeguarded by the Cyprus Constitution (Part II) or by one or more of the Conventions ratified by Cyprus and referred to explicitly in the Law irrespective of 'race', community, language, colour, religion, political or other beliefs, national or ethnic origin and (iii) promote equality of opportunity in the areas of employment, access to vocational training, working conditions etc, supply of goods and services including the facilitation of accessibility for safe and comfortable use of such services; and telecommunications.

218 Cyprus/ The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/ 2004 (19.03.2004)
219 Cyprus/ The Equal Treatment (Racial or Ethnic Origin) Law No. 59(I)/2004 (31.3.2004)
220 The Equal Treatment in Employment and Occupation of 2004 No. 58 (1)/2004 (31.3.2004).
221 The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1) / 2004 (19.03.2004), Section 3. (1). (a), Part I.
222 These Conventions are: Protocol 12 of the European Convention for Human Rights and Fundamental Freedoms; the International Convention for the Elimination of All Forms of Racial Discrimination; the Framework Convention for the Protection of National Minorities; the Covenant for Civil and Political Rights and the Convention Against Torture and Inhuman and Degrading Treatment or Punishment.
223 Cyprus/ The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/ 2004 (19.03.2004), Section 3(1)(b), Part I.
including pay, membership to trade unions or other associations, social insurance and medical care, education and access to goods and services including housing.

The Law vests the Ombudsman with powers beyond those prescribed by the two EU Directives as the designated Equality body of Cyprus: the power to receive and investigate complaints of discriminatory treatment, behaviour, regulation, condition, criterion or practice prohibited by law; the power to issue reports of findings; the power to issue orders (through publication in the Official Gazette) for the elimination within a specified time limit226 of the situation which directly produced discrimination, although such right is somewhat limited by a number of exceptions.227 The Ombudsman’s decisions can be used for the purposes of obtaining damages in a district court or at an employment tribunal. The Ombudsman is further empowered to impose small fines,228 to issue recommendations to the person against whom a complaint has been lodged, and to supervise compliance with orders issued against persons found guilty of discrimination.229 However, all orders, fines and recommendations issued or imposed by the Ombudsman under this Law are subject to annulment230 by the Supreme Court of Cyprus upon an appeal lodged by a person with a ‘vested interest.’231 The Ombudsman may also investigate issues on his/her own right where the Ombudsman deems that any particular case that came to his/her attention may constitute a violation of the law.232 Also, the Ombudsman may investigate cases following applications by NGOs, chambers, organizations, committees, associations, clubs, foundations, trade unions, funds and councils acting for the benefit of professions or other types of labour, employers, employees or any other organised group, local authorities, public law persons, the Council of Ministers, the House of Parliament etc.233 In such cases, the Ombudsman is empowered to issue recommendations to the person or group found guilty of discriminatory behaviour as to alternative treatment or conduct, abolition or substitution of the provision, term, criterion or practice. The findings and reports of the Ombudsman must be communicated to the Attorney General of the Cyprus Republic who will, in turn advise the Cyprus Republic on the adoption or not of appropriate legislative or administrative measures, taking into account the Republic’s international law obligations and who will at the same time prepare legislation for the abolition or substitution of the relevant legislative provision.

5.5 Conclusions

5.5.1 General Assessment:

Prior to accession to the general protection from discrimination all six grounds was not comprehensive, it was uneven and under-developed in certain areas, and was thus considered to be adequate. Today as matters stand there has been some improvement but discrimination has not been combated:

224 Which time limit shall not exceed 90 days from publication in the Official gazette (Cyprus/ The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/ 2004 (19.03.2004), Section 28).
225 The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/ 2004 (19.03.2004), section 14(2) and section 14(3), Part III, list the limitations to the Commissioner’s power to issue orders as follows: where the act complained of is pursuant to another law or regulation, in which case the Commissioner advises the Attorney General accordingly, who will advise the competent Ministry and/or the Council of Ministers about measures to be taken to remedy the situation [Cyprus/ The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/ 2004 (19.03.2004), Sections 39(3) and 39(4)]; and where discrimination did not occur exclusively as a result of violation of the relevant law; where there is no practical direct way of eradicating the situation or where such eradication would adversely affect third parties; where the eradication cannot take place without violating contractual obligations of persons of private or public law; where the complainant does not wish for an order to be issued; or where the situation complained of no longer subsists.
226 The fine to be imposed cannot exceed CYP50 for discriminatory behaviour, treatment or practice [Cyprus/ The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/ 2004 (19.03.2004), Section 18(a)], CYP250 for racial discrimination in the enjoyment of a right or freedom [Cyprus/ The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/ 2004 (19.03.2004), Section 18(b)], CYP500 for non-compliance with the Commissioner’s recommendation within the specified time limit [Cyprus/ The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/ 2004 (19.03.2004), Section 26(1)(a)] and CYP500 daily for continuing non-compliance after the deadline set by the Commissioner [The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/ 2004 (19.03.2004), Section 26(1)(b)]. Generally speaking, the fines are considered to be very low.
227 Law 42(1)/ 2004 (19.03.2004), Section 24(1).
228 Law 42(1)/ 2004 (19.03.2004), Section 23.
229 Term used in Section 146 of the Cyprus Constitution, which sets out the procedure for appeal to the Supreme Court of Cyprus.
230 Law No. 42(1)/ 2004 (19.03.2004), art. 33.
231 Law No. 42(1)/ 2004 (19.03.2004), art. 34(2).
232 Some of them have been convicted and were imprisoned.
Protection against religious discrimination is provided for by the constitution and courts have regularly made declarations to this effect. However, the rigorous bi-communalism of the Republic, the role of religion in the education system and the recognition afforded to the ‘established’ religious groups shows little societal tolerance of any other religions, particularly those religions which engage in proselytising. Jehovah’s Witnesses in particular have in the past been the target of discrimination. Cypriot authorities prosecute conscientious objectors who refuse to perform reservist exercises who happen to be Jehovah’s Witnesses; however, a new amending law was introduced recently.

The issue of gender discrimination is the ground with the longest legal history in Cyprus. The introduction of the law for Equal Treatment of Men and Women in Employment and Occupational Training of 2002 (Law 205(I)/2002) marks an important qualitative step in the history of anti-discrimination and serves as a model for further development of the other grounds. However, the introduction of the new law has not had any great effect on redressing gender discrimination in society, particularly in the employment field when it comes to pay and working conditions.

On the question of disability some progress over the past twenty years can be reported. However, despite the change in attitude, a great deal remains to be done, as the vast majority of the persons with disabilities aged 15 and over (73%) reported that they were not working, with only 25.2% working and 1.2% reported as unemployed (ILO 2002). The Law concerning Persons with Disabilities (Law 127(I)/2000) introduced a comprehensive framework for tackling disability discrimination.

There is very little data available in Cyprus on discrimination based on sexual orientation. Progress on the issue of sexual orientation discrimination has been slow due to the attitudes on the subject, which is still very much a taboo subject. A more enlightened approach and progress can be noted following the successful challenge by Mr. Alexandros Modinos at the European court of Human Rights (Modinos v Cyprus 16 E.H.R.R 485). Prior to 2004, there was no history of legal protection against discrimination of lesbians and gay men, as this remains a taboo subject. However, there were two recent positive decisions by the Equality body in 2008 and there are two recent reports on Homophobia to add to the scarce Cypriot literature on the subject.

Similarly, prior to accession there was no provision that prohibits age discrimination as such, nor is there any study on the extent of age discrimination in Cyprus. Some Equality Body Decisions have been made on the subject and there has been a recent court decision of the Labour tribunal, referred to above, which examined the claim that the maximum age limits for an advertised job post of secretary amounted to unlawful age discrimination.

Currently, there is no provision in the Cypriot legal order for multiple discrimination and no plans for the adoption of laws or regulations to deal with situations of multiple discrimination as yet.

5.5.2 Weaknesses of the system:

The duty to ensure that discriminatory laws and provision contained in contracts, collective agreements, internal rules of undertakings or rules governing independent occupations and professions and workers and employers’ organizations have been explicitly repealed by way of a general provision in the two main anti-discrimination laws has not been fully complied with. No review of the existing laws was made to ensure compliance with the Directives. Practice suggests that the process of formal repeal of older laws which do not comply with the Directives is somehow ‘triggered off’ only after a complaint is made. In some cases, the Equality Body examines the complaint and issues a report which, however, is usually a mere recommendation rather than a binding decision. There is no procedure for continuous reviewing of existing legislation for the purpose of assessing compatibility with the anti-discrimination directives.

The scope of the test of reasonableness as regards reasonable accommodation is much wider in the Cyprus law than in the Employment Directive which...
provides only for the test of “disproportionate burden on the employer” and clearly falls short of creating a full-blown mandatory regime.

- The Equality Body has rejected a complaint that a law, providing that persons who have reached retirement age lose their right to compensation for unfair dismissal, amounts to discrimination.\(^{240}\)

- The principle of reversal of the burden of proof, as contained in Article 8 of the Race Directive as well as in Article 10 of the Employment Directive have been inadequately transposed into Cypriot law. This was pointed out to the Cypriot government by the European Commission and an amendment has been introduced since\(^{241}\), which however remedies the problem only partly. As things stand now, Article 8 of the Race Directive is transposed only with regard to social protection, medical care, social advantages, education, and access to goods and services. Also, reversal of the burden of proof is stated to apply only with regard to the procedure before the Court and not with regard to any other procedure, such as the procedure before the Equality Body.\(^{242}\) The transposition of Article 10 of the Employment Directive suffers from the above inadequacies plus three more: a victim of discrimination has to prove facts from which a violation can be inferred instead of merely introduce them; the perpetrator is absolved from liability if his violation had no negative consequences on the victim; and the rule applies only to civil procedures and not to administrative ones.

- Certain provisions of the two Directives, which require the Member States to take measures other than the enactment of legislation, have not been fully implemented. These measures include the promotion of dialogue with social partners and NGOs\(^{243}\) and the obligation to bring all anti-discrimination provisions to the attention of the persons concerned.\(^{244}\) Since the adoption of the legislation, which was rushed through Parliament on the eve of Cyprus’ accession to the EU, with the exception of a few seminars, there has been little initiative or positive action taken by the Government or other public body.\(^{245}\) The Labour Department of the Ministry of Labour has published a “Guide to Law No 58(I) of 2004 on the Equal Treatment in Employment and Occupation” as well as a “Guide on the rights and obligations of foreign workers”; however the dissemination of these leaflets to the vulnerable groups appears inadequate as most of the organisations representing groups at risk were not aware of the existence of these leaflets.

- A great deal more could be done for the dissemination of information to the discriminated groups themselves.\(^{246}\) When it comes to policy-making, dialogue or consultation with non-governmental organisations, it is either non-existent, very limited or appears to have little impact over the outcome of the process; there is little feedback or proper engaging in a debate, so as to identify the best possible ways of combating discrimination.

- There are, however, certain weaknesses affecting the overall effectiveness of the system. First of all the apparent reluctance of the government to allocate human and financial resources to the Ombudsman’s office, so as to enable it to cope with the volume of work it faces, is increasingly resulting in more and more in the investigation of complaints, many of which are of an urgent nature. In its third report on Cyprus, ECRI stresses the need for resources to be made available to the Ombudsman to enable her to respond to her tasks.\(^{247}\) The lack of resources is also the reason why little or no measures have been taken in order to bring to the attention of vulnerable groups (members of the Turkish Cypriot community, the Roma, the Pontians, migrant workers and asylum seekers) the new legal developments and the new complaint procedures open to them. By way of example, the Ombudsman’s website until this date continues to be only in Greek.

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\(^{240}\) The Equal Treatment (Racial or Ethnic Origin) Law No. 59(I) /2004 (31.3.2004) Article 7(2).

\(^{241}\) Directive 78/2000/EC, Paragraph 33 of the Preamble; Articles 13 and 14. Also, Directive 43/200/EC Article 10. Although Turkish is one of the two official languages of the Cyprus Republic, none of the new instruments (or indeed any of the old ones or even the Official Gazette) are translated into Turkish, thus rendering it difficult for members of the Turkish-Cypriot community to be informed about and utilise the new procedures available. No alternative means are used to inform disabled people of non-discriminatory measures such as Braille.

\(^{242}\) Directive 78/2000/EC, Article 7(2).

\(^{243}\) Considered by the Equal Treatment (Racial or Ethnic Origin) Law No. 59(I) /2004 (31.3.2004) Section 13.

\(^{244}\) As provided by Directive 43/200/EC, Article 12.


\(^{246}\) As provided by Directive 43/200/EC, Article 12.

\(^{247}\) ECRI stresses the need for resources to be made available to the Ombudsman to enable her to respond to her tasks.
• Another weakness is the fact that the maximum fines which the Ombudsman is entitled to impose range from CYP4,000 (approximately Euro 6,900) to CYP7,000 (approximately Euro 12,000); in some cases penalties can include, in addition to the fine, imprisonment of up to six months.\textsuperscript{248} In fact, the fine for racial or indirect racial discrimination in the enjoyment of a protected right or freedom (436 Euro) is lower than the fine for “discrimination prohibited by law” (610 Euro).\textsuperscript{249} The amounts are clearly not high enough to constitute a deterrent. Theoretically victims may use the Ombudsman’s decision in order to claim compensation from the Courts but in practice this has not happened so far, perhaps because victims of racial/ethnic discrimination very rarely have the means to instigate a legal suit. However, the biggest drawback is not in the institutional framework but the way the Ombudsman has chosen to utilise it. Since it commenced its work as the national Equality Body in May 2004, the Ombudsman’s office has not issued any binding orders, nor has it imposed any fines, restricting itself to mere recommendations; this policy is at least partly responsible for the low compliance rate with its decisions, particularly on the part of the police.\textsuperscript{250}

• The Equality Body’s power to collect data and conduct independent surveys concerning racial or ethnic discrimination has not been utilised sufficiently, nor are there structures in place for the collection of such data.\textsuperscript{251} The Equality Body has not as yet progressed in drafting codes of conduct intended to combat discrimination on the grounds provided by the Directives,\textsuperscript{252} even though the relevant Cypriot law authorises it to do so.\textsuperscript{253} The Equality Body has conducted a research survey and found extensive homophobia in Cypriot society but has drafted no codes of conduct.

5.5.3 Key issues for improving anti-discrimination
• The national specificities of Cyprus are the result of what can be termed as country-specific structural problems. These include the various issues that derive from the unresolved ‘Cyprus problem’, which creates practical problems of discrimination deriving from the de facto division of the country, leading to practices amounting to discrimination mostly against Turkish-Cypriots (e.g. failure to use Turkish as an official language of the Republic of Cyprus; discrimination against Turkish-Cypriots in access to property and various other constitutional rights, the violation of Greek-Cypriot rights by Turkey and a certain tendency of the authorities and of the courts to “seek revenge” etc). The continuous if not rigorous application of the ‘doctrine of necessity’ by the government and by the courts creates a legal vacuum within which several discriminatory policies are established and practiced.

• There is a visible lack of legal anti-discrimination tradition, owing at least partly to the predominance which ‘the Cyprus problem’ has been enjoying for the past 40 years in terms of prioritization of issues to be addressed in the public sphere. This phenomenon manifests itself in several fields such as the lack of consumer awareness or consumer-consciousness, the authorities’ tendency to ‘hide’ problems of racism and discrimination and label as ‘unpatriotic’ any person who ‘exposes Cyprus’ to the European fora, the lack of monitoring mechanisms and the service failures of agencies and institutions of the state (e.g. the Police and immigration authorities which consistently refuse to comply with the equality body’s recommendations). The relative weakness of civil society and their lack of training and skills often allow these service failures to go undetected and/or to be tolerated.

• Even though the Directives highlight the importance of consultation, little consultation, if any, takes place in practice. A way to address this would be a process of an annual consultation process with NGOs, experts, trade unions, employers and policy/law makers.

247 Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/ 2004, art. 18.
248 In October 2004, the Ombudsman Eliana Nicolaou presented a report to a Committee of the House of Parliament, where she criticized the police as having the lowest rate of compliance with her decision (reported in Hadjivasilis, M. (2004) “Ston kalatho ta 40% ton ekhteson tis Epitropou” in Philefteros (28.10.2004). However, since 2005 a special Police complaints authority has been set up which has effectively removed jurisdiction from the Ombudsman, but not necessarily the Equality Body.
249 As provided by Directive 43/200/EC, Article 13. The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/ 2004 (19.03.2004), Article 44 empowers the specialized body to conduct research and collect statistics, however no such research or statistics have been collected, nor is there any definition of the categories for the collection of such relevant statistics.
250 As provided by Directive 43/200/EC, Article 11.
251 The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/ 2004 (19.03.2004), Article 40. The Specialized Body declined an offer to participate in an EQUAL project to develop such codes of conduct for employment, preferring instead of to leave it to other Government departments to participate.
252 The same happens also in more dramatic situations. In fact, violence against women is not adequately reported. A recent study by the National Institute of Statistics, estimates that over 6 million women (5.4% of the total female population) between the ages of 16 and 70 had been victims of physical or sexual violence in their life, and among them 5 millions had been victim of sexual violence. For more information see: ISTAT- Istituto Nazionale di Statistica, La violenza e i maltrattamenti contro le donne dentro e fuori la famiglia Report Anno 2006, Department of Equal Opportunities, Presidency of the Council of Ministers, 21st February 2007 [data available on the WEB site www.parloperu.it.gov.it]
• There is no procedure in place for regular reviewing or revising of discriminatory laws/regulations. In practice, review is only triggered off once a complaint is submitted to the equality body. In such a case, the law requires the equality body to refer discriminatory laws/regulations to the Attorney General who is then under a duty to prepare the amending legislation. In spite of the several referrals to the Attorney General, none of the laws found by the equality body to be discriminatory have been amended and they continue to remain in force. In order to comply with the Directives' requirements, a procedure should be institutionalized for regular review of all laws and regulations. In addition, the equality body should be given power to suspend the application of laws which are found to be discriminatory, until an amending legislation is enacted.

• The mandate and the sanctions of the equality body are unsatisfactory and should be expanded. In particular, the sanctions within the equality body's mandate are too weak to act as effective deterrents.

• The Equality Body needs to become independent from the Ombudsman if it is to function as genuinely independent anti-discrimination authority free from the bounds and the ethos of the ombudsman.

• There are challenges for civil society such as dealing with the shortcomings in victim support, organizational problems, weak campaigns, lack of coordination and solidarity between NGOs, weak advocacy skills/lobbying. Personal agendas, competition for funding and various other problems stand as obstacles in the way of NGOs, preventing them from effectively building alliances and cooperation. There is a need to develop coalition building at national, regional and European level.

• Apart from limited and short-term funding provided by EU funded projects such as EQUAL, ERF, etc. there is no public or private funding available for anti-discrimination NGOs, which renders their sustainability in terms of infrastructure and personnel very difficult and which prevents the development of skills, expertise and professionalism. There is also no regular consultation process in place between the government and NGOs.

• Regarding discrimination at the workplace, there is an obvious inequality of power between the strong employers’ lobby and the weak representation of vulnerable groups, despite the apparent strength of trade unions. To accentuate this problem, Cyprus has a very large SME sector, whose individual members generally lack professionalism and awareness on issues of labour rights and discrimination.

• Litigation is not sufficiently used, owing partly to the cost and time length involved and partly to the lack of awareness of the new laws amongst the legal profession. Given the fact that the equality body’s decisions so far were mere recommendations, victims of discrimination are, in practice, not afforded the mandatory legal protection foreseen in the Directives.

• The legal aid law covers only cases where the sentence foreseen in the law for the offence complained of exceeds one year. This excludes acts of discrimination, for which the maximum sentence foreseen in the law is six months.

• There is no law explicitly providing that an authority’s failure to act on complaints of discrimination amounts to discrimination or imposing a general anti-discrimination public duty on authorities. Many complaints directed against various governmental departments are simply not addressed or dealt with, without any consequences for the departments concerned and serious instances of discrimination go unpunished.

• The recent emergence of anti-immigrant and ultra nationalist far right groups has not been addressed by the government. There are no convictions against perpetrators in cases of racist attacks.

• Although the equality body takes a very brave stand regarding some issues (e.g. immigrants’ rights), it is very reluctant to address discrimination against Turkish Cypriots and adopts the governmental position of endorsing the ‘doctrine of necessity’, denying Turkish Cypriots their constitutional rights by invoking a court decision of 1966. The equality body also appears reluctant to take up issues of anti-Turkish public discourse in the media, particularly when this is expressed by politicians (there are complaints pending since 2004). A more brave and impartial approach is needed by this body which is the only institution that can effectively pursue issues of discrimination against the most vulnerable of victims.

• Awareness of the anti-discrimination laws amongst the legal profession is very low and there is an apparent unwillingness by members of the legal profession to undergo training. There is no coordination between NGOs and lawyers for effective handling of cases.

• Unless anti-discrimination enters the school curriculum, the process of developing a culture and tradition of anti-discrimination will be slow and ineffective.
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5.0 Italy Research Report: UNAR - Dipartimento Per le Pari Opportunità

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Introduction

In the present report about Italy, we would like to underline problems and legislative strategies aimed at removing every kind difference in treatment of people based on six discrimination labels: gender, disability, sexual orientation, age, race and ethnic origin, religion or personal beliefs.

The empowerment of women in Italian society and the fight against every form of discrimination were the focus of Italian politics in recent years. Only in the very last years have we seen increasing importance given to citizen’s rights. The promotion of Equal Opportunities and the principle of non-discrimination today represents a common value and a fundamental principle for the country. Both are necessary in order to achieve development and social cohesion.

It is a question of cultural and legislative change that can only occur through the strengthening of cooperation between the State, local authorities and civil society in a way that translates principles into good practices. The ultimate goal is to improve the daily life of everyone at risk of discrimination.

It is essential to build a governance system of Equal Opportunity and non-discrimination that can provide a new and irreversible orientation to the rights of all people. This system must manage the mainstreaming process at territorial and regional administrative levels. Intervention at legislative and implementation level for local Equal Opportunities policy concerns is critical as well. Only by strengthening local development context can we develop models and methods that include disadvantaged groups while promoting the principles of non-discrimination and an authentic strategy of social inclusion.

6.1 Historical overview

Twelve years ago (in 1996), the Ministry for Equal Opportunity was established in Italy. Since then, the principle of gender equality has had a transversal importance in every field of social activity. The commitment to promote gender equality brings with it a systematic strategy for the promotion of gender equality. Since 2004, a similar strategy to prevent and fight against discrimination based on ethnic origin and race has been implemented.

Recently, a series of activities were developed to address the gap in political and legal practices regarding Lesbian, Gay, Bisexual and Transsexual (LGBT) persons, persons with a disability, people of different religious beliefs and both the young and the elderly.

Information today tells how, in the past, a two-pronged approach was implemented. One was an institutional effort of creating a non-discriminating society. The second was, enacting a series of laws and practices. These were activated at the national, regional and local level. The effort would result in the elimination of discrimination based on gender, ethnic origin, race, disability. From this, further anti-discrimination efforts, based on other labelling, could be developed.

After years of association with discriminative activity, the Italian government has now embraced policies on a national level that will provide a generally based and on-the-ground respect for non-discrimination values. This is a mainstream effort that infiltrates all levels of society.

For several years, prevention, along with combating any form of discrimination, has been the core of Government political efforts to strengthen the status of women in Italian society. But, the latest quality advancement consists of spreading the mainstreaming principle and supporting the realisation of governance process regarding equal opportunity at a territorial level.

This improves the rights of all citizens regardless of gender, sexual orientation, physical and mental condition, ethnic origin, age or religion. Indeed, if the promotion of equal opportunities and non-discrimination policy represent fundamental principles for Italy, (essential for development and social cohesion), then intervention for social dialogue and reinforcement of cooperation efforts among state, local institutions and civil society is indispensable.

There must be realisation of these principles in order to improve the lives of all who are at risk of discrimination. The ideas are not new. They were ratified by a Constitution that promotes equal opportunity and non-discriminating rights to citizens regardless of sex, race, language, religion, political opinion, and both social and personal condition.
With long experience in encouraging gender equality, Italian effort today consists of finding critical aspects and territorial potentials in order to raise consciousness regarding the right to equality and non-discrimination; reinforce presence and involvement in the social life of associations and groups of victims of discrimination; and increase recognition, respect and value for all types of diversity.

Noticeable lately is the fact that the promotion of gender equality in the entire political and social realm becomes more difficult in the presence of contributing vulnerability factors such as age, ethnic/racial origin or skin color, religion, physical or psychological disability or sexual orientation. These are critical situations that appeared after analysis of territorial discrimination. They signal an increase of multiple discrimination, which could be validated with a multi-community approach.

Data related to this unequal treatment is difficult to find. Each analysis offers a very limited slice of reported cases of discrimination. They can not be generalized as a universal overview of unequal treatment based on one or more factors of discrimination. They represent a mere sample and reflect the personal courage of a few people who became aware of their rights and decided to denounce their discriminators.

The process is slow. It must confront deep stereotypes and obstacles to social inclusion. These factors are not easily eliminated. Although total commitment in the last few years favors a concrete approach to equality in gender, unfortunately, until today in our country, the vulnerability of women is still an observable critical problem.

### 6.2 Demographic Overview

#### 6.2.1 Gender

Disparity will remain in the different spheres of discrimination, regardless of the strong efforts by national and local institutions. Even with the great progress made in gender equality, Italy still has a wide gap between men and women when it comes to participation in the social, economic and political life of the country. The most evident aspect is the strong disparity of conditions between men and women.

The female population is more subject to unemployment, unequal pay, lower professional advancement opportunity and lower opportunities to reach a better position in the decision-making arena of economic, political and social spheres. There is the imbalance of family responsibilities, when compared to men. Also, women are more likely to be victims of gender stereotyping, as well as physical and psychological abuse.

There is a structured presence of this gap in various sectors of the labor market due to persistent elements of vertical and horizontal segregation. This is due to the low level of active participation of women in the labour market, but also because of inadequate services offered toward the care of children and the aged. In other sectors (particularly formation and education, research and renovation, and enterprise and freelance) there is a necessity to intervene and promote the full participation of women in various economic and professional activities. Guaranteed equal access to all opportunities offered in order to promote competitiveness at an individual, enterprise and societal level is also essential.

A very strong gender imbalance is evident in areas of South Italy where considerable discriminating attitudes against women persist but are hardly denounced. The lack of denouncements by women demonstrates that the compensation structure is much lower than normal as well.\(^{254}\)

Considering the unequal treatment in work places, results of a research survey about the labour force conducted by the National Institute of Statistics, published in December, 2006, illustrates that although recent occupational increases were both in male and female spheres, there still is a wide gap in Italian labour force compensation. In fact, there is a 25.6% rate of male unemployment compared to the female rate of 49.9%. The rate for women peaks at 63.8% in Southern Italy.\(^{255}\)

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254 Ibid
There is a structural discrepancy in the labour market, with a diverging trend between men and women employers that goes from a minimum of 19.5 percent in the Centre, to a maximum of 28 percent in South. This critical situation is not just about mechanisms of access, permanence and stabilization of a non-secure job, but also about professional distinction, roles and remuneration levels. On this last point, for example, there are very large remuneration differences between men and women.

There is also evidence of a higher female poverty level, especially when considering that in 2004, 83.8% of elderly and single poor people were women and that the 83.2% of single and poor parents are mothers. The higher percentage of poverty is still in Southern Italy (26% vs. 5.3% and 8.8%, respectively in the Northern and Central Region).

In this general situation contest, the following statistical data shows heavy remuneration differences between men and women along with other forms of discrimination to employed women. The evidence is:

- greater difficulties for women in transition from a fixed-term contract to a permanent contract (incidences higher among women and especially high in hiring procedures)
- the amount of fixed-term compared with the employed work is equal to 14.7% for women compared to 10.5% for men
- compared to subordinate work, according to ISTAT, collaboration represents 3% of total female employment and 15% of the dependent work, compared to 1.3% of male employment and the 4.5% of dependent work
- there are more women employed in atypical situations and ‘black’ work (unreported cash income). The amount of part-time work of employed women is 25.5% vs. 3% of men
- there are more employed women, especially in the service sector, particularly 24.6% in the health and education sector compared with the 6.7% of men. This is evidence of horizontal segregation
- there is an evident and clear tendency toward vertical segregation. When compared to the total female employment, just the 1.3% of employed women are in a position of management, as opposed to the 2.5% of men in a same position
- participation of women in entrepreneurial activity is much lower. Business women represent only 0.8% of total female employment (compared to males at 1.2%). To make matters worse, there is a high number of women working “black” (without a regular contract) in many Italian regions, especially in the South-Centre.

In determining the presence of women in the labor market, there are also problems inherent to the relationship between life and work. Considering that parental leave, work timetable modifications, work support with services and economic benefits to pay for these services are the most used instruments in European countries for facilitating participation and continuity of employment of women with family duties, the data we have until now is still not in line with the Lisbon’s goals.

Issues about work-life reconciliation are also affecting women’s permanence in the labour market. Given that the parental break, the changes in working and supporting the work of care through the provision of services or financial subsidies for the purchase of such services are the main instruments used in European countries to facilitate the participation and continuity of employment of women with family loads, the data so far shows that Italy is not yet aligned with the Lisbon objectives.

Regarding the problem of work-family reconciliation, the existence of barriers in the access to employment for women due to family loads is testified by the varying rates of female employment, to changes in the role of family and the changes in birth rates. According to a study published in 2004, targeting women between the ages of 35 and 44, employment rates for single females are highest (86.5%) followed by women living in couples without children (71.9%) and, finally, those who live as a couple with children (51.5%); among them, the rates are higher for women with one child (63.8%) and lowest for women who have 3 or more (35.5%).

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256 PRESIDENZA DEL CONSIGLIO DEI MINISTRI – DIPARTIMENTO FUNZIONE PUBBLICA. Progetto Cantieri. Donne e leadership nella pubblica amministrazione, www.cantieripa.it

257 CAMERA DEI DEPUTATI – SENATO DELLA REPUBBLICA (Servizio Statistiche) – www.camera.it, www.senato.it
Working Women 35-44 years

There are still very strong barriers even in the access of women in top roles both in private enterprises and in the public sector. This is also the case in the headquarters of political representation, where the female presence in the National Parliament and in government bodies of regions, provinces, municipalities and public companies is well below the European average, justifying the recent demand for the introduction of so-called “quote rosa,” as a functional measure to increase the presence of women in places of government.

The top positions of government show a gap between males and females in central compared with nearly 48% of women in the complex for civil servants only 27% are female managers and only 15% female directors.

Italy is characterized by a distinct marginality of women in decision-making policy: analyzing the situation in comparison with major European countries, the gender imbalance in representation election is particularly strong in our country and relegates us to the bottom of this ranking. The presence of women in Parliament, despite an increase in the current term, is still below 20%. In fact, about 630 members, women present in the House representing 17.14% of the total. In the Senate, however, the percentage is 13.51%. This data demonstrates that Italy has a lesser presence of female deputies compared to all other EU countries.

6.2.2 Age

Italy is the European country with the largest percentage of older people: the over-65s account for 19.8% of the population, and there is also an increase in the population of so-called ‘very old’ (persons over the age of 80 – of which 5% are female). The average life expectancy has increased from 65.4 years in 1951 to 78 in 1995. Approximately 10 years, over 40 constitute the age group most numerous of the population. 1 million 600 thousands Italian aged 45 years and over believe they have been discriminated against at work because of their age and half a million claim to have been fired from their job due to their age, according to a research by Bocconi University.

The reasons for the aging of the population are primarily the extraordinary advances in medical science and improved quality of life in terms of environmental and social conditions. Equally significant is the decline in the birth rate. Equal opportunities policies must consider this aspect because the elderly are a significant slice of Italian society not only from a demographical point of view but also because of the great contribution that they can still make to economic and social growth of the country.

On the other hand, young people also complain about a malaise that can not be neglected. Some studies have highlighted how young Italians have little faith in the future and are not satisfied with their condition because they feel the most exposed to a labour market that shows their many uncertainties through the use of flexible forms of employment. The difficulties that young people feel in creating their own living, even in terms of economic self-sufficiency, then determine their low propensity to marry or have children with a logical influence on the decline of marriage rate and birthrate.

A survey conducted by Istat has emphasized that the number young people between 18 and 34 years who are celibate, unmarried or living together with at least one parent amounted to 60.2% of all couples of the same age group. Many of them are even willing to move elsewhere in search of better opportunities. Particularly in the south of the country young people tend to travel abroad or to other areas or to internal stronger recall the index of old age now exceeds 110%.

Despite the lack of specific monitoring of age discrimination in Italy, a particular attention on the conditions of the young in the country was recorded in a report titled “The Rights of Childhood and Adolescence in Italy”. The report mirrors the condition of under-18s in Italy and the level of respect of the ONU Convention on the Rights of Childhood and Adolescence, presented on May, 26, 2008 by the CRC Group. This network is comprised of 73 organizations and associations, and is

coordinated by Save the Children Italia. This organization analysed under-18 exploitation for begging activities. The phenomena seems to increase due to huge earnings brought to families or to criminal organizations. The statistics reveal a sum of 100 Euro per day for one child.

Street reality shows that, together with the gypsy children who are forced to become part of the family criminal organisations, under-18 from Albania and Romania have entered the pan-handling world. It is believed that they are often given to criminal organisations by their own families. Due to the complexity of this phenomenon, there is still a lack of suitable statistical data. According to police statistics from 2005 there were 455 denouncements for persons under the age of 18 in begging activities along with 6 arrests. Most of them were recorded in Lombardia (90 records), followed by Puglia (81), Sicilia (48) and Lazio (44). Comparing with the year before, the denounce number is lower. In 2004 there were 540. In 2003, there were 570 recorded. Basically, between 2003 and 2005 the records decreased by 20.2\%\textsuperscript{262}.

6.2.3 Disability
Despite the legislative effort for social inclusion of persons with a disability, there are still clear conditions of discrimination. Studies and research reveal how, inside the workplace, school and public transport, there are many obstacles to social participation of the disabled. As stated in a recent discussion paper: “If we want to make it possible for everybody to have an independent experience in everyday life, which should be our goal according to Legislator’s declared intentions, then it should be pointed out that for the disabled with physical impairments there is mainly a problem that must be challenged: it is the impossibility to set up the efficient and natural relationship with the environment. This issue involves access matters but it goes even beyond pure access in itself: it is the whole anthropological experience that is involved. Indeed autonomy, independence and equal access are definitely needed both for disabled and non-disabled. We can (and we have to) tend to inclusion\textsuperscript{263}.

As we can see from the data given by the Department for Labour\textsuperscript{264} according to results of the valuation of health conditions and the resort to health services in 2004-2005, in Italy there are 2,600,000 disabled, about 4.8\% are aged 6 or older and live with the family. Considering also the 190,134 people residing in social-health centers, the final value is a little below 2,800,000 disabled people.

Actual difficulties in the survey are due to various factors. One is that the words are often inaccurately used as synonymous (disabled, handicap, unable), or because is very difficult to detect the mental disability compared to the physical ones, due to resistances or cultural prejudices, which take persons not to get in touch with the appropriate public services or to not declare their state of health.

In Italy the unemployment rate of persons with a disability is higher than that of other workers. Multiple discrimination targets disabled women (of every three disabled workers, only one is a woman). Isfol data\textsuperscript{265} confirms this trend, pointing out that disabled women are exactly two times more in search of a job compared with their male colleagues. Also, when they have access to the work contesting process, they are penalized in their career or in the realm of professional responsibility. Moreover, the access to the labour market is strictly connected to other needs which must be satisfied. It would be hard without access to public systems and to new technology.

Among disabled people\textsuperscript{266}, only 2\% of women are employed, contrary to 7.7\% of men. Age can be one more differing factor. Among disabled people in the 15-44 age group, the employment rate of women is 15.5\%, and that of men, 29.4\%. This gap rises in the 45-64 age group to 6.6\% for women and 20.8\% for men. Young disabled people, especially women, seem to have derived many more benefits from integrated politics of labour than the older generation.

According to the Department of Labour\textsuperscript{267}, moreover, in the younger age group (15-44), the educational qualification is essentially influenced by the conditions of disability, but not by gender differences. In fact, disabled people, male and female, with any educational qualification give quite similar values, respectively the 17.7\% and 15.3\%, when compared with people without any disability, which represent the 0.4\% for male and the 0.6\% for female.

\textsuperscript{262} A detailed statistical information here summed up is available in www.disabilitaincifre.it
\textsuperscript{263} Checcucci P., Deriu F., Rapporto ISFOL 2004. I.1.3 Temi in primo piano: Avviamento al lavoro delle persone disabili. ISFOL.
\textsuperscript{264} Ministry of Labour, www.disabilitaincifre.it
\textsuperscript{265} Ibid
\textsuperscript{266} Caritas Migrantes, Dossier Immigration 2008, Antarem, 2008.
\textsuperscript{267} On a side note, regarding the gender of those reporting discrimination, the low number of women who make complaints is due to the fact that they are mainly domestic workers, a particularly vulnerable group at risk of worst forms of discrimination.
Finally, among the cases of disabled people's discrimination, particular attention must be paid to the situations of multiple discrimination, such as in the cases of women and children with disability, disabled people who belong to ethnical and linguistic minorities and elderly people.

The main characteristics that define the double discrimination of disabled women look like a weave of cultural, social and objective factors:

- a larger physical, psychological and social vulnerability;
- the limitations during the activity of daily life;
- limited access to social resources (school and professional education, formation in new technologies, work, social and health services, sport, culture and leisure time);
- the consequent obstacle to achieve high levels in education;
- a disadvantaged condition that brings people with serious disability to be at risk of poverty;
- the risk of being victims of abuse and sexual violence;
- the discouragement of sexuality, a relationship, and maternity (in many cases, persons with a disability who have children are forced to leave their job).

Therefore, there is an urgent need for a systematic intervention that could be effective in any social sector in aid of persons with a disability, with interventions that can facilitate the access to common goods and services: in environment, in planning, in economic resource, in correct information and communication, in collecting statistical and life quality data.

Education and training must play a lead role in this commitment for the social inclusion. Effective education is the first step to assure the full development of the individual potential to achieve an independent and dignified adult life and to ensure the whole right and the enjoyment of equal opportunities in all aspects of social life.

6.2.4 Race/Ethnicity

The increasing of the number of foreign population in Italy is due to a legislative directive (Low 39/90; DL 489/95; DPCM, October 16, 1998; L. 189/02 e 222/02) that permitted the regularization of many irregular workers. ISTAT estimations consider that by January 2008 there were 3,433,000 immigrants in Italy, whilst in the recent Caritas Report 2008 it has been estimated that in January 2007 there were 3,987,112 immigrants in Italy. During the past 10 years there was a huge increase in immigrant births. In 1994 there were 8,000 babies born in an immigrant family. In 2007, the total was 63,000, marking a significant increase.

Many of the new Italians are second generation immigrants, and this influences the world of education and the labour market. The number of immigrant students increases every year. In 2007, there were 574,133 foreign students, which means 6.4% of the whole student population.

During recent years the Italian government has had to face many critical phases in the field of discrimination against migrants, due to the high presence of foreigners on the Italian territory and their difficult inclusion in society: the labour market and the access to housing still remain the main sectors of discrimination, and social and ethnic conflicts registered in 2007 do not help the government to balance the public debate regarding the immigrants and their rights.

Complaints gathered by UNAR, the National Office Against Racial Discrimination of the Department of Equal Opportunities, Presidency of the Council of Ministers, through its Contact Centre, present three fundamental characteristics of users, which together enable us to understand which elements push either a victim or a witness to report an episode of discrimination: the predominance of male callers relates to the dynamics of the phenomenon of immigration in Italy; the age of the users, which is around 40 years old; and the long period of residence in Italy. The main victims of discrimination are, therefore, mature males who have lived in Italy for around a decade. It is believed that immigrants, who have lived in Italy for a long period, presumably move towards a permanent presence in Italy. On one hand this data shows a higher number of reported cases when there is a greater integration and knowledge of Italian society; on the other hand it seems that discrimination also affects those who should, by now, be integrated in Italian society.

During the course of 2007, UNAR's Contact Centre received around 10,000 calls ranging from requests for general information on immigration and anti-discrimination laws, to specific requests for support


269 The fact of requesting formal dress can be considered indirect discrimination in how immigrants are economically impeded from acquiring clothing of a certain type.
with social integration. The greatly increased number of calls reveals a strong need for guidance and clarity to untangle a complex legal framework. We have seen the evolution of a service which not only provides assistance in cases where there is a problem and in which discrimination has been confirmed, but which also positively contributes to promote a sense of determined integration for the population of foreign citizens.

Specifically there have been 440 cases, which, under the remit of the Department of Equal Opportunities, the Office undertook a preliminary investigation. Of these, 265 were cases in which the Office has acknowledged the existence of discrimination based on race and ethnicity.

The number of cases corresponding to racial discrimination has increased in comparison to the 2006 figures (from 218 in 2006 to 265 in 2007). The majority of callers come from the Centre of Italy (31.9%) and the North West (34.2%) and North-East (25.9). There has been a rise in the Centre while only 8% from the South and the islands. These differences can be explained with different inclusion models for immigrants across the country; one relating to the area of settlement and one relating to the area of transit.

The southern region, due to geographic proximity to Mediterranean countries through which the majority of migratory routes pass, has always represented a place of passage from which immigrants then move on to other areas in Italy or Europe where there are better work opportunities. The Southern regions, where economy is based on agriculture, fishing, and farming offer an opportunity for seasonal work which is unstable and informal, forcing the immigrant to move on to find a better job. However, the Northern and Central Italian regions are characterised by strong industrial and service economies, which permit the immigrants to find greater stability.

Regarding the 2007 data, it is interesting to analyse the area of origin of the victim of discrimination:

**Area of origin of the victim of discrimination**

(Values in %)

<table>
<thead>
<tr>
<th>Geographic Area of Origin</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>North-Africa</td>
<td>22.8</td>
</tr>
<tr>
<td>Africa</td>
<td>16.5</td>
</tr>
<tr>
<td>Asia</td>
<td>5.8</td>
</tr>
<tr>
<td>Latin America</td>
<td>14.4</td>
</tr>
<tr>
<td>Western Europe</td>
<td>1.8</td>
</tr>
<tr>
<td>Eastern Europe</td>
<td>18.5</td>
</tr>
<tr>
<td>Italia</td>
<td>17.7</td>
</tr>
<tr>
<td>Victims not traceable to a specific area</td>
<td>2.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

Source: unar-iref 2007

In terms of the place where the discrimination occurred, the context in which the greatest number of cases of racial discrimination occurred is "work", which includes almost 23.8% of relevant events, followed by "home" which represents nearly 16.2%. These are two strategic areas where the inter-ethnic interaction is not occasional but is instead long-term and ongoing. With relationships at work and with neighbours, the contact turns into communal living and this change of perspective generates the potential for conflict or competition that often translates into discrimination. In these cases, sharing the same space signifies learning to relate to other people who are unfamiliar and overcoming the misunderstandings that this unfamiliarity generates.

**Relevant Events in respect of the Place of Discrimination (values in %)**

<table>
<thead>
<tr>
<th>Place of Discrimination</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Work</td>
<td>23.8</td>
</tr>
<tr>
<td>Home</td>
<td>16.2</td>
</tr>
<tr>
<td>Public Life</td>
<td>12.8</td>
</tr>
<tr>
<td>Delivery of public services by private companies</td>
<td>10.9</td>
</tr>
<tr>
<td>Delivery of public services by public bodies</td>
<td>10.6</td>
</tr>
<tr>
<td>Public Transport</td>
<td>6.8</td>
</tr>
<tr>
<td>Law enforcement</td>
<td>5.7</td>
</tr>
<tr>
<td>Education (school) &amp; Training</td>
<td>5.7</td>
</tr>
<tr>
<td>Mass Media</td>
<td>4.0</td>
</tr>
<tr>
<td>Access to financial Services</td>
<td>2.3</td>
</tr>
<tr>
<td>Health</td>
<td>0.8</td>
</tr>
<tr>
<td>Free Time</td>
<td>0.4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

Source: unar-iref 2007
The reported episodes of discrimination unfortunately
exist in a context in which the interaction between
Italians and Immigrants is only occasional. In this sense,
there are three categories where the largest number
of relevant events occurs: “Law Enforcement” (5.7%),
“Delivery of public services by private companies”
(10.9%) and “Delivery of public services by public bodies”
(10.6%).

Two of the most representative environments are “work”
and “home”, the sectors where the most consistent
elements of the phenomenon of discrimination in Italy
develop. If, on one hand, work and home are the most
efficient routes to achieve integration, on the other hand
they provide the most fertile ground for discrimination to
develop. However, by analysing the other environments
in which disparity of treatment has been confirmed we
will have the opportunity to observe how a large part of
the social sphere is afflicted by a tendency to consider
diversity as reasonable grounds to treat someone
differently.

The four strongest manifestations of racial discrimination
in the working environment throughout 2007 are shown
in the following table. The largest number of reports
regard working conditions (32.2%), following closely by
“conflicts at work” (28.8%) and “access to work” (22.0%).
5.1% of the reports of discrimination relate to dismissal,
and 8.5% relate to tensions in the relationships between
colleagues.

<table>
<thead>
<tr>
<th>Discrimination in the work environment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Context of Discrimination</td>
</tr>
<tr>
<td>Working conditions</td>
</tr>
<tr>
<td>Conflicts at work</td>
</tr>
<tr>
<td>Access to work</td>
</tr>
<tr>
<td>Colleagues</td>
</tr>
<tr>
<td>Conditions of dismissal</td>
</tr>
<tr>
<td>Remuneration</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

Source: unar-iref 2007

With regard to the home, a common theme can be
identified which binds relevant cases together: the
problems of communal living between neighbours.
57.1% of the complaints in this environment relate to
relationships between neighbours. Whereas 7.3% relate
to the rental conditions imposed by the property owner.
7.1% by private sector and 9.5% problems connected to
discrimination in the access to public housing.

The contexts of discrimination in the home

![Chart showing contexts of discrimination in the home]

Source: unar-iref 2007

It is difficult to explain such an increase in the
complaints relating to neighbourhood relationships
in the last three years. Twelve or twenty four months
is not actually long enough to connect this increase
with a worsening in the ethnic relationships within
condominiums or neighbourhoods in Italian towns
and cities. However, it can be argued that it is easier
to report discrimination from a neighbour than it is to
report discrimination from the owner or landlord of the
house. The reason being is that the landlord who rents
a property has a position of power over those who need
a place to live. If the majority of immigrants who do not
own a house\(^{270}\) are included, it is clear that to report
about the landlord of the place where they live (possibly
paid for without being declared by the landlord and at an
inflated market value) is extremely risky and could result
in negative consequences, such as losing the roof over
their heads.

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\(^{270}\) In the category of “Public Life” are two complaints of discrimination which have been brought back which supposes a rapport of non involvement
between subjects occasionally present in the same public place or those relating to racist graffiti as well as complaints regarding electoral
manifestos or political representatives.
The difficulties experienced in communal living between neighbours show an alarming situation. In the places where living together is necessary and ongoing, it hides harassment, verbal aggression, and intolerance in a situation that should be transparent and peaceful.

Taking in account another sensible ground of discrimination, different complaints pertaining to episodes involving the Forces of Law and Order have been reported to UNAR. This is a very delicate issue. The Forces of Law and Order are the first line in managing immigration, both in regards to entry into the country and control activities within the territory. Therefore, it is not surprising that the police stations and border controls can become a theatre for tense situations and bitter incomprehension.

Another field in which episodes of discrimination have been reported is the supply of services by private companies. There is often conflict between the management and immigrants in the daily use of bars, nightclubs, and restaurants. The management is often not prepared to treat immigrants in the same way as their Italian clients when the immigrants demand services, food and fun in their free time.

If work and communal living represent two places where meetings are compulsory, the environment of commercial enterprise is a space that implies a choice of sharing music, food, and fun. Often the choice is not shared when immigrants wish to go to a specific venue as often they are refused entry. It is frequently the case of behaviour connected to the selection of clientele in respect of the dress code, a characteristic, which in theory should be independent of nationality and ethnicity271, but often in reality depends upon a specific decision to exclude immigrants.

Public life272 and public transport273 should not be underestimated. The two categories overlap somewhat. Public transport, in fact, can be framed as a sub-category of public life because the scenario is common to two fields of reference as are the people involved.

Another field in which there are a significant percentage of complaints regarding disparity of treatment is “School and Education”: this represents 5.7 % of the relevant cases.

Mass media corresponds to 4% of complaints. The common theme in these cases is the reporting of a type of journalism and communication that damages the image of some ethnic groups or immigrants. This is done, in general, using an apparently neutral linguistic style, which is composed of generalisations and stereotypes in which individuality is lost in a general category of nationality and this last point becomes the only element of identification for the individual.

A relevant place in the classification of the fields of racial and ethnic discrimination is that assigned to access to credit. In general, banking legislation does not place any formal limit on immigrants accessing banking services but the majority of substantial discrimination is indirectly related to this. In order to obtain a loan, immigrants are asked for a guarantee that they are often unable to give: presentation of pay-slips, and rental contracts and guarantee of staying. Taking just one of these examples, the people who are forced to work illegally do not have pay slips.

6.2.5 Religion

In Italy it is particularly difficult to analyse and monitor discrimination acts based on religious factors. A systematic approach on this issue is not available. For this reason, empirical data on religious discrimination is lacking. It is sometimes common to see reports of intolerance mainly against non-Christian immigrants, especially from Islamic countries, in the media. Cases of religious intolerance towards Islam and Muslim communities are presented by media – this fuels suspicion and increases hostile stereotyping of the Muslim communities.

Actually, freedom of religious practice is guaranteed by Italian law and the Constitution. In fact, in the Constitution, all are “equal before the law without distinction of gender, race, language, religion, political opinions, personal and social conditions” and “All religious beliefs are equally free before the law” [and are] “entitled to profess their religious beliefs freely in any form, individually or in association with others, to promote them, and to celebrate their rites in public or in private, provided that they are not offensive to public morality”.

271 Complaints and reports of discriminatory events on the part of public transport personnel that harm foreign users have been regrouped under the category of “Public Transport” which at times result in the service are being not offered.

272 For an in-depth analysis see: Simon A., Discrimination on the grounds of religion and belief. Community Action Programme to Combat Discrimination - European Group of non-governmental experts in the field of combating discrimination on the grounds of racial and ethnic origin and religion or belief – coordinated by the Migration Policy Group, June 2004.

After revising the 1929 Patti lateranensi in 1984, various agreements with representatives of some of the main religious groups existing in Italy have been signed. The Jewish Communities, the Lutheran Church, the Adventists, the Waldensians, Buddhists, Jehovah’s Witnesses and others have a specific agreement with the State and enjoy legal protection and freedom of religion.

Now there are no more cults having governmental agreements, but other religions are still waiting for recognition. There is still the need for agreement with the Muslim Community which has been stopped by various factors that fragmented representation of Islam in Italy. However, with the 1984 revision of the Patti lateranensi, Catholicism is no longer the state religion. Yet, recognition of other religions needs more effort due to lacking agreements and/or the lack of adoption of signed agreements into parliamentary acts.

State agreement with the Muslim community is difficult to carry on. At the same time, it is particularly urgent since growing Islamophobia is producing a risk of future discrimination problems (on grounds of religion) for the Muslim community.

The growing prejudice suffered by Muslims, discriminatory acts, violence and harassment, is pointed out by journalistic analysis and police. In Northern Italy, cases of intolerance have been monitored regarding the construction of adequate places of worship for the practice of Islam. There have also been discussions and closed attitudes concerning requests for specific funeral rites sites. An institutional effort for ensuring that the Muslim community is not discriminated against, and that this community may freely worship, must be implemented.

6.2.6 Sexual Orientation

Until recent times, sexual orientation was not considered a discriminating factor in the implementation of basic law and codes of conduct in institutions. In spite of the call for decriminalisation of homosexual activity and the effort to ensure the rights of LGBT persons (Lesbians, Gays, Bisexual and Transgender persons), along with vigilance regarding rape and violence, Italy has a long way to go. This means sensitising the population and enacting new laws against prejudice.

Even today, the LGBT communities are the subject of cruel jokes, mockery, discrimination and violence. Meanwhile, it is urgent to extend protection while implementing and enforcing Articles 2 and 3 of the Constitution. This would affirm the tenets and spirit of equal opportunity for all citizens regardless of their sexual orientation.

No statistics concerning discrimination on the grounds of sexual orientation are available. A particular constraint for data availability is the absence of legal provision in criminal law and in civil law regarding hate speech related to homophobia and/or discrimination on the ground of sexual orientation. As explained by Marta Cartabia, “Criminal law only penalises hate speech related to discrimination on the grounds of race, ethnicity, nationality or religion. Moreover, the Italian legal system takes no account – either in its legislation or in its case law – of whether a common crime was committed with a homophobic motivation. There is no official data regarding the number of non-criminal court cases initiated in connection with homophobic statements”.

The legislative decree of July 9, 2003 (n. 216) tried to address this by creating a directive (2000/78/CE). This rule called for equal treatment of labour along with good working conditions. It introduced, for the first time in Italy, a prohibitive law regarding discrimination based on sexual orientation.

A stronger application of law is necessary in order to truly alter this landscape. Innovative opportunity arrived by way of a Tuscan Regional Law (November 15, 2004, n. 63). It was called, “Laws against sexual and gender identity” and was the first law of its kind to be contested in front of the Italian Judiciary.

This process continues in the region while the Italian government prepares to enact article 3 of the Constitution. Final measures are being drafted and adopted which allow free expression of sexual orientation to all. These measures outline how interventions will take place and to what degree compensation will be offered.

Another directive, July 5, 2006 (54/CE), from the European Parliament and the European Council, will

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Voice for All Project - Research Report 79
most likely take effect in Italy. This mandate states that equal treatment of the sexes will not be limited to just discrimination based on gender. Equality will be interpreted on a broad scale addressing the entire realm of gender, sexual orientation and sexuality. (This also includes transsexuals).

While enhancing the politics that combat discrimination based on sexual orientation is admirable, the need for an “across-the-board” approach is necessary as well. This approach must be able to highlight and emphasize the common roots different forms of discrimination create based on individual features or characteristics of the abused.

Women are more vulnerable and should be considered higher-risk subjects in multiple discrimination cases (lesbians, immigrants, disable women, etc.). Regarding this, attention must be given to the excellent awareness campaigns orchestrated by Arcigay Roma in collaboration with CGIL Roma, New Rights’ Office and NPS Italia Onlus.

It is urgent to overcome social, cultural and “normal-life” obstacles by making homosexuality visible through specific initiatives. This makes the public aware and, above all, modifies the norm in national and local politics. It is a good way to face this type of discrimination effectively.

The guiding principles of these efforts will be ones that promote social acceptance of homosexuals and encourage stronger focus on the more vulnerable members of this group (immigrants, lesbians, foreign homosexuals, the very young or old, etc.). Assistance will come through collaborative activity by local institutions and associations designed for this purpose.

Special attention must be paid to the school and classroom. Education and training represent crucial frontiers for planning, information and sensitising students, teachers, public administration staff, social-health workers and security force.

In the labour sector, sexual orientation or particular identifying features are still potential discriminating factors. The Gay Help Line (an anti-homophobia multi-channel contact centre carried out since 2006 by Arcigay Rome) has reported many cases of discrimination in the work circle. Increased efforts must be made to recognize specific needs of those at higher risk of exclusion and discrimination in the health sector.

In these two sectors, positive action on a local level should begin. It could focus on young lesbians by encouraging their involvement in public life (working) thus making their access to health services easier. This new activity does not strain the system. On the contrary, it can be useful in strengthening successful programmes already servicing the heterosexual population.

The same actions should be undertaken to ensure rights and promote positive action toward same-sex couples, protecting adults as well as children who could be part of these relationships. Attention must always be paid to the family while increasing focus on the needs of these new kinds of families.

As a result of discriminating language and cases of violence highlighted in the press, it can be considered crucial to activate awareness campaigns. These efforts should evolve along the different spheres of discrimination. They can also help bring the LGBT question (lesbian, gay, bisexual and transgender) out of the shadows and in to the light. Fighting prejudice will require accurate data and active involvement from government, education, labour and health sectors.

6.3 Legislation

Italian legislation provides, including the basic principles of the Constitutional Charter, equal dignity and equality of citizen rights, without distinction of gender, race, language, religion, political opinion, social conditions or personal beliefs.

Specifically, the Constitution of the Republic of Italy, Art. 3, declares that:
(1) All citizens have equal social status and are equal before the law, without regard to their gender, race, language, religion, political opinions, and personal or social conditions.
(2) It is the duty of the Republic to remove all economic and social obstacles that, by limiting the freedom and equality of citizens, prevent full individual development and the participation of all workers in the political, economic, and social organization of the country.

The State promotes full respect for article n. 3 of the Constitution and updates it on a regular basis with regard to education and methods available in combating discrimination.
With regards to equality on the basis of gender, a provision was approved recently. The Code of Equal Opportunity states that the “disposition of this directive eliminates any distinction, exclusion or limitation based on sex, compromising or limiting human rights opportunities and social, economic, civic, cultural and political freedom”.

Starting with the code of equal opportunity, the aim to reunite and coordinate in a unique context, equal opportunity legislation, mirroring equality between men and women was pursued. This became stratified in time in order to facilitate the knowledge for the non specialists collocated with the disclosure of a plant of rules for this theme.

This code contains many legislative provisions for the equal opportunity men and women.

The Italian Government created a great deal of legislation to apply the principles of non-discrimination between gender: Legislative directive of November 6, 2007 n. 196, including European Directive n. 2004/113, enhanced ordinary legislation by adding a law that forbids any direct or indirect form of sexual discrimination in situations such as refusing access of women to the public marketplace.

Such articles have many new and different elements. Some of these, like sexual harassment, are considered discrimination. Inappropriate behaviour with sexual overtones whether physical, verbal or non-verbal, and any behaviour that offends qualifies as harassment. These behaviours can create an intimidating environment for the victim. Point 3 of Article 55 bis specifies that any improper treatment of pregnant women is direct discrimination. The ban applies to all entities, both public and private suppliers of goods and services that are available to the public and which are offered outside the area of private and family life.

Regarding discrimination due to race and ethnic origin, the Italian Government issued Legislative Decree 215 on July 9, 2003, as part of the European Directive 2000/43/CE, to promote the principles of equal treatment of individuals, independent of their race or ethnic origin.

The new legal order (Legislative Decree 215/2003) provides a framework of rules, extended to provide a clear distinction between direct and indirect discrimination. For direct discrimination, it establishes recourse when, for reasons of race or ethnic origin, one person is treated less favourably than another in a similar situation. For indirect discrimination, it establishes recourse when an apparently neutral criteria or procedure can, in practice, put a person at a disadvantage due to their race or ethnicity.

A further area of intervention is harassment. The legislation considers this to be a form of discrimination. Harassment is defined as hostile, degrading, offensive and undesirable behaviour based on ethnic or racial factors that may violate the dignity of an individual or create an intimidating climate for them.

The National Office for the fight against Racial Discrimination (UNAR), which is part of the Department of Equal Opportunities, was created by the Legislative Decree 215/2003 for the implementation of Directive 43/2000. UNAR has become an institutional point of reference for the acknowledgement and understanding of the rights of immigrants as well as a catalyst for those individuals, associations and local agencies who work on a daily basis to stem racial discrimination.

To achieve these general objectives, and to respect the content of directive 2000/43/CE from which UNAR was born, the Italian legislator has created and delegated the work the office must roll out. With Legislative Decree No. 215/2003 and the related DPCM (Decree of the Presidency of the Council of Ministers), December 11, 2003, the different tasks and functions UNAR has been called to deliver have been catalogued analytically. The types of tasks can be grouped into four broad categories that are identifiable with each of the roles:

- preventing all behavior or acts that create a discriminatory effect. This is accomplished through actions that sensitize public opinion and the opinion of sector operators
- removing situations that involve discrimination, (with absolute respect to Judicial Authority), through the provision of free legal assistance in judicial and administrative proceedings to victims of discrimination. Moreover, it promotes the conducting of investigations regarding discrimination phenomena.

• promoting positive actions, studies, research, training courses and exchanges of experience in partnership with associations and entities operating in the sector.
• monitoring effective application of the equal treatment principle as well as the mechanisms to safeguard this, through systematic qualitative and statistical checks on the cases of discrimination on the basis of ethnicity and race.

With regard to the removal of every act of discrimination, UNAR provides assistance to the victim or the organisation acting on behalf of the victim. It also offers support in judicial or administrative procedures. UNAR can also offer observation or opinion during the hearing. In full respect of Judiciary function and domain, UNAR can, if required, begin an independent inquiry to confirm the existence of discrimination.

A documented, in-depth examination with the victim and the parties involved is conducted on cases collected by UNAR and then forwarded at a primary level for preliminary investigation. Testimonies are heard. Evidence is collected based on fact gathering. If the complaint is judged to be real and relevant, it is forwarded to the UNAR office for evaluation by the Director and possibly assigned to the relevant officer or magistrate at a second level for the next phase of the investigation.

In the event that a judicial safeguard or administrative action is needed, UNAR can propose that a National Focal Point or an association on its National Register provides support to the victim. For judicial protection, the Office can use a streamlined and rapid procedure to tackle discrimination considered urgent. The provision is defined in the Unique Text on Immigration (Legislative Decree, 286/1998) and in the new provision introduced in Legislative Decree (215/2003). Within this text, based on Article 44, “Civil action can be taken against discrimination on the lines of race, ethnicity, nationality or religion”.

The support UNAR provides to the victims of discrimination is covered by the Legislative Decree 215/2003. This recognises the right for Associations and Bodies registered with the office in a special Register, to act in name, on behalf of, or in support of the victim. Inscription in the Register provides associations and bodies with a supportive role during a hearing, including acting as a substitute for the victim during the proceedings.

The registered Associations and Bodies also have legitimate authority to act in the event of “collective discrimination.” This occurs when an individual who has experienced discrimination cannot be immediately identified.

When requested by interested parties, UNAR can intervene in judicial proceedings, through its representative, and give oral or written observations (Article 7 of Legislative Decree 215/2003), as well as in the form covered by article 425 c.p.c.). It is able to draw on data and facts collected by bodies and companies in possession of information.

Through the Register of associations and bodies that works in the fields of discrimination and promotion of equal treatment, UNAR can provide opinion and legal guidance in judicial and administrative procedures for anyone who alleges that they have been discriminated against.

Although the technical presence of a defendant is not compulsory, in order to avoid inequality in legal support during the judicial procedure between the victim (plaintiff) and the perpetrator of the discrimination (defendant), UNAR prefers to take on the role of strengthening and raising awareness for legal professionals in charge of conducting the procedures. This ensures a greater safeguard for those who can not obtain free legal aid from the state and can not afford the high cost of professional assistance.

The Italian order promoting social integration of persons with a disability is a direct expression of Articles 3 and 38 of the Constitution, where we find essential requirements of the most recent mandates favoring disabled people:
• L: 482/68 - rights at work of persons with a disability, replaced by law 68/99;
• L:118/71 - rights of persons with a disability to fundamental services; schools, rehabilitation, assistance;
• L. 517/77 - educational integration;
• L. 382/79 and related d.p.r. (Decree of the President of the Republic N° 616/79 - decentralization of regions and municipalities in order to deliver social assistance previously administered by State associations;
• L. 13/1989 - demolishing architectural obstacles in private buildings as issued and regulated by articles 10-15 of the Consolidated Building Act (Degree of the President of the Republic N° 380/01);
• L.104/92 – Fair rules for assistance, social integration and rights of people with disabilities. It guarantees respect of persons with a disability, promotes total integration, removes invalid conditions and cultivates complete civil, political and heritage rights. It also provides functional and social recovery plus legal and economic guardianship over every form of immigration and social exclusion.

The recent Law of March, 2006, (n° 67 “Measures for guardianship of people with disabilities and victims of discrimination”), has found unusual instruments for promotion of total implementation of the principal for equal treatment and opportunity toward disabled people, granting jurisdiction guardianship over every act or behaviour of discrimination and guaranteeing total enjoyment of fundamental civil, political, economic and social rights.

Instruments of guardianship and definitions of discrimination and sexual harassment are modelled in the decree (requiring the approval of parliament n° 215/2003). It provides for the same action of judicial guardianship towards discrimination acts and the legitimate ability to act on behalf of associations that work in the name of or in guardianship of disabled people and their rights.

Effective administration of this law comes from the department of Equal Opportunities of the Council’s Presidency of Ministries. This board that has the jurisdiction to analyze and judge cases of discrimination.

Inscription in the Register provides associations and bodies with a supportive role during a hearing, including acting as substitute for the victim during the proceedings. Art. 3rd of the Law reads: “When granting the appeal the judge may, if so requested, acknowledge a compensation for damages, even when no financial loss is involved, and order the termination of the behaviour, conduct or discriminatory act. If still existing, as well as adopt any adequate measure, according to circumstances, suitable to remove such discriminatory effects, including adoption, prior to the expiry of the term established in the measure itself, of a plan for the removal of the identified discrimination”.

As for Legislative decree 215/2003 (Race Law) regarding an additional sanction, the judge may order, (only once), publication of the measure (under paragraph 3) in one of the major daily newspapers possessing a wide national circulation at the expenses of the defendant. This provides a deterrent against any further discriminatory act by other parties.

Indeed, Law No. 104/1992 (frame-law on the rights of persons with a disability) officially defines a “person with a disability”. It:
• outlines what general rights for disabled persons are, based on medical statements which are used for further legislation;
• focuses on medical issues, rehabilitation, education, permits given to parents, competitions undertook by disabled applicants, work, transport, mobility, design, civil rights, housing, taxes and general policy.

Regarding rights in employment and at work, law No. 68/2000 (rights of disabled people to work), and legislative decree 216/2003, (which implements the 2000/78/CE directive), provides for equal treatment and aims to improve employment opportunities of disabled workers.

Law No. 4/2004 issues ITC and new technology aspects. It regulates access of persons with a disability to information technology. In the same year, law No. 6/2004, (support administration), was issued.

The most recent provision is law No. 67 (March 1, 2006), which sets provisions for judicial protection of persons with disabilities who are victims of discrimination (published in the Italian Official Journal No. 54, March 6, 2006). The goal is to guarantee essential assistance for the nation and help all people that are not self sufficient.

Regarding funding opportunities for the fight against discrimination and social inclusion of disabled persons, a fund has been built at the Ministry of Social Solidarity called “Fund for the non-self-sufficient” (100 million Euros in 2007 and 200 million in 2008 with another 200 million is 2009). This guarantees essential assistance to the national territory, helping all who are non-self-sufficient.

As in 2007 and 2008, a fund of 180 million Euro was created for the family. This goal brings to the front the
National Plan for Families. It supports families at low income, wider families, services for children and elders, and also has a mandate to help the non-self-sufficient persons with disabilities and to rejoin their families.

Also this year, a Fund for the non-self-sufficient was created to guarantee essential levels of assistance and to extend that guarantee to the nation. The financial report of 2006 established 200 million Euro for 2007, 300 for 2008, and 400 for 2009.

Moreover the financial report of 2008 establishes that there must be a better level and positive import of funds for all families that need money, for every person with disabilities and/or orphans. The amount financing for this disposition is 30 million Euros for the 2008 year. Also, 1,582,000.00 Euro is designated for social services addressed to the citizens. Another created fund helps victims and their families due to terrible accidents or injuries at the workplace.

There are also dispositions that protect families that suffer from oncology pathology or disability. To assist these people, it is possible for parents or family members to transform their work contract to part-time. The cases when this is possible:

• partner, child, parent affected by oncology pathology
• a living partner with permanent inability, or 100% invalidity, that needs continuous assistance from the working partner
• living partner children, disabled people, or a child less than 13 years old.

The decree approved by Parliament on July 9, 2003, n. 216, acknowledges directive 2000/78/CE (equal treatment in workers and occupations along with proper conditions in the workplace). The decree applies to all discrimination based on religion, personal conviction, disability, age and sexual orientation that occurs in the workplace. It also mandates access and analysis of work conditions at the businesses. For organizations formed to take care for the discriminated (besides UNAR) that work in the Department of Pari Opportunità, there are scheduled activities of basic monitoring and consulting. But, there is no real operational power to operate beyond this level.

Regarding the activity of the government on the topic of anti-discrimination, beyond UNAR, under the Department of Equal Opportunity, there are other offices with similar mandates. They must monitor and consult. However, they have no decision making power, and they can only report their findings.


In addition, there are inter-ministerial entities within the Department of Equal Opportunity. Examples are the Inter-Ministry Commission on Human Trafficking and the Inter-Ministry Commission on Mutilation of Female Genitalia.

An advisory council of foreign dignitaries within the ministry represents the rights of the immigrant community. Their role is that of consulting and informing. Their powers do not extend beyond this definition.

There are other factors of discrimination regarding access to basic rights and services that affect not only the categories of individuals at risk of discrimination (set out in Article. 13 TEC), but also a large part of citizenship based on income and geographic location.

Demographic changes due to vast immigration creates a larger group of potentially discriminated people targeted based on ethnicity, religion or culture.

Reviewing the complex scenario and seeing the many targets to reach, we realize how necessary, yet insufficient, the use of basic law truly is in combating discrimination and promoting equal opportunity. This illustrates to the government the need for political activity by citizens at a grass-roots level. It is a new approach, tied to economic and social innovations as well.

Another significant result not immediately foreseen in the national strategy has been achieved through the debate and support of the European Year of Equal Opportunities held in 2007. This caused the introduction of financial resources devoted to promotion of equal opportunity for all. The fight against violence and any forms of discrimination is reflected in the 2007 and 2008 Financial Laws: 20 million euros has been allocated for the execution of a national plan regarding violence against women. Moreover, the 2008 Financial Law foresees measures promoting female entrepreneurship, (Fund for Competitiveness), to contrast discrimination against women accessing the labor market while favoring female integration as well.
Public services to children and ambulatory-challenged elders have been improved as well, (in particular through The Fund for Welfare Protocol and with the regularization of care-givers.

Regarding Sexual Orientation, Article 4 of the Legislative Decree n. 216 of 9.07.2003 provides that all agreements aimed at discriminating against workers 'on grounds of sexual orientation' are illegitimate. The UNAR, Office against Racial Discrimination, which, as explained, deals with problems of racism and xenophobia, asked to the Parliament in its 2008 Report of expanding its competences to other kinds of discrimination, including discrimination based on disabilities and sexual orientation.

At the moment, in the field of discrimination based upon sexual orientation, as underlined by the comparative study of Cartabia[279], “some town councils, though it is not possible to list exactly which and how many, have created registers of public civil unions. The value of these registers is only symbolic. The number of unions registered is not significant. A few other town councils, such as Padova and Bologna, offer de facto couples, included same-sex couples, the opportunity to obtain the ‘attestazione di famiglia affettiva’ (‘certificate of affective family’) on the basis of Personal Data Legislation no. 1228 of 1954 and no. 223 of 30.05.1989. Also de facto partners, other than those belonging to a different sex, can register. No rights, duties or new legal status follow from this registration, although being part of an ‘affective family’ could be used as proof in order to enjoy the rights recognised to de facto partners (such as a worker’s right to a paid three days’ leave of absence yearly in the event of serious illness or loss of a partner) [...]. The Regional law of Tuscany 63/2004 provides for specific actions in favour of LGBT persons in relation to various issues, such as employment, health and culture. In particular, pursuant to this law it is possible to choose in advance the person entitled to give consent to medical treatment on behalf of an unconscious patient. The Law also provides for some measures to be referred to the region itself: for example, the region organises courses for the education of regional staff on respect for sexual orientation, while a regional committee for telecommunications monitors television and radio shows. Legge regione Toscana 59/2007 aims at preventing violence based on sexual orientation and identity, and promoting protection, solidarity and help for people who have been victims of psychological and physical violence. In order to achieve this goal, Tuscany supports and promotes a coordinated network including town halls and provincial administrations, hospitals, schools, police, judges and magistrates, and anti-violence centres.

Preventative measures are pursued by means of educational projects based on collaboration between schools and families, with participation by bodies and association operating in this field. Support is given to victims in any phase in both private and public hospitals or through social services. There are anti-violence centres which are managed by regional associations enrolled in the register of voluntary associations, and which give legal and psychological assistance. Protection is guaranteed by residential refuges with secret addresses, where victims are accommodated. Indeed, the Department of Equal Opportunities has recently set up a specific body, the Commissione per i diritti e le pari opportunità per lesbiche, gay, bisessuali e transgender (Commission for rights and equal opportunities for LGBT persons) for protection against all kinds of discrimination.

6.4 Conclusions
This overview shows the importance of the coordination of effective policies tackling every form of discrimination. The important results carried out in the field of discrimination on the grounds of gender and race must be translated in other fields and imply a new effort of co-operation. Probably a new role can be offered by an Equality Body able to intervene in the different fields of discrimination; and this aim is not so ambitious for Italy.

The full recognition of fundamental rights for everyone is already part of shared values and principles that draw their inspiration from the Italian Constitution. It is necessary to understand, support and promote the right of each individual to reach their full potential, reinforcing the participation of everyone, regardless of their gender, culture, opinion, ability, religion, sexual orientation or ethnicity.

The Italian legal and administrative effort, for all their best intentions, still lack of an organic strategy to contrast any form of discrimination, but a common ground at institutional and grassroots level is already available.

What has to be strongly reinforced is the full cooperation among policy and governance levels (at local and national levels) among the six grounds of discrimination. Initiatives in this direction have been undertaken at a local level with great success, showing how to overcome the fragmentation of the interventions among different administrations and between the public and private sector.
Improved statistical data in some grounds of discrimination, such as religion and sexual orientation, and the need for a stronger coordination between national and local institutions and anti discrimination policies has become indispensable. It requires a new legislative effort covering the 6 grounds of discrimination and the direct involvement of the local authorities and civil society in the framework of a new governance system for equal opportunities. The developments offered in this direction by the UNAR experience can highlight the path. Indeed the structural presence of relationships on a national level with both associations of the private and the voluntary and community sector is a concrete reality for a governance strategy of fair opportunities.

The systematic and structured approach to prevention, monitoring and combating of discrimination can represent a helpful tool of orientation for politicians, administration system and bodies working against any expression of discrimination. The strategy to combine the action of combat of the discriminatory behaviours with the protection of the victims in parallel to the legal provisions, together with a strong activity of awareness-raising and social communication, moreover with the positive actions for the elimination of the main causes of the discriminatory events, can present a holistic approach against discrimination; and the democratic values of equality, liberty, and religious independence, corner stones of the Italian Constitution, represent the common path addressing these efforts.
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The Voice for All research study comprises a transnational analysis on six grounds of discrimination, namely Race/Ethnicity, Gender, Sexual Orientation, Disability, Religion, and Age. Research was carried out in four EU countries.

It is important to note that the transnational partners have been selected by their spanning of their respective EU membership duration. Therefore the study sheds light on the social situations in countries which are at two distinct stages of integration within the European Union.

The format of this report is set out as follows: the Maltese research will be presented first, followed by that of Northern Ireland, Italy, and Cyprus.