



european network against racism

ENAR Shadow Report 2011-2012

ENAR SHADOW REPORT

Racism and related discriminatory practices in Malta

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are, by their nature, based on many sources of data - official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by racism. It is this that gives NGO reports their added value, complementing academic and official reporting.

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1. Executive summary

This report builds on previous reports and is fed by the ground experience of the authors and some 12 community leaders and NGO representatives who were consulted during the drawing up of the report. It seeks to highlight some of the key concerns that have been discussed in previous years through a slightly different approach, using quotes and discussions points from these conversations as the starting point. The report covers the period between March 2011 and March 2012. It supplements previous Shadow Reports and other research by providing a civil society perspective on racial and religious discrimination in Malta over the reporting period. Section 4 discusses some of the more significant developments in Malta over the period under review whilst section 5 focuses on the Muslim community in Malta and their status within the Maltese context more broadly. Section 6 outlines some of the key manifestations of racism and racial discrimination in various spheres of life including: employment, education, housing, health, access to goods and services, political participation, the media and the criminal justice system. Section 7 summarizes the civil society critique of the status quo whilst Section 8 outlines some of the best practices being enacted in Malta by NGOs and other entities. Section 9 provides a number of actionable recommendations whilst section 10 concludes with a number of overarching points. The report provides a focus on the Muslim community in Malta, a community which is often 'exchanged' for other groups but rarely addressed in its own right.

The report makes a number of important findings:

1. The Muslim community in Malta is generally homogenized. Terms such as 'Arab', 'North African' 'illegal immigrant' are taken to mean the same thing and to refer to a category of persons that is both 'foreign' and 'Muslim'
2. This is played out against a national identity often described in terms of Roman Catholic roots and which rarely identifies itself with the diversity it encompasses in practice.
3. Various legal developments took place during the period under review including both equality legislation and migration related legislation. These include the expansion of some equality legislation to include religious discrimination.
4. Many manifestations of racial and religious discrimination continued to be noted over the reporting period in various spheres of life including employment, education, housing, healthcare, media, political participation, access to goods and services and the criminal justice process. Instances of hate crimes were also reported.
5. Greater awareness by, and engagement of NGOs and community organisations within the policy making sphere has started to have a positive impact albeit on a rather bleak general picture.

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3. Introduction

Over the past ten years research conducted in Malta has consistently reported a high degree of racism and discrimination experienced by sub-Saharan African (SSA) asylum seekers residing in Malta (see for example ENAR, 2008, 2009, 2010). Indeed, much of the documented evidence on racism and Islamophobia in Malta – literature that also informs the present study - has tended to focus on the experiences of sub-Saharan African asylum seekers/refugees/undocumented migrants rather than a broader approach that explores the experiences of ethnic and religious minorities in Malta or the broader migrant community. Indeed, popular and political discourse has tended to use ‘race’ and ethnicity, or more specifically ‘skin colour’ as a signifier of migratory status: this to the degree that the term ‘immigrant’ in Malta has become synonymous with the term ‘African illegal immigrant’, a term that is often used generically regardless of legal status and the outcome of the asylum procedures.

This report builds on previous reports and feeds off the ground experience of the authors and some 12 community leaders and NGO representatives who were consulted during the drawing up of the report. It seeks to highlight some of the key concerns that have been discussed in previous years through a slightly different approach, using quotes and discussions points from these conversations as the starting point. The report covers the period between March 2011 and March 2012. It supplements previous Shadow Reports and other research by providing a civil society perspective on racial and religious discrimination in Malta over the reporting period. Section 4 discusses some of the more significant developments in Malta over the period under review whilst section 5 focuses on the Muslim community in Malta and their status within the Maltese context more broadly. Section 6 outlines some of the key manifestations of racism and racial discrimination in various spheres of life including: employment, education, housing, health, access to goods and services, political participation, the media and the criminal justice system. Section 7 summarizes the civil society critique of the status quo whilst Section 8 outlines some of the best practices being enacted in Malta by NGOs and other bodies. Section 9 provides a number of actionable recommendations whilst section 10 concludes with a number of overarching points. The report provides a focus on the Muslim community in Malta, which is rarely addressed in its own right.

The report highlights a number of key concerns in various spheres of life, noting that to a large degree many of the concerns raised in previous years have yet to be addressed. It also notes however a number of important developments including greater political¹ participation of some ethnic and religious minorities in Malta.

¹ Political participation in this context is taken to mean engagement with policy making rather than political party involvement as is generally understood by the term political in the Maltese context.

4. Significant developments in the country during the period under review

The period under review saw the continuation of a number of important trends as well as some interesting developments. The latter were in part linked to continuing attempts of the Maltese government to transpose and implement requirements arising from European Law in the field of migration and partly linked to renewed migratory flows which reversed previous drops in irregular migrant arrivals from Libya. This, in turn is linked to the Arab Spring and specifically the conflict in Libya during which Malta took on the role of humanitarian actor, supporting evacuations from the conflict and participating in humanitarian activities in the country.² The conflict also resulted in the end of the border surveillance agreements between Italy and Libya.

4.1 Changes in regard to the Communities most vulnerable to racism or related discrimination in Malta

The findings of this research suggest that during the period under review, SSA asylum seekers remain the community most vulnerable to racism and discrimination in Malta, evident, for example, in the comments made by the Commissioner for Human Rights³, and in the following remarks made by research participants:

I would say the sub-Saharan Africans. But then also from the Maghreb. Although they are not the biggest group, in terms of migrants, they are the most vulnerable... no change over the last year, I would say there is still a phobia (Trade Union Representative).

the most obvious ones in terms of presence in the media, presence in public discourse are the black Africans arriving by boat... (NGO representative)

I'm pretty sure there are other groups that suffer racism but we are not aware of it, because we don't have as much contact with them, or because they're not as visible as the black Africans. I think there is racism, but the degree ultimately depends on skin colour. That's what really triggers the 'you are different', because of the skin colour' (NGO)

Over the past few years, racist discourse has tended to fluctuate according to the number of asylum seekers arriving in Malta. Political discourse on boat arrivals is generally couched in terms of national security: a sense of invasion prevails, thus fuelling fear, xenophobia and racism. In section 5 (below), we provide a historical snapshot of why and how this 'fear of invasion' in Malta is driven by, and perpetuates Islamophobia. The findings of this research also

² Malta, being a neutral country, did not participate in the Military intervention in Libya.

³ <https://wcd.coe.int/ViewDoc.jsp?id=1766457&Site=DC>. Accessed 25 June 2012

appear to illustrate how, in Malta, African nationals tend to be homogenized and assumed to be Muslim. Likewise, persons coming from North Africa and the Middle East tend to be referred to collectively as 'Arab' and assumed to be Muslim:

...and then there is the whole confusion, where everyone says they are all Muslims, and that attaches to that (NGO)

Such essentialist stereotypes pervade Maltese society and often serve to normalize discrimination and exclusion. The findings of this report also illustrate the need to explore intersecting dimensions of exclusion, including race, religion, legal status and gender, in order to understand how racism and discrimination is experienced in Malta.

4.2. Changes in legal developments regarding discrimination and equality legislation

A number of important developments occurred over the reporting period amending the legal and policy framework around discrimination and equality in Malta.

Legal Notice 316 of 2011 promulgated the 'Procedures for Investigations Regulations'⁴ that supplement the existing legal framework through procedural requirements. These include: the composition of the investigative body (which is to be composed of the Commissioner, another member of the commission and a person holding a degree in Law⁵), the privacy of the proceedings (whereby meetings are to be closed for persons not directly involved in the case), the requirements linked to the commencement of investigations including the notice of commencement thereof, the powers of the commissioner to request reports and attendance at hearings, and to start proceedings. The regulations also cover mediation allowing the Commission to request the assistance of the courts for remedying a failure of a party to abide by the results of the mediation.⁶ Regulation 9 provides for the referral of cases to the relevant courts and/or tribunals and for the participation of the Commission in the case.⁷

⁴ <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11714&l=1>

⁵ The legal professional does not need to be a member or employee of the Commission. The Commission in this context is the National Commission for the Promotion of Equality as set up under the provisions of the Equality for Men and Women Act, Chapter 456 of the Laws of Malta

⁶ Regulation 8 provides that: Where the Commissioner mediates between the complainant and the person against whom the complaint is directed, in terms of article 18(1)(b)(ii) of the Act, and the person against whom the complaint is directed, or the complainant, fails to abide by the terms negotiated during the mediation, the Commissioner may, by means of an application, request the Civil Court, First Hall, to order such person failing to abide by the terms of the mediation to undertake all necessary remedial action as may be ordered by the court.

⁷ 9. (1) In the case of an alleged discrimination by one person Proceedings. against another and where the Commission considers it so appropriate in terms of article 18(4) of the Act, the Commission may refer the matter to the competent court or to the Industrial Tribunal for redress. (2) In the case of an alleged discrimination as referred to in sub-regulation (1), the Commission may, if it deems it appropriate, join in and become a party to the suit.

Act IX of 2012⁸ extended the scope of protection under the Equality between Men and Women Act to cover all six grounds of discrimination including, inter alia: religion or belief, racial or ethnic origin as well as sex or family responsibility, age and gender identity. The act covers discrimination in the context of employment, education and by financial institutions. Prior to the amendments NCPE's remit covered discrimination on the grounds of gender and family responsibilities in employment, and discrimination on the grounds of gender and race/ethnic origin in the provision of goods and services and their supply. These amendments are therefore an important step forward but fall short of fully adhering to the requirements as established in the Proposed Horizontal Directive. For instance discrimination on the basis of religion and sexual orientation in the context of housing and healthcare are not catered for in the act as it now stands.

By the end of the reporting period discussions were underway to also extend the protection for hate crimes to grounds other than race and specifically to include within the purview of the existing offences crimes committed due to an individual's sexual orientation or gender identity. These developments followed a worrying incident in which a lesbian couple were attacked. An analysis of these amendments is however beyond the scope of the present report.

4.3 Changes in migration, asylum and integration policies

In the field of migration and integration the reporting period saw the enactment of two important pieces of legislation. The Conditions of entry and residence of Third Country National for the Purpose of Highly Qualified Employment Regulations⁹ were adopted, transposing into Maltese law Council Directive 2009/50/EC. The regulations aim to determine: the conditions of entry and residence for more than three months in Malta of TCNs for the purpose of engaging in highly qualified employment as EU Blue Card Holders and of their family members and the conditions for entry and residence of third country nationals and their family members in Member States other than Malta. The regulations cover both the requirements for obtaining the blue card and limitations thereon as well as a number of procedural safeguards in terms of the time limits imposed on the relevant authorities. They also provide for family reunification and access to long terms residence.

In 2011 Malta also adopted the Minimum Standards on Sanctions and Measures against Employers of illegally staying third country nationals regulations¹⁰ which transposed the provisions of Directive 2009/52/EC. The regulations provide that 'An employer¹¹ shall be prohibited from employing¹²

⁸ Act IX of 2012;

⁹ S.L. 217.15 / Legal Notice 433 of 2011 of 4th November 2011

¹⁰ Subsidiary Legislation 217.14 promulgated by Legal Notice 432 of 2011 on 4th November 2011

¹¹ Article 2 defines Employer as 'any natural person or any legal entity, including temporary work agencies, for or under the direction and, or supervision of whom the employment is undertaken.

any illegally staying third country national'.¹³ The prohibition 'shall not apply to illegally staying third country nationals whose removal has been postponed and who are allowed to work in Malta'.¹⁴ This provision allows for the employment of, for instance, persons whose asylum claims have been rejected but who have been issued an employment licence pending their deportation which is likely to be delayed. The regulations place the responsibility on the employer to confirm that any applicants or new employees have the required right to reside in Malta and employment licence by obliging them to require the TCN to present to them with a valid residence permit or other authorisation of stay as well as ensuring that the TCN is in possession of a valid employment licence. The employer is also required to keep a copy or record of the relevant documentation.¹⁵ The Regulations provide some protection to the TCN with regards to outstanding wages by providing that an employer shall be liable to pay any outstanding remuneration. A number of presumptions are created in this regard, unless the employee or the employer can prove otherwise. These are that the agreed level of remuneration is at least equivalent to the national minimum wage and that the contract shall be of at least 3 months duration. Many of the critiques levied against the Employer Sanctions Directive can also be levied against these regulations that effectively transpose the Directive verbatim into Maltese law.

Moreover, the Immigration Appeals Board (Additional Jurisdiction) Regulations were adopted in January 2012. These extend the competence of the immigration appeals board to include appeals relating to the refusal, annulment or revocation of visas and appeals relating to the transfer of third country nationals under the Dublin Regulation. The former addresses a concern noted elsewhere about a lack of independent appeal in Malta's visa policy which was also a shortcoming with regards to the adoption and implementation of the Visa Code. The latter is also a requirement emanating from the EU Law framework.

4.4 changes in public perceptions, political discourse or attitudes from the previous year in regard to most vulnerable groups

- **SSA asylum seekers, discourse and policy**

The general feeling amongst the respondents to this research suggests that the last ten years have seen little change in the public perceptions of SSA asylum seekers in Malta. Positive change appears to be slow, and fluctuates according to the number of boat arrivals and sensationalist media headlines:

¹² Employment is taken to mean: the exercise of activities covering whatever form of labour or work regulated under Maltese law or in accordance with established practice for or under the direction and, or supervision of the employer.

¹³ Regulation 3(1)

¹⁴ Regulation 3(3)

¹⁵ Regulation 4

'...when I think about it, from 2006 to now, there has been some change. But from last year to now? We are the same' (NGO)

'I've seen a lot of media coverage that has shocked me over the last 18 months. When new boats start to come in, the media seems to regress again. Headlines like '250 illegal immigrants' ...really provoke fear...' (NGO)

However, one respondent suggested that the degree of racism expressed in public and political discourse in Malta during the period under review was not as heightened as previous years, and that overall, there has been a positive shift, possibly the result of education campaigns and ongoing lobbying by NGOs:

'There have been changes that go back over the years, I think the change has been slow since the arrival of black Africans. Their arrival triggered a real rise in Islamophobia and racism, I think at the same time, positively, it triggered counter efforts to that, that in a sense was a positive development as it triggered a conversation that we had to have...the boat arrivals really pushed it on the agenda, because we always had migrants, but now we had to have the discussion. The positive and negative came out at the same time. Things have changed a lot since 2005, 2002, attitudes are changing, there is more understanding. And there is more awareness that things should not be said and should not be done' (NGO).

The Arab Spring and the unrest in Libya in 2011, coinciding with the collapse of the controversial 'push back' agreement between the governments of Libya and Italy, resulted in an increase of SSA asylum seekers fleeing the conflict and arriving in Malta, as per the previous three years which saw a massive decline¹⁶.

The arrivals served to put 'illegal immigrants' back in the political spotlight and at the centre of public discourse. The tone of the discussion remained one of catastrophe, with the Prime Minister describing the 'crisis' as 'enormous'¹⁷

The increase in arrivals compared to the previous year led to an increase in negative sentiments towards immigrants expressed by some of Maltese society. In addition, as a result of overcrowding and poor infrastructure, the living conditions of many of the SSA migrants in detention, or residing in the

¹⁶ In June 2011 Italy signed a new agreement with the Libyan Transitional National Council. The new agreement purportedly addresses cooperation on illegal immigration and repatriation measures. Despite these new developments, SSA asylum seekers have continued to arrive in Malta (see also Mainwaring, C. In the Face of Revolution: the Libyan Civil War and Migration Politics in Southern Europe, 2011

¹⁷ See <http://www.timesofmalta.com/articles/view/20110404/local/malta-facing-enormous-immigration-crisis-gonzi.358135>. Accessed 26 May 2012.

open centres deteriorated considerably. Malta's controversial detention policy thus received renewed attention.¹⁸

In the face of growing international criticism of its detention policy, the Government of Malta (supported by the main political opposition and public opinion) reiterated its stance, arguing that detention 'remains a necessity' in light of Malta's limited resources and size.¹⁹ In the past, such hardline policies have been directly linked to the perception of SSA migrants as criminals²⁰ and the proliferation of racism and xenophobic discourse. As one respondent also noted:

'There is the whole issue of detention. It crosses and impacts all issues of housing, health, all of them. It's a horizontal issue that is a racist approach and fuels racism on the island... which then impedes access to housing, health – it's just hugely problematic' (NGO)

A number of respondents also noted that the criminalization of the SSA asylum seeker population results in a lack of understanding of the nature of forced migration and the experiences of asylum seekers and refugees:

'So these things, maybe if people can understand why the people are leaving their country, why people are coming here. Some say, 'to take their job, to take their wife or their house'. For example, once I hear people say, 'migrants, when they come here they ask for cigarette. If you give them a cigarette they ask you for room. If you give them room then they will take your wife and your house...it's just to name us in a bad way. So if people can understand why we are here and why we are leaving...then maybe there will be a reduction in discrimination' (NGO).

Such misconceptions also seem to feed into the notion that the SSA asylum seeker community in Malta essentially 'sponges' off the Maltese tax payer and has no value - and makes no contribution – to Maltese society:

'Many of them, when we started working, they say we don't pay tax and the government is giving us money. When I showed them how much tax I paid, I show them my slip at the end of the month. I pay N.I. and tax, they say' [sound of disgust] (NGO)

Persistent use of terms such as 'illegal' also appears to be particularly detrimental to those persons who are not beneficiaries of international protection. Persons denied asylum, and those granted Temporary Humanitarian Protection/New, are sometimes denied services or the opportunity to participate in projects on the basis of their legal status. This exclusion brings the notion of the 'illegal immigrant' and the 'right to rights' to

¹⁸ For an in depth analysis of the legal basis and legal requirements of detention see http://detention-in-europe.org/index.php?option=com_content&view=article&id=150&Itemid=183 See also: For in depth research on the Conditions of Detention and their impact on Asylum Seekers see JRS Malta: Becoming Vulnerable in Detention.

¹⁹ http://doi.gov/mt/EN/press_releases/2011/06/pr1106.pdf . Accessed 25 June 2012

²⁰ It should be noted that irregular entry into Malta was de-criminalized. The criminalization to which reference is made here is therefore a question of perception rather than legal proceedings.

the fore, and, as the following passage illustrates, how it may perpetuate discrimination:

So you see for people with protection, refugee or subsidiary, they consider them, but who doesn't have protection? You think they don't have discrimination as well? ...for me this is discrimination as well...we need to be informed, what we can do, what we cannot do, where to step and where to not step (NGO).

- **The Arab Spring**

As the Arab Spring unfolded through 2011, the North African community in Malta become increasingly visible as various national communities mobilized in an effort to draw attention to the situation in their homeland and to maintain the momentum of the revolution. The peaceful demonstrations, generally held in the capital city of Valletta, were largely supported by the Maltese public who remained sympathetic to their cause. The demonstrations received considerable coverage in the local press.²¹

The Arab Spring also appears to have resulted in an increase in the number of North African migrants arriving in Malta. This issue has received little – or no – attention in political and public discourse, possibly because this migrant group generally arrives in a regular manner and are not as 'visible'. However, as one respondent noted, the emerging situation warrants concern and the need for further inquiry:

'Lately, since the Arab Spring, we are seeing, many men are moving out of Libya, Egypt, Syria...the worrying thing is that, as a trade union, we are being faced with exploitation' (Trade Union)

1.5 developments addressing social aspects, i.e. integration/inclusion of migrants and ethnic and religious minorities, including changes in National Reform Programmes, National Roma Integration Strategies, local action plans, and the involvement of NGOs in this process

There has been some engagement by NGOs with the issue of integration however there has been little progress in terms of national policies in the area. As highlighted in previous years:

Malta does not have a formal integration policy or strategy. The main relevant document is a 2005 policy document on Irregular Migration, Refugees And Integration which however only addresses integration issues marginally. A number of quasi policy documents, such as the Multi-Annual Programme of the European Refugee Fund also make reference to

²¹ See, for example <http://www.independent.com.mt/news.asp?newsitemid=124088> Accessed 26 May, 2012. And <http://www.timesofmalta.com/articles/view/20111021/local/syrian-community-protests-in-republic-street.390151>. Accessed 26 May 2012

integration. The policy vacuum in this regard is widely criticised and calls for the adoption and implementation of an integration strategy are frequent most notably but not only from the NGOs working in the field.²²

²² See previous ENAR Shadow Reports on Malta.

5. Special focus: Islamophobia

Islamophobia in Malta and the 'fear of invasion' must be understood within Malta's historical context and its Roman Catholic identity²³. Malta is a Roman Catholic State, and this plays a central role in the construction of the national identity. As popular lore would have it, St. Paul was shipwrecked in Malta in 60AD, and introduced the people of Malta to Christianity. Centuries of Euro-centric Christian domination, the importance of St. Paul and Malta's role in Christendom (read also Europe) is deeply embedded within the national consciousness. Indeed, in spite of documented evidence suggesting otherwise, Malta's Islamic period between the 9th and 12th century, has essentially been eradicated from the national narrative. The feast of 'il-Vitorja' (the Victory) which commemorates the triumph of the 1565 Great Siege against the Turkish empire is celebrated every year, and remains at the forefront of the Maltese collective memory.

The 2011 International Religious Freedom Report by the US department of State notes the following about the demographics of the Muslim population in Malta:

Of an estimated 6,000 Muslims, approximately 5,250 are foreign citizens in either a regular or irregular immigration status, 600 are naturalized citizens, and 150 are native-born citizens. There is one mosque (and two informal mosques) and a Muslim school that teaches kindergarten through secondary school levels.²⁴

It is this backdrop that also explains the prevalence of Islamophobia in Malta, experienced, not only by the SSA migrants community, but also by Maltese citizens and migrants of North African/Middle Eastern descent²⁵. As one respondent noted:

'The history of Islam in Malta goes back many years, but there are few who believe in that, a few who admit it. It's about education, if you come to a person after twenty, thirty years and say 'no', knowing something and then someone says 'no, it was different, listen your grand grand grand grand father was a Muslim', 'What?!', nobody will believe you!' (Ahmed)

There was a general feeling amongst many of the research participants that the Muslim community in Malta tends to be essentialized and homogenized; terms such as 'Arab', 'Muslim', 'North Africans' and 'immigranti' [immigrants] are often synonymous, and generally framed in negative terms:

'The local community still does not differentiate between Libyans, Tunisians, people coming from Chad, they are still 'just Africans'. The

²³ See Borg, C. & Mayo, P (2006). *Learning and Social Difference*. London: Paradigm.

²⁴ See: <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dliid=192837#wrapper>

²⁵ EU Midis. (2009). *European Union Minorities and Discrimination Survey*. European Union Agency for Fundamental Rights.

only difference that there, that is made really, is if they are Islamic, or Catholic. Once they get to know that they are Catholic, then that's alright then, they start moving. But especially when it comes to young men, there's a big big phobia' (Trade Union)

'Islamophobia I think is with the case of the Africans, but also the North Africans and the Middle East, generally all described as 'Libyans' or 'Arabs'(NGO)

'They don't know that as Arabs we are in the millions, and twenty two countries! So you can't say 'the Arabs', so you know how many people you are talking about? ...I have no idea how they speak in Kuwait...I understand the Maltese more than I understand someone from Morocco. So how can we be one culture? We have different languages (apart from the language of school), different religions, Christian, Muslim and Jews, we are a mixture!' (Miriam)

In May of 2011 the Maltese voted on whether or not to introduce divorce in Malta. The build-up to the referendum was highly charged and contested, with discourse on Roman Catholic values and national identity taking central stage. Politicians (on both sides of the political divide) who actively lobbied against the introduction of divorce were accused of adopting an essentialist interpretation of Maltese society that belies the ever increasing diversity of faith and beliefs. Such essentialist constructions of the 'Maltese' as Roman Catholic also serve to reinforce notions of the 'other' that may feed into the discrimination and exclusion purportedly experienced by migrants and Maltese citizens. This was highlighted by one of the research respondents:

'So we got Maltese Muslims...and then they started telling their stories, and I thought, so the Arab women are right to complain if these are saying the same things, for example, like a woman being fired from work for wearing her veil, she was told to remove it. Maltese. Another one saying that her Maltese friends tease her children, 'You're an Arab, your father is an Arab', and he can't play with the others. And another one, her family don't want her anymore. There is one that, to this day, her family don't talk to her, ever since she changed her religion and married an Arab, they don't want to talk to her. So she was saying, you know, when she hears about a wedding of a cousin, she feels it eh? Even me, it makes me want to cry. I don't know why they keep letting these things happen, they keep saying, because we have democracy, we have freedom. So how is it that they say their country is free and then they get involved in personal lives?' (NGO)

A number of respondents also highlighted that discrimination and stereotypes are also gendered. The following passage reflects how one respondent feels that she is stigmatized because she wears a veil:

'Recently I noticed that when I make a mistake, just a small mistake when I am driving, and people see me with this [pointing to the hijab], they start to shout straight away, they don't even give you a chance to

explain or say sorry... maybe they say, she sees this [pointing to the hijab] and say, she can't drive? Maybe?' (Miriam)

Perceptions of women wearing the veil as somehow 'deficient' or 'subjugated' (see Spivak, 1988) are often grounded in ignorance and misconceptions of Islam. This point was also noted by a number of respondents.

'There is fear of Islam for a very simple reason. People, they don't know what Islam is. Ignorance, misinformation, misleading' (Ahmed)

'I had a particular case where this Muslim woman – a Maltese woman – and a Maltese man... and these two work at the same place, on the same machine, leaving [written] instructions for each other, but no communication whatsoever. And a big fear of communication! She didn't talk to him, and he thought that if he spoke to her that he would be disrespecting – some kind of taboo! Look at the mentality!' (Trade Union)

6. Access and full participation in all collective areas of society

Despite relatively strong legal provisions in the context of equality, discrimination remains rampant. This section will provide an overview of some of the key manifestations of racial and religious discrimination and disadvantage experienced by various communities in Malta.

Enforcement of the legal framework remains an issue of concern. This is in part due to reluctance by persons facing discrimination to file official complaints and reports of such instances. This, in turn, reflects a low awareness of the rights and entitlements established in the law and the institutional framework in place to promote equality as well as negative past experiences where reporting discrimination did not result in any specific changes.

There is a significant lack of data in the field of racial and religious discrimination in Malta and one often must rely on anecdotal evidence in compiling this kind of analysis. The experiences discussed with the authors and with the research respondents provide, however, a clear snapshot of some of the key concerns in this field. Greater emphasis on data collection and research into discrimination is needed in order to determine the extent of racial and religious discrimination and inform policy changes in this area.

Unfortunately, many of the concerns highlighted in the forthcoming sections have also been highlighted in previous years (albeit under a different format). One notes that to a considerable extent, the manifestations of racism and religious discrimination have remained the same over the last few years. Nonetheless, some interesting developments have been highlighted in the report.

6.1 Racism and related discrimination in employment

6.1.1 Manifestations of racism and related discrimination in employment

Research conducted by UNHCR and Aditus during 2011,²⁶ combined with data emerging from interviews conducted for the purpose of this report, suggest that the situation regarding employment continues to be an issue of grave concern.²⁷ SSA asylum seekers continue to experience problems finding work. They face exploitation and their basic rights are denied on a regular basis.

Generally SSA asylum seekers find work in jobs that have been described elsewhere as the 3 'Ds' (dirty, dangerous and degrading). This often takes the form of manual labour, including construction and cleaning. Low wages continue to be problematic. For those who manage to find employment the average salary hovers around €500 per month.²⁸ Thus in spite of employment, such individuals – the working poor – remain in relative poverty.

Additional problems include unpaid wages, long working hours, irregular work, unsafe working conditions and employment in the underground economy. The findings suggest that the SSA asylum seeker population are particularly vulnerable to exploitation and abuse:

'We come across cases of people not being paid what they were promised, or not being paid at all, or working extremely long hours or the employer breaching employer legislation' (NGO)

'...like everywhere, we have good employers and bad employers. And the majority are good...but the level of exploitation is high, basically they work a whole day, 12 hours, for twenty Euros, or something, and in heavy jobs. It's very worrying.' (Trade Union)

'Again, although a lot of people say that there has been an improvement, and I'm sure there has been – but there is a lot of exploitation. A lot of exploitation. People still getting paid a little money. And there are still roundabouts²⁹, you know? This kind of employment' (NGO)

Indeed, mention of the 'roundabouts' is frequent. Preliminary research findings³⁰ suggest that whilst asylum seekers continue to register with the Employment Training Centre (ETC) and manage to obtain a work permit, they have still found that the most effective way of finding work is either through

²⁶ UNHCR & aditus (unpublished research) "Meet the Other" – Preliminary Findings

²⁷ See also Borg, A. (2010). *Working Poor in Europe - Malta*. EWCO.

²⁸ There are reports of some person having to accept payment of Euros 3.50 per hour which is less than the minimum wage in Malta (UNHCR & aditus)

²⁹ A number of roundabouts in Malta are now associated with spaces where SSA asylum seekers congregate and wait for potential employers to pick them up for day work (see also Cardona, 2010)

³⁰ UNHCR & aditus *op.cit.*

connections - tapping into social capital – or by waiting by the side of a roundabout in the hope of being picked up for a ‘one off’ job.

Again, reflecting results of earlier research³¹, the findings also suggest that, non-EU qualifications are not recognised, and regardless of past experience, many SSA migrants and others collectively defined as ‘Muslim’ are forced to take on employment for which they are overqualified. UNHCR and aditus³² suggests that this has included professionals such as civil engineers and scientists. This is also supported by data collected for the purpose of this research:

‘Generally jobs don’t match up to the qualifications. Usually the jobs are manual, but even when qualifications, when they have them, are brought to the attention of the employer, they are perceived that this migrant cannot do better than that. Or, there is this feeling that they are offering the job with charitable intentions...or that any type of qualification is not up to European standard...they believe it’s sub-standard and they don’t really trust...’(NGO)

The findings also illustrate how discrimination emerges as a combination of various forms of oppression, including race, ethnicity, gender, religion and legal status. For example, the following passage illustrates how some Muslims feel they cannot afford to negotiate working hours that would allow time for prayer for fear of losing their jobs:

‘This is one of the main issues. Here in Malta we understand that working from Monday to Friday, when we are talking about a normal working hours. A lot of our colleagues they find it difficult to take this time off to – we understand, it’s the working hours – but Friday, for us, it’s like Sunday for the Christian, or Saturday for the Jew. So, basically that you can do your obligation – it’s obligatory, it’s not something that you, I mean, praying, you might transfer it for one hours or two hours, but Friday praying is obligatory and has to be on time... the thing is, most of the Muslims, they don’t talk about this. Because the most important thing is that they find job, so if you ask them ‘did you find a job?’, ‘no we didn’t find a job’, ‘why?’ , because of the skin colour, education level, whatever. So what’s happening is, you find yourself in a situation, these guys, they don’t find a job, so it’s not about going to prayer, it’s about even finding a job! So first obstacle is they can’t find a job. Second obstacle is they are scared to ask their boss if they can go to the mosque, or praying time’ (Ahmed).

Accessing employment has continued to be a problem for many of the female SSA asylum seeker community. Their participation in the labour market has

³¹ Gauci, J. P. (2010). Analysis of Labour Market Integration Policy in Malta. In A. Platonova, & G. Urso, *Migration, Employment and Integration Policies in the European Union* (pp. 205-212). Brussels: IOM.

³² UNHCR & aditus *op.cit.*

remained low compared to their male counterparts as a result of gendered obstacles³³:

'Generally speaking women find it harder to find work, and when they do, it's usually cleaning jobs, because that's all they're considered capable of. It's a shame as a significant number of these women have skills and experience that are going to waste, you know? Mothers have a problem finding adequate childcare too, which essentially means that they can't work, so it's a vicious circle really, into poverty' (NGO).

The findings suggest that religious, ethnic and gendered (among other) constructions continue to have real material effects, shaping employment patterns and relationships.³⁴ For example, the following passage draws attention to how the African women (specifically West African) in Malta are often constructed as a 'prostitutes':

'A case of two Nigerian rejected asylum seekers, they essentially tell me that Maltese society essentially treat them as prostitutes...I think it's essentially about them being a black woman, and specifically a black west African woman' (NGO)

On the other hand, Muslim women who choose to wear the hijab continue to have problems accessing employment in Malta³⁵. Research findings suggest that one woman was turned away by ETC staff and told that wearing a hijab would impede her possibilities of finding work³⁶. Such discrimination was also reported in interviews conducted for the purpose of this research:

'...it depends on the work, but generally, wearing the veil is frowned upon and women who wear the veil tend to find it harder to find work. The majority of them that do find work tend to just cover their head in a scarf, rather than the traditional hijab. I did come across one case where an employer specifically told her, I will employ you, but only if you remove the scarf' (NGO)

'For women wearing the scarf it is very difficult. If she is wearing the scarf they don't accept them, 99%. And some of them, they are Maltese Muslims, they are not from another country, they are Maltese and they can't find a job' (Ahmed)

³³ For example, see Schmoll, C., Said, M., & Spiteri, A. (2011). *Migrants and Borders: Somali women in Malta*. Eurobroadmap.

³⁴ See also Pisani, M. (2011). There's an elephant in the room, and she's 'rejected' and black: observations on rejected female asylum seekers from sub-Saharan Africa in Malta. *Open Citizenship, Spring*, 24-51.

³⁵ See also Gatt, C. (2005). Muslims in Malta: Avoiding Discrimination. In P. Xuereb, *Anti-Discrimination, Inclusion and Equality in Malta* (pp. 171-187). Malta: The European Documentation and Research Centre.

³⁶ UNHCR & aditus *op.cit.*

Despite renewed efforts to provide training to the SSA migrant community,³⁷ the majority of SSA asylum seekers are either not aware of their rights, or not in a position to fight for their rights (see section on access to justice below). The following describes some of the measures advocacy groups have taken to address this problem:

'We get a lot of cases of unpaid wages. So often it's a case of 'you want to come to work with us?', 'yes, I come to work with you' and there is nothing on paper, nothing legalized. So it's very difficult to prove there is a work relation between an employee and an employer. So sometimes it goes on for two months, three months and then 'hey! When am I going to get paid?', and that's where the problem starts... and then there is nothing to prove it, so there have been times where I have said, ok, tomorrow go to work, and I will take a photo of you working...and then you've got the cowboys who employ people, and then at the end of the contract, report that there is irregular employment in that particular place...and when you do the maths, it's quite prolific...so you [the employer] pays € 500 in a fine, but takes all the wages...' (Trade Union)

The increase in North African migrants as a result of the Arab Spring also encouraged one of the Trade Unions to set up a group within the Trade Union structures in order to tap into existing networks and to provide tailor-made support and information:

'This is the change we are seeing from the Arab spring...Migrants, especially the Muslim community, don't know their rights, and don't know what they have to do...In this last year, apart from dealing with migration issues, we've embarked on ...we set up an 'Arab' community within the [trade union]. Arab states...they already had their own communities and associations, what we did, we basically set up a community of communities, we invited them to set up their own association...the community is big and there was a need for it' (Trade Union)

It is to be noted that whilst access to work permits is facilitated in the case of persons who have been through the asylum system, Malta adopts a relatively strict approach to the granting of work permits to third country nationals. In brief, a third country national is only granted a work permit if his employer can prove that no Maltese or EU National (preferred categories) is able and willing to take on the job. This is re-affirmed by the Employment and Training Corporation that oversees both the implementation of the labour market test and the issuance of work permits.

³⁷ For example, the Migrant Solidarity Movement, in collaboration with the General Workers Union, have been providing English language sessions and information on Employment to the SSA asylum seeker community.

6.1.2 Facilitating factors or protective measures to combat employment challenges

A key labour market programme targeting migrants was the Employment Support Initiative spearheaded by the Agency for the Welfare of Asylum seekers.³⁸ The project ended in June 2012 and was partly financed by the European Union with 25% coming from the Maltese Government's funds. The project involved the setting up of two employment support offices at the Marsa Open Centre and the Hal Far area (an area with a large number of open centres for beneficiaries of international protection and other persons who have been through the asylum system. The project employed four desk officers on a full time basis (engaged in March 2011) and one project administrator). These offices sought to provide a one stop shop where Beneficiaries of Protection (BOPs) could be matched with potential employers. The projects' services include job profiling and recording, vacancy recording and job matching and engagement. Job Profiling and recording included: the processing of job seeker application and a preliminary interview (conducted to gather the job seeker's: personal details, work experience, qualifications, language competences, skills and other relevant information), guidance on further training and personal development towards enhancing employment prospects, the posting of the information on the project database and periodic follow up interviews as required.

804 people registered with the scheme - 717 men and 86 women. 88 companies submitted vacancies. In total, 294 people were hired, most in entry-level jobs (namely labourers, cleaners). The running of the project also highlighted a number of issues which negatively impacted the potential for employment for BOPs including language barriers. Interestingly, the official reports of the project did not mention discrimination as one of the obstacles. This partly reflects the fact that project data is based on those companies which submitted vacancies to the project.

³⁸ <http://www.mjha.gov.mt/page.aspx?pageid=161>

6.2 Racism and related discrimination in education

6.2.1 Manifestations of racism and related discrimination in education

In 2011 the Ministry for Education published the proposed National Curriculum Framework (NCF). The principles guiding the NCF are grounded in inclusion:

The inclusive school should cater for every child irrespective of gender, religion, race, ability and beliefs, but should also set as one of its aims the promotion of the potential of each learner through individualised attention and support³⁹

Intercultural education has also been recognised as a cross-cultural theme, identified as crucial to realising the aims of the NCF. However, the document appears to essentialise the national and cultural heritage of students in Malta, failing to recognise the heterogeneity of the student population. Perhaps most relevant to this report is the reference to religion. Whilst the NCF acknowledges the increasing diversity of the student cohort, the document reaffirms that religious education is to be understood as Catholic Religious Education. Whilst students have the opportunity to opt out of religious classes, it is clear that the curriculum reflects the dominant ideology of Maltese society, namely Roman Catholicism. This raises questions as to the truly inclusive nature of the Maltese education system. This critique has been noted elsewhere.⁴⁰ For example, Zammit (2012) cites a Turkish mother, married to a Maltese national, expressing her concerns that the teachings of the Roman Catholic Church are imposed on her son. Zammit notes that such experiences suggest that Malta 'is 'different' in a way which makes it more difficult to integrate into'.⁴¹

One of the NGOs interviewed for this research has tried to address this shortcoming by holding informative sessions within different schools:

'So at the moment I am going around schools, we are trying to reach as many as we can, who will let us, who tell me yes, I visit. They bring me students in the break, and they ask questions and I answer them. I noticed that the students start to ask questions that for us are really shocking! I don't know why the teachers, or maybe the parents don't teach them things about – well these are things that they should know. "So you, the Arabs, where do you come from?" or, "so, is it true that you marry four people", and "is it true that you beat up your wives?" How can this be?this is important for the Maltese so that they move forward. So if they include this in school, it is something good for the Maltese, so that they

³⁹ https://www.education.gov.mt/MediaCenter/Docs/1_BOOK%20%20ENG.pdf Accessed 25 June 2012

⁴⁰ See for example Galea, S., Attard Tonna, M., & Cassar, J. (2011). Young Migrant Women in the Making: Educational Experiences in Maltese Secondary Schools. In T. M. (MIGS), *Young Migrant Women in Secondary Education* (pp. 87-124). Nicosia: University of Nicosia Press.

⁴¹ Zammit, D (2012) Draft report: consultative assessment of Integration of Third Country Nationals' Project. Page 54

know... you don't have to teach them everything! But something small they need to know' (NGO)

A significant number of students of the Muslim faith attend the Mariam Al Batool School. This is a Maltese private non-profit philanthropic school established in 1997 with the support of the Malta Branch of the World Islamic Call Society. The school is attended by 300 students of different nationalities, including Maltese. The students are taught the local curriculum as well as Arabic and Islamic education⁴². In the absence of state funding, the school has always relied on donations from parents and private benefactors. Since the Libyan revolution funds donations from Libya have essentially dried up and the school now faces an uncertain future and parents who cannot afford to pay a donation will have to place their children in state education⁴³. The following passage highlights the fears and concerns expressed by one of the parents interviewed for this report, and suggests the number of Muslim students in Maltese state schools may increase over the next year:

'My children go to the school in Paola [Mariam-al Batool Islamic school], at the mosque and the reason we have sent them there for two reasons. First of all, because they are studying, beside the normal syllabus of the Maltese, they are studying Islam and Arabic. And it's the main reason why we send them there. Another reason is...you are in a school where you will not be left out for some reason because of religion...From next year we are forced to send them to state school because... and our concern is, what will it be like for these kids [now having to attend Maltese State Schools], what will be their experience? We are very concerned' (Ahmed).

Over the past few years there has been an increase in interest in the Maltese education system in relation to migration, race, ethnicity and religion.⁴⁴ A common critique has been the 'deficit' approach adopted in order to address the learning needs of migrant students which assumes that migrant students start from a deficit of knowledge which needs to be remedied to bring them at par with Maltese students. In addition, little progress has been made in adapting school structures and processes to meet the needs of an ever increasingly heterogeneous student cohort. As the following passage illustrates, examples of best practice within the education system appear to be thanks to the personal interest and initiatives of individuals rather than a specific policy drive. The piece also draws attention to the need for more information for parents and their children in order to facilitate the integration process. Finally, the passage invites us to consider the degree to which the curriculum is truly inclusive:

⁴² See also Calleja, C., Cauchi, B., & Grech, M. (2010). *Education and Ethnic Minorities in Malta*. Malta: e-spices Learning Partnership.

⁴³ See also <http://www.sundaycircle.com/2011/10/leap-of-faith/> accessed 26 May 2012

⁴⁴ See for example, Pisani, M., Cassar, C. M., & Muscat, V. (2010). *A review of the national minimum curriculum from an equality perspective*. Malta: NCPE.

'Yes, there are lists of problems. First getting into the education system, and then, once you're in, actually surviving it. Getting in, in terms of information, how do I get in? What about my child's experience so far? Issues of religious acceptance in the schools...the public schools, they have a strongly religious component... and then in school, bullying, lack of understanding, lack of tolerance. I don't think we know enough to say it's a widespread institutional problem, I wouldn't say – because we really don't know the extent of the problem yet...we have come across examples of best practice in schools, and some schools that have a very pro-migrant approach. But I don't know if there are schools that have a more open policy to praying times for example, in the case of Muslims. I don't think so. But from what we have seen we can say that there are elements that need to be addressed' (NGO)

Young asylum seekers face particular problems due to the specific nature of forced migration. Their experiences as asylum seekers often mean that they will have experienced trauma in fleeing their homeland and in crossing borders. In Malta, many of these children will have also spent some time in detention. The challenges of coming to terms with loss, living in a new country, learning a new language, and starting a new school (perhaps their first school experience) are experienced simultaneously. The following passage captures some of the particular problems children asylum seekers face within the school environment. In the absence of a comprehensive support programme, the interviewee also provides some insight into how NGOs in Malta have responded to the situation:

'You have children coming in from countries, you know, that are war-torn, having crossed the desert, crossed the sea, probably have not been to school, and they don't have a lot of help [in schools]. That's why we have ...homework support sessions every day with the kids...some of them are fine you know? But for some of the kids, for example those that arrived during the war in Libya, they have been to school in Libya, or Sudan, and they speak and write in Arabic, it's really difficult for them... and there isn't any support. And you look at the parents who don't speak the language as well, so you have the language and cultural barrier. I definitely think there should be more effort with children and that curriculums are more inclusive' (NGO)

Data collected for the purpose of this report also highlight the need to consider how race, ethnicity, religion, gender, and other socially constructed categories, combined with particular migratory trajectories, interact, influence and affect the individual experiences of students. For example, in the following passage we may consider how different aspects of identity interact and give rise to different dynamics, power relations and perhaps bullying within the school cohort; in this case, Maltese Muslims, Maltese non-Muslims, and Third Country National Muslims:

'... I think today there are a lot more Arabs in Maltese schools, and this is causing a problem for different reasons. Either, the Arabs feel like a group and feel stronger. And many of them are half Maltese, so they

feel, you know? It's their country too. Not like my children, they're not Maltese, so I used to tell them, be friends with everyone, walk away, but don't let people say bad things, like "you're dirty", I would tell my children, "you have to be the Ambassador of your country"... and then people would tell them "you really are like a Maltese!!" [laughing] and I would say "what does this mean? So you mean because I am clean I am like a Maltese? And so you don't find dirty Maltese people?" (Miriam)

6.2.2 Facilitating factors or protective measures to combat education challenges

The findings of this research illustrate exclusionary practices, but also some reasons for optimism. For example, towards the end of 2011, the Foundation for Educational Services (FES) introduced the project 'Ghinni Nidhol' (Help me get in). The project aims to explore the educational needs of primary and secondary school students from third countries and their integration in the schools and communities they frequent. The results of this research will feed into the development of effective services for students and their families in order for them to integrate fully into Maltese society.⁴⁵ The issue of the veil in Maltese schools also received attention. For example, in 2011 a local NGO filed a report with the Education Division on behalf of a Maltese student who was refused access to school because she was wearing a hijab. The Education Division acted on the report and the student was able to return to school wearing the veil.⁴⁶ In May, 2011, the Times of Malta carried a story of a young Maltese Muslim student who was voted Head Girl by her fellow students. It is telling that such a story should make it to the press, but never the less reflects a welcome shift in discourse:

'A girls' secondary school has championed the diversity cause by appointing a veil-wearing Muslim girl to head her form...Fourteen-year-old Sara Ezabe is proof of what Blata l-Bajda's St Ignatius College Girls' Junior Lyceum headmaster Victor Agius insists is important for the school – diversity and tolerance.

After two years working in the students' council, Sara, who loves politics, was voted in by her fellow students as head girl, breaking the xenophobic and racist trends creeping into some schools⁴⁷.

⁴⁵ http://www.fes.org.mt/index.php?option=com_content&view=article&id=125:projects-a-eu-projects&catid=85:about-us&Itemid=542. Accessed 25 June 2012.

⁴⁶ Information received from interviews conducted as part of this project.

⁴⁷ <http://www.timesofmalta.com/articles/view/20110529/local/Election-of-Muslim-girl-champions-diversity.367835> Accessed 29 May 2012.

6.3 Racism and related discrimination in housing

6.3.1 Manifestations of racism and related discrimination in housing

During the period under review, conditions in the detention and open centres continued to receive fierce criticism both from local and international bodies:

The situation in open centres, where migrants released from detention are accommodated, varies substantially, with adequate arrangements reported in the smaller centres that cater for some vulnerable groups and far more difficult conditions in the bigger centres, such as those in Hal-Far (tent village and hangar complex) and in Marsa. The Commissioner finds conditions in the tent village at Hal-Far to be clearly inadequate even for short periods of time and recommends that it be closed. Following the new arrivals from Libya since the Commissioner's visit, conditions have reportedly worsened at the hangar complex too, where vulnerable groups such as families with children and pregnant women have been accommodated. The Commissioner calls on the Maltese authorities to ensure that material conditions in detention and open centres that hold migrants meet adequate standards of living at all times, in accordance with the standards of the ECHR and the Social Charter and in co-operation with UNHCR and international expert partners⁴⁸

Towards the end of 2011 the conditions in some of the open centres purportedly worsened as overcrowding, combined with poor infrastructure and adverse weather conditions made conditions extremely difficult for many of the residents. Overcrowding eased as the year progressed. Tents were replaced with prefab containers, and the 'hangar', a housing structure that had developed a particularly bad reputation in regard to living conditions, was closed down:

'Once the boats started to come in again, well, the open centres just weren't prepared for the arrivals. Again. And the conditions in some of the centres, housing children...awful, just awful. More recently they were able to close the worst one down, but still, it should not have happened. Families, young children living in filth and sometimes toxic conditions. There are more people housed in prefab containers now, it's an improvement, not ideal eh? But it's better than a tent'. (NGO)

The transition from open centres to living in the community has continued to be challenging. This was acknowledged by the Minister of Home Affairs:

Speaking at a conference "Providing Better Quality of Life to Residents of Marsa Open Centre", organised by the Foundation for Shelter and Support to Migrants he said that while increasing and further investing in the 'quality of life' aspect of things to provide safe and dignified living conditions and services, open centres now faced the challenge of

⁴⁸ <https://wcd.coe.int/ViewDoc.jsp?id=1797917>. Accessed 22 May 2012

assisting residents move on to the next step at the earliest possible opportunity⁴⁹.

Accessing housing in the community remains problematic. The HUMA Report,⁵⁰ states that 72% of the respondents described their occupancy status as insecure and short term. Due to a lack of financial resources, they generally share accommodation, leading to overcrowding. 85% of the respondents also claimed that accommodation problems negatively impact their health. The report notes that the housing situation gives rise to three key issues, namely:

- Problems linked to overcrowding and to the lack of privacy
- The lack of basic amenities (including no access to fully functioning toilets or washroom)
- Problems linked to insanitary conditions⁵¹

A number of the participants of the present research noted that accessing rented accommodation in Malta is problematic in general, regardless of nationality, migratory status, race or ethnicity. However the situation would appear to be particularly difficult for those collectively defined as 'Black', 'Arab' or 'Muslim'. The following passages illustrate the problems in finding rented accommodation and the poor living conditions and treatment some individuals must also contend with:

'It's a problem for everyone, renting, even for the Maltese...but then I think with us, maybe they have had a bad experience? They can be very strict or tight...like, we went to a house, and he see we are Arab and he say 'No!', and we say, 'ok, but why?' and he said 'because I had a bad experience with Arab people....' When something bad happens it makes a lot of nice, and then there is generalizations and look what happens' (Ahmed).

'I was speaking to a Nigerian friend of mine. People were literally just shoving the door in her face...she had to leave the house she was at...because they had problems, water seeping through, and they [the landlord] never bothered fixing it. She has a baby and a four year old – and even for herself, you know? These conditions are not good...and she had to leave and she just couldn't find another place....and I have heard of others in the same situation. So usually, to help people we ask African friends to recommend a place, because some people have managed to be settled and find a place, you know? So there are people, tenants who are not racist' (NGO).

⁴⁹ <http://www.timesofmalta.com/articles/view/20110624/local/migration.372226>. Accessed 6 June 2012

⁵⁰ A total of 100 interviews were conducted with asylum seekers and 'undocumented' migrants who had passed through the asylum process and had their request for asylum rejected.

⁵¹ HUMA. (2011). *Access to healthcare and living conditions of asylum seekers and undocumented migrants in Cyprus, Malta, Poland and Romania*. HUMA Network.

This reality was made all the more visible in November of 2011. The following advert was allegedly posted on a Real Estate Website. The sentence 'No arabs, blacks or young boys' caused considerable offence amongst some of the general public. The link was shared on Facebook and eventually picked up by the local media.⁵²

∴ SIMON Estates – Real Estate Services ∴ Property Details

∴

www.simonestates.com

2 bedroomed flat close to all amenities, kitchen, dining room with balcony, and bathroom. Flat is fully equipped and with a new washing machine. No arabs, blacks or young boys. Eur300 per month long let Price (per day): N/A Price (per month): €298 | \$0 | Lm128 Floor Area: 65 Sq. Mts.

Clearly, finding rented affordable, decent accommodation is no easy task, and as such, it would appear that some individuals are more vulnerable to abuse from landlords who break the law. However, and as the findings of this research illustrate, the confluence of multiple forms of discrimination leads to increased vulnerability and a situation wherein the individual cannot realistically exercise his or her rights:

'... when they rent to migrants, they refuse to do it within the framework of the law. They sometimes do it with Maltese too. But in particular to black migrants. They refuse to sign an agreement or give a receipt. So then, they're not protected, and they can't apply for any subsidy. And of course then they're not protected, they can be thrown out overnight' (NGO).

Preliminary findings of research conducted by UNHCR and aditus⁵³ also suggest that asylum seekers are not aware of their rights or ways to seek remedies for damage suffered. More often than not they are not provided with a written rental contract. In addition, asylum seekers, refugees and migrants in general are often grossly overcharged for utility bills.⁵⁴ In this regard, asylum seekers are not familiar with the Housing Authority and are not aware – and indeed, tend to disbelieve – that help and assistance may be made available to them.

⁵² <http://www.timesofmalta.com/articles/view/20111114/local/Qawra-flat-for-rent-but-no-Arabs-or-blacks-please.393641>. Accessed 9 June 2012

⁵³ *Op.cit*

⁵⁴ See also Zammit, D (2012) Draft report: consultative assessment of Integration of Third Country Nationals' Project

6.2.2 Facilitating factors or protective measures to combat housing challenges

There is a growing awareness of the need to understand discrimination in the field of housing. At the end of the reporting period preparations were under way for the implementation of Malta's first situation testing in the field of housing, commissioned by the National Commission for the Promotion of Equality. This was one of the measures recommended in the Draft National Action Plan Against Racism.⁵⁵ Moreover, racial discrimination in housing is prohibited under Malta's equality legislation.⁵⁶ Religious discrimination in this area is currently not prohibited under equality legislation.

⁵⁵ Available at: <http://www.pfcmalta.org/publications-and-research.html>

⁵⁶ LN 85 of 2007 Equal Treatment of Persons Order

6.4 Racism and related discrimination in health

6.4.1 Manifestations of racism and related discrimination in health

According to HUMA, access to health care services is often denied on the basis of skin colour (read black), rather than on the basis of rights and/or entitlements. Research conducted amongst sub-Saharan African asylum seekers reported that they 'were not clearly enough identified within the health facilities and so were not always allowed access to their rights'.⁵⁷ The final report highlights the following:

- the lack of clear provisions in the current system creates potential for discriminatory practices by health professionals
- the feeling of being discriminated against was the most frequently cited problem by asylum seekers and the second most frequently cited by undocumented migrants. Overall, almost one third of the respondents felt discriminated against when they tried to access healthcare in Malta.
- The level of healthcare refusals is high: due to wide-spread discrimination and a lack of information on rights, 26% of the sample interviewed had been refused access to healthcare

The report also found that poor working conditions and unsuitable housing, including overcrowding and a lack of privacy (see above), feelings of social isolation were also contributing to a deterioration in the health of these groups.

However, the participants of the present report generally agreed that the provision of healthcare has probably seen the biggest improvement over the last few years. The presence of cultural mediators in the health centres and hospitals is seen as generally making the services more accessible, both in terms of understanding the systems and also overcoming language barriers:

'This is where I think we can see the most positive improvement.... I think the problems we have seen so far are more emerging from lack of knowledge of certain issues rather than a refusal to offer a service. There is a willingness to offer a service, sometimes beyond what is legally required' (NGO)

'I can speak of my own situation. When my daughter was born, she nearly died. The care they gave us, me, my wife, my family, it was excellent. No, we were treated like anybody else' (Ahmed)

That said, some specific areas continue to be problematic. A number of respondents noted that despite the improvements in healthcare provision, the specific needs of persons with a disability are not being adequately addressed. In response to these needs, in 2011 the Jesuit Refugee Service launched the 'Project to Provide Sheltered Accommodation and Psychosocial Support to Vulnerable Asylum seekers to whom such services are not otherwise available'. The findings and conclusions of the project will be

⁵⁷ HUMA (2011:93)

published in June 2012. Mental health in particular continues to generate concern. The impact of Malta's detention policy (duration of stay and the conditions therein) on mental health is well documented and continues to receive criticism⁵⁸. Likewise, the conditions for detainees referred to the Psychiatric Hospital continue to be hugely problematic. The following passage draws attention to the physical conditions and care within the ward, and also to the continued criminalisation of the asylum seeker population:

'But what is definitely problematic is the issue of Mount Carmel. They are put in the forensic ward, the ward intended for convicted criminals...they physical environment, and even the mental health approach is totally wrong. They are primarily treated as detained persons and then as patients' (NGO).

6.4.2 Facilitating factors or protective measures to combat health inequalities

The Migrant Health Unit⁵⁹ continued with its work over the reporting period including through the provision of cultural mediator services at the hospital and in the health centres. Attempts were also made to raise awareness amongst migrant populations of health issues through the organisation of training sessions for migrant women and for resident representatives in one of the main open centres on the island.

⁵⁸ See for example the report by the Human Rights Commissioner .
<https://wcd.coe.int/ViewDoc.jsp?id=1766457&Site=DC>. Accessed 25 June 2012.

⁵⁹ https://ehealth.gov.mt/HealthPortal/health_institutions/primary_healthcare/migrant_healthunit.aspx

6.5 Racism and related discrimination in access to goods and services

6.5.1 Manifestations of racism and related discrimination with access to goods and services in the public and private sector

Many of the problems associated with accessing services have been addressed in this report (see for example the discussion on housing). There was general consensus amongst the research participants that the key problem areas continue to revolve around the bus service and access to bars and nightclubs in Paceville⁶⁰:

'Getting into bars, clubs and discos, problems on the busses, past and present, some comments to them when they go into shops, for example, to buy clothes, along the lines of 'why are you in here anyway, you can't afford it' (NGO)

The situation in Paceville has been a point of contention for a number of years now and continues to generate considerable concern. The following passage captures the frustration of NGOs in dealing with a situation that is broadly acknowledged and a practice that is widely recurrent, but unfortunately, remains unchanged:

'Like last time we were at an NCPE conference. There was the Minister of the Justice. And I ask him a question. I asked him, 'what do you think about, when people they are going to Paceville, and they refuse them to enter into the nightclub? In Maltese law, they accept nothing to refuse someone to enter into the nightclub'. And he could not give me the answer, and then he said he will speak to NCPE. NCPE, this year we are working with them, they know, and we told them, 'if you want we can go to Paceville to report something that you are seeing with your eye...we said, let's go together to Paceville...take a camera, I will try to enter and you will see!' For nothing!' (NGO)

The findings support a general sense that many asylum seekers and migrants in Malta feel unwanted. UNHCR and aditus report that the majority of their interviewees do not feel particularly welcome by the Maltese community and that many of them had experienced some form of unfair treatment and discrimination whilst living in Malta⁶¹.

⁶⁰ Paceville is considered to be the hub of the partying scene in Malta. The area is densely populated with night clubs and bars.

⁶¹ UNHCR & aditus, *op. cit*

6.5.2 Facilitating factor or protective measures to promote equality in accessing goods and services

Racial discrimination in access to goods and services is prohibited under Maltese law. Some organisations have sought to support individuals in bringing forward cases of discrimination but with little success.

6.6 Racism and related discrimination in political participation

6.6.1 Manifestations of racism and related discrimination in the realm of political participation

The general consensus amongst the research participants was that ethnic and religious minorities in Malta are excluded from mainstream politics. For these groups participation in public discourse and political processes, combined with representation in civic and political institutions is essentially non-existent:

We don't participate in political processes (Daniel).

Zero. It wouldn't be fair to blame the institutions, because I think it's a shared responsibility. On the one hand, the whole institutional framework is not open to anyone who is, or is perceived to be different...or if welcome, then within a specifically defined pocket or group. And there is also, from the migrant population, limited willingness to be involved, if it's for fear, lack of interest, whatever (NGO)

The latter passage picks up on two key issues that appeared to resonate with a number of the research participants. The first relates to the lack of participation and representation of minority groups in mainstream politics in Malta, often attributed to the dominance and influence of the Roman Catholic Church within Maltese society. That said, it is important to mention that more than one interviewee asked that they not be recorded for fear of being identified. In some cases (for example over-stayers and rejected asylum seekers) the fear of identification may be a realistic anxiety – fear of deportation perhaps. However, in the case of Maltese citizens, this fear is little harder to discern, and can be related to the 'hyper-surveillance' and lack of anonymity associated with living on a small island⁶². Certainly a matter of concern, the matter raises serious issues related to feelings of inclusion and exclusion, safety and access to justice.

6.6.2 Facilitating factor or protective measures to promote political participation

On a more positive note, during the year under review, the Migrant Network for Equality, a group set up by SSA asylum seekers in Malta, continued to contribute to the migration debate in Malta and were more present in the small 'p' political processes. Their increased presence at meetings and conferences, and visibility in the local media is worth noting (see for example, Malta Star, 2011).

⁶² See also Pisani, M. (2012). Addressing the 'Citizenship Assumption' in Critical Pedagogy: exploring the case of rejected female sub-Saharan African asylum seekers in Malta

Moreover, at the end of the reporting period an initiative was underway by Integra Foundation and ADITUS Foundation to support the political engagement of minority community organisations.⁶³ The project is also supported by the Agency for the Welfare of Asylum-Seekers (AWAS), the European Council of Refugees and Exiles (ECRE), the United Nations High Commissioner for Refugees (UNHCR), and Aġenzija Żgħażaġħ, the National Youth Agency. The main goals of the project are to enhance the integration of Malta's refugee and migrant communities, to foster a sense of active social participation by the refugee and migrant population, and to support the creation of formal and informal refugee and migrant networks/organisations. The initiative follows dialogue with a number of informal refugee educators and seeks to address expressed learning needs. These will include capacity building; advocacy skills; self-representation and community education; and the provision of information and tools relevant to integration in Malta. This learning process aims to contribute to building a solid knowledge base for the development of active and participating communities in Malta. As a central project activity, the project will formulate and implement a series of training sessions on various issues of key concern to the refugee and migrant community. The project will also focus on the specific needs of female and young refugees and migrants, thus ensuring appropriate horizontal inclusion of themes specifically relevant to particular groups. Training and information will also be provided by guest speakers from various relevant institutions.

⁶³ See: <http://malta.usembassy.gov/en-07232012.html>

6.7 Racism and related discrimination in media

6.7.1 Manifestations of racism and related discrimination in the media, including the internet

There was a general sense amongst the research participants that the presence of racist discourse in the media generally fluctuates according to the number of 'boat arrivals', namely, the arrival of SSA asylum seekers. A relatively high number of arrivals tends to trigger political rhetoric (from both the government and the main opposition) that essentially focuses on two key points, namely 'Malta can't cope' (generally accompanied by the now habitual reference to the size of the country and the population density), and 'Europe must help' (reference to the call for continued support for relocation programmes). Such political discourse sets the tone of the debate, reinforced and perpetuated by sensationalist headlines:

'How the government treat us. And how the media is treating us. That is making the situation much worse...[when boats of asylum seekers arrives] it becomes the top level everywhere: 'boats coming in! illegal immigrants coming in!'... (NGO)

A number of participants expressed their concern with the use of language (generally negative tone, and often incorrect), in particular the persistent use of the term 'illegal immigrant' to refer to asylum seekers and persons who have been granted protection. The persistent – and intentional – use of such terminology, and often the misuse of information also serve to reinforce fear and fuel racist discourse. This is perhaps most evident in some newspaper 'user comments' sections: spaces that have become an almost 'free for all' for racists, xenophobes and Islamophobes. Certainly, analysis of media headlines during the period under review suggests that certain 'migration' stories (read SSA asylum seekers) consistently attract particular political discourse, sensationalist (front page) headlines and online (often racist) debate, framing the way ethnic (read black) and religious (read Muslim) minorities are constructed and perceived in Maltese society:

'...with the media a lot of it is again, lack of information on the terms to use, lack of information on the implications of the use of some terms over others, or, full knowledge of these things, but an agenda that has a political drive to it. Political or commercial, headings using a particular language may attract more sales. There are obviously different agendas amongst the different companies, and political ones have a very clear agenda, so they use migration as well, sometimes favourably, sometimes no so – depending on what message they want to get across' (NGO)

'...for the past ten years the media has focussed mainly on detention, riots and boat arrivals, kind of giving an impression about irregular migrants, the majority of whom are coming from sub-Saharan Africa –

you know, pictures of people who are very thirsty and reinforcing this idea that we have about the 'hungry and uncivilized' African man or woman...and using terms such as 'illegal immigrants' when we know that in fact the majority of these people are in fact asylum seekers coming from war torn countries, or fleeing persecution' (NGO).

Such racial and religious representations must also be contextualised, and understood against the hegemonic 'white', 'Roman Catholic' representations that pervade the local media and beyond:

'Private advertising is always stereotypical images, political billboards or whatever, always stereotypical images, always. They're totally absent, unless of course it's an ad produced overseas...' (NGO)

The situation lends itself to a sense of frustration amongst migrant NGOs and activists working in the field:

'...but nobody says what we are doing in Malta. Many people in Malta they don't know these things...' (NGO)

...And then, if you have an integration article, it's always somewhere in the middle [of the paper] ...it's quite scary, seeing the comments of people as well (NGO).

6.7.2 Facilitating factor or protective measures in the media

There is substantial regulation concerning racial equality in broadcast media although there is less regulation with regards to printed and online media. Various NGOs and communities have used the media to raise awareness of some of the key concerns around migration and racism in Malta to varying degree of success.

Media InterAct⁶⁴ was a one-year project running from July 2011 till June 2012 and its overall objective was that of initiating an avenue for mainstreaming the diversity and integration of third-country nationals (TCNs) within the media in Malta. The common element across the initiatives planned within the Media InterAct project was the acknowledgement that the media can play an important role in increasing positive awareness of cultures belonging to TCNs living in Malta, as well as facilitating intercultural exchange between people with different cultural backgrounds and society at large. This in turn will facilitate the integration of TCNs in Malta.

The project was based on an initial research component focused on mapping out the current situation of TCNs and their representation within the media in Malta as well as the identification of best practices from other EU Member States. The project included the production of a 13-episode lifestyle/culinary TV programme called "Minn Lenti Interkulturali" aimed at promoting intercultural exchange through the sharing of culinary experiences and

⁶⁴ The project is run by SOS Malta and more information can be found on www.sosmalta.org

traditions of TCNs and the simultaneous account of their integration experiences in Malta. In addition, the project piloted the issuing of a magazine, "InterAct - A Portrait of Third-Country Nationals in Malta", dedicated to cultural diversity and integration which was distributed in April 2012 with The Times of Malta. The project also introduced a new journalism award category for Malta entitled "Promoting Integration and Intercultural Dialogue" featuring as a new element within the Malta Journalism Awards, an annual event organised by the Institute of Maltese Journalists. The direct impact of the project is difficult to measure. However the project was the first of its kind in seeking to promote the presence of third country nationals (and ethnic minorities in general) in the mainstream media.⁶⁵

⁶⁵ Between 2008 and 2009 The People for Change Foundation carried out work on Media Coverage of Migration issues in Malta. The project included a research element which assessed media coverage (broadcast and printed media) over the reporting period and produced a manual and guidelines on reporting about migration issues. The project results are available on www.pfcmalta.org

6.8 Racism and related discrimination in criminal justice

6.8.1 Policing and ethnic profiling⁶⁶

There is no information regarding ethnic or religious profiling in Malta. As noted above, skin colour (read dark/black) is essentially synonymous with religious identity. The religious affiliation of Muslim men is not immediately visible (in contrast to women who may wear the veil) and as such dark skinned men, assumed to be of African origin are also assumed to be Muslim. Whilst respondents did make reference to ethnic profiling with regard to accessing services (see above), no such reference was made specifically to police attitudes and behaviour.

6.8.2 Racist violence and crime

Racist violence continued to receive attention in the media, and is experienced on a day to day basis by many ethnic and religious minorities. As one female respondent noted:

‘Sometimes, you know you’re just walking down the street, these things upset me, sometimes I cry and my husband tells me, ignore it, but I can’t, these things annoy me, and they make me a bit angry. But what do you do?’ (Miriam)

The worrying situation in Paceville does not appear to be limited to accessing nightclubs and bars (see above). It is also an area particularly prone to racist violence. During the year under review one case in particular attracted the attention of the Prime Minister who commented on the nature of the attack, and also to the reaction of some segments of Maltese society:

"everybody should be shocked at the assault and death of the man. I do not accept such acts of violence on persons, irrespective of their skin colour...I am shocked how some people reacted as if nothing had happened when a Sudanese migrant was murdered in Paceville yesterday week. Malta cannot tolerate a situation where anyone minding his own business ends up being killed and certainly this country could not tolerate racism..."⁶⁷

Research conducted during the period under review suggests that there is a general feeling of distrust amongst the broader migrant population towards the Maltese justice system. Zammit (2012) reports that the ‘legal consciousness’ of migrants paints a ‘rather pessimistic picture where they feel

⁶⁶ The Open Society Institute defines “ethnic profiling” as the “use of generalisations grounded in ethnicity, race, national origin, or religion - rather than objective evidence or individual behaviour - as the basis for making law enforcement and/or investigative decisions about who has been or may be involved in criminal activity”.

⁶⁷ <http://www.maltatoday.com.mt/en/newsdetails/news/national/i-will-expose-Muscat-s-wild-promises-Gonzi-20120325>. Accessed 9 June 2012

disenfranchised, discriminated against and unable to use the law as a weapon to assert their rights'.⁶⁸

Access to justice continues to be problematic. The findings of this research suggest worrying evidence of racial and ethnic bias at various stages of court proceedings. It is worth mentioning again that a number of respondents did not feel safe speaking on a voice recorder, suggesting a lack of faith in the rule of law and the degree of protection awarded to them. The following two passages capture this sentiment well, and are worth citing at length:

'People who take action, or make a report about discrimination, they are not doing well. That's why they are not getting reports from people. Because, for example, if you give me a book for that, I don't have time for that. Or I am scared, there are some part I cannot fill it. I still want to work, because there is no one to support me without a job, so I still have to work. So if you give me – if it was like 2 or 3 pages then maybe, but like a book? For example, last year I don't think NCPE got any report of racism. And then they report to the government and say 'we didn't get any report of racism' so this means there is no racism? But there is! But I'm afraid to fill the book...put my name? put my I.D.? And the person that did it to me? I don't know his name, I don't know where he live. His I.D. and so on, you know? So, people, they want to report, but they make it difficult so that you cannot have chance to report. The system is not helping at all' (NGO).

'...but I don't want to fight, because the problem is, even the media, they are against us...if migrant does something wrong, that will publish everywhere, everyone will know about it. But when we do something good, no one will hear about it. You know what I mean? And that's why. For me, I could fight, but I didn't want to. Because if I did, maybe it spoil someone's chance somewhere else. No. So to save our name, and not to create something difficult, I try to keep quiet, even it is something not fair' (Daniel)

The judicial system came under public scrutiny in March 2012, following the acquittal by a jury of a former night club bouncer accused of causing the death of a Sudanese migrant.⁶⁹ A number of NGOs expressed their concern at the verdict, whilst a spokesperson representing the political party Alternattiva Demokratika was quoted as saying:

... he found it "strange to say the least" that a person could end up with multiple fractures to his skull leading to death, and nobody is found guilty even of assault⁷⁰

⁶⁸ Zammit (2012) *op. cit* p. 53

⁶⁹ Case reference 37/2010 Ir-Repubblika Ta' Malta Vs Duncan Deguara available at: <http://www.justiceservices.gov.mt/courtservices/Judgements/search.aspx?func=thisyear>

⁷⁰ <http://www.timesofmalta.com/articles/view/20120311/local/Bouncer-acquittal-should-not-mask-racism-problem.410524>. Accessed 9 June 2012

As noted above, an additional problem is that justice institutions and practices are generally considered inaccessible. In this regard, arduous procedures and endless red tape (see above) serve to deter potential complaints. The use of technical language and/or a language that a migrant may not understand further complicate matters:

'We have been offering support to migrants whose rights have been allegedly violated. The laws and structures are in place but it can still be a complicated procedure till one figures out how to go about it. This can be complex for a Maltese person who is used to the systems in Malta let alone for somebody who is relatively new on the island. On the other hand I want to commend both ETC and GWU who are taking active steps and are on the forefront for equality and rights...' (NGO)

There is also concern over the quality of service being provided by court appointed lawyers, some of whom may be offering a service that will do little to ensure that justice will be served:

'...lawyers and persons representing migrants are not always willing to assist the migrant properly...Either because they are forced to do it because it's a legal aid service, so as they would offer a crappy service to Maltese, they would also offer a crappy service to the migrant, possibly an even crappier service, because whilst a Maltese person might ask questions, the migrant would just assume that everything is being done as it should be...lack of knowledge of their rights, procedures, they have no idea what is going on, nobody tells them what is going on, and they don't feel empowered to ask questions or to claim their rights...' (NGO)

Concerns have also been raised about the court's reluctance to critique certain policies including the detention policy.

'The judicial system seems to pull the lines of the political system. We've had statements of government migrant policy being...well it's quite worrying when the policies don't live up to Malta's legal obligations. Where the government wants its policies, it's not fine, but it's policy, that's where you can challenge it. But when in a court of law is not upholding rights, but upholding policies which could be violations of rights, well then I think it's very worrying' (NGO)

6.8.3 Hate speech

Malta boasts a robust legal framework with regards to hate speech although its implementation in practice is quite limited. Maltese law criminalises incitement to racial hatred, the denial of genocide, war crimes and crimes against humanity and has also made racist or xenophobic motivation an aggravating circumstance for all criminal offences. Incitement to racial hatred is also prohibited in the context of the media, most notably printed and broadcast media with the internet remaining, at least in part, ignored by the

legal framework. The law provides for investigations to be undertaken without the need of a report by an injured party as well as for the liability of legal persons. In practice, very few cases have been brought under these provisions.⁷¹

6.8.4 Counter terrorism

Counter-terrorism is not an issue widely discussed in Malta with the exception of the Lockerbie Case (relating to an attack that caused a crash in the Scottish town of Lockerbie in which Malta was allegedly involved) which re-surfaces in national courts and media every now and again. There is no indication that ethnic and religious minorities have been negatively affected by Malta's counter-terrorism activities.

6.8.5 Facilitating factor or protective measures in criminal justice

NCPE provides training sessions for police trainees every year. However, the duration of this training is considered to be inadequate. No similar training is routinely provided to judges and magistrates or to police officers. Whilst there are channels for reporting wrongdoing by police officers within the police force itself, it is often felt that these channels are too difficult to access and rarely result in adequate redress for victims.

⁷¹ See in this regard: Gauci & Cassar Torregiani *National Report for Malta: Study on the legal framework applicable to racist or xenophobic hate speech and hate crime in the EU Member States (JUST/2011/EVAL/FW/0146/A4) (forthcoming 2013)*

7. Civil society assessment and critique in ensuring protection of fundamental rights

It is clear from the discussion through this report that a number of serious concerns have been raised over the reporting period in terms of the human rights situation of ethnic and religious minorities in Malta. NGOs have been actively engaged with these issues and have largely sought to add a human rights based approach to the issues at stake.

A few issues can be identified. First, one notes the intersectionality of many of the concerns raised throughout the report. As concerns the migrant communities, this is partly due to an approach to migration that views asylum seekers and beneficiaries of protection as transitory populations who are not to be integrated in Malta. In this regard one notes that the idea of addressing migration as an emergency situation is no longer a viable option, and that reliance on this approach is likely to fail to address the issues at stake in any sustainable way.

With regards to religious minorities the major obstacle is a lack of awareness of diversity and the general homogenisation of minority communities. NGOs highlight the importance of the role played by civil society organisations, NGOs and community organisations by engaging politically in order to ensure the protection of the rights of religious and other minorities and to work together towards the achievement of the required changes.

There are substantial links, for instance, between discrimination in employment and disadvantage in housing. Language barriers create difficulties in many aspects of life. This, in turn calls for a strategic approach to equality measures in Malta and one which is duly linked to other areas of public policy not least integration and social inclusion.

A number of positive trends have also been noted: the increased capacity of NGOs to participate in the policy making process is one such trend. Moreover, other developments including greater awareness of equality concerns have also been highlighted by NGOs working in the field. It is often noted that critical change occurs when an individual within an organisation or entity takes it upon himself to ensure that his department, agency or organisation works towards the improvement of the situation of particular minority groups. Such initiatives have been noted in a number of government departments as well as in the media and other areas.

Projects like the Stakeholder Information Sessions coordinated by Aditus (see best practices below) are therefore an important development since they raise awareness amongst all the relevant stakeholders. They address the lack of awareness by some service providers of the rights and entitlements of various communities (most notably the migrant community). In turn, other projects have now been initiated aimed also at empowering the minority communities (focusing on migrant communities) to fight for their own rights, an important development in ensuring the political participation of minority groups in the decision making processes.

NGOs have also grown increasingly aware of the need to monitor developments in the area and engage with policy change when needed. In some areas, and within particular agencies, there has been a greater recognition of the potential benefits of working with NGOs and experts in the field whilst in others, the policy making process has remained largely closed to outside input.

8. Good practices

Example of NGO Good Practice in Education

Konnect Kulturi

Integra Foundation's Konnect Kulturi is a team within the organization responsible for education and community development. The team is currently providing English and Maltese language lessons to sub-Saharan asylum seekers among other programmes.

Ghinni Nidhol

The project, coordinated by the Foundation for Education Services and co-funded through the Integration Fund for Third Country Nationals (75%) and Malta Funds (15%) will run between November of 2011 and December of 2012 and has the aim of looking into the educational needs of primary and secondary school students from third countries and their integration in the schools and communities they frequent.

The study will look into the level of parental empowerment demonstrated by their parents, the extent of the parents' involvement in school and their level of comfort in approaching school staff, the language acquisition of both parents and students, the degree to which community integration has been achieved through areas such as knowledge of Maltese culture, employability and any discrimination students and parents might experience in their daily lives in various settings.

The study is intended to provide the information required in order to be able to establish an effective service to these students and their families in order for them to integrate fully into Maltese society. It would also facilitate subsequent project applications submitted in the following funding period. This second stage intervention might include literacy training; campaigns promoting an appreciation of diversity; intercultural activities; parental empowerment courses; sensitivity training for school staff; and other measures, depending on the findings and the recommendations made in the study.

Example of NGO Good Practice in Housing

At the time of writing The National Commission for the Promotion of Equality had commissioned research, including an element of situation testing assessing the situation of discrimination in the labour market.

Example of NGO Good Practice in Health

The Foundation for Shelter and Support to Migrants carried out Health Training for room representatives. Sessions were organised about mental health, alcohol and antibiotics and accessing health services. The training sessions brought together experts from various areas including Richmond Foundation and the Migrant Health Unit.

See: <https://ehealth.gov.mt/download.aspx?id=6955>

Example of NGO Good Practice in Access to Goods and Services

Stakeholder Information Sessions is a project managed by Aditus with the Support of UNHCR Malta. The project targets private and public service providers who have direct contact with refugees, beneficiaries of subsidiary protection asylum-seekers and other migrants. The aims of the project are: to sustain integration efforts by reaching out to key stakeholders, providing core asylum-related information and identifying the specific challenges, opportunities and best practices faced by individual stakeholders.

See

<http://aditus.org.mt/aditus/Documents/StakeholderInformationSessions.pdf>

Example of NGO Good Practice in Promoting Political Participation

Integra foundation and **aditus foundation** are currently engaged in a project that seeks to support refugee integration in Malta by addressing a critical gap in refugee assistance. The main goals of the project are to enhance the integration of Malta's refugee and migrant communities, to foster a sense of active social participation by the refugee and migrant population, and to support the creation of formal and informal refugee and migrant networks/organisations. Strategic action points will also be developed with a view to seeking funding for future programme implementation.

See:

http://integrafoundation.files.wordpress.com/2012/04/our_voices.pdf

Example of NGO Good Practice in Media

Media InterAct was a one-year project running from July 2011 till June 2012. Its overall objective was to initiate an avenue for mainstreaming the diversity and integration of third-country nationals (TCNs) within the media in Malta. The common element across the initiatives planned

within the Media InterAct project was the acknowledgement that the media can play an important role in increasing positive awareness of cultures belonging to TCNs living in Malta, as well as facilitating intercultural exchange between people with different cultural backgrounds and society at large. This in turn will facilitate the integration of TCNs in Malta.

9. National recommendations

Special Focus: Muslim Communities

1. Ensure greater political empowerment of the Muslim community in Malta to engage with relevant debates.
2. Ensure that the education system caters for the diversity of its students.

Employment

Promote the development of equality, diversity and inclusion policies and practices as part of the strategy, operation and culture of individual organisations and companies. This will be done in particular through:

- The organisation of tailored training programs and awareness raising activities for management and staff on non-discrimination, equality and diversity management.
- The setting up (through existing entities) of a diversity management advisory service that can work with private and public entities towards the development and implementation of their diversity management policies and strategies.
- The development of a good practice booklet that promotes diversity management good practices by entities in Malta.
- Provision of training of trainers courses to business associations, unions and professional associations.

Education

- In collaboration with the Education Authorities develop a national intercultural education strategy with reference to equality/diversity legislation and policy.
- Universities, colleges, schools and other educational institutions should adopt and uphold an equality policy.
- Plan and launch a national decade of equality through education aimed at ensuring that equality in education is mainstreamed across all parts of the national curriculum and that educational institutions partake in activities and initiatives aimed at promoting equality.

Housing

- An Information Sheet regarding the relevant anti-discrimination legislation should be disseminated to property owners. Moreover, an

information sheet on rights and obligations of tenants should be prepared, most notably for newly arrived migrants. Both sheets are to be distributed to and through estate agents.

- Ensure that homeless shelters and other housing services do not discriminate in the provision of their services. Develop guidelines and training.

Health

- Develop, in collaboration with the relevant health authorities and through the setting up of a broadly based advisory group, an intercultural health strategy with reference to equality and diversity policy.
- Extend the service of cultural mediators within the health service to other languages.

Access to goods and services

- Ensure that all service providers are aware of their obligations under antidiscrimination legislation through, among other things, the dissemination of information sheets.
- Provide training to service providers (who may not be catered for by other sections of this plan) on how to deal with a multi-cultural clientele.
- Develop a core team of cultural mediators to be used by various service providers (most notably but not exclusively) in the public sector to facilitate communication with service users.

Criminal justice

- Put in place mechanisms to encourage victims and witnesses of racist incidents to report such incidents.
- Through monitoring of specific cases, ensure that the police thoroughly investigate racist offences, including by fully taking the racist motivation of ordinary offences into account.
- In collaboration with the Malta Police Force, develop and implement a training program (including the development of guidance) for law enforcement officials intended to ensure the identification and adequate investigation and prosecution of instances of racist violence and crime.

- Review of laws, policies and operational guidelines establishing and regulating police powers and, if and where necessary, strengthen non-discrimination standards and Practices
- Create a statutory obligation upon the police to promote equality and prevent racial discrimination when carrying out their functions.

Media

- Compilation of best practices from different fields on awareness-raising on social issues.
- Promote anti-racist messages through sports, drama and other means.
- Ensure that existing legislation is adequately enforced.

10. Conclusion

This report has sought to outline some of the key developments in the field of racial and religious discrimination and exclusion in Malta. By bringing together the perspectives of various agencies and entities it has sought to provide a picture of the various challenges and opportunities faced by these groups in Malta. These include, *inter alia* the homogenisation of minority communities, discrimination in various spheres of life including employment, housing, education, healthcare amongst others as well as the minimal (albeit growing) political participation of minority groups. It also outlined some of the key opportunities including greater interest in political empowerment, the extension of the equality legal framework, and a number of important projects by NGOs and other agencies aimed at supporting the integration and inclusion of ethnic and religious minorities in Malta. Finally it makes a number of recommendations for future changes.

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Annex 1: List of abbreviations and terminology

AWAS	Agency for the Welfare of Asylum Seekers
ETC	Employment and Training Corporation
EMN	European Migration Network
PfC	People for Change Foundation
ENAR	European Network Against Racism
BOP	Beneficiaries of International Protection
AS	Asylum Seeker
TCN	Third Country National
S.P	Subsidiary Protection
q.	Quarter
EU	European Union
S.L	Subsidiary Legislation
L.N	Legal Notice
MJHA	Ministry for Justice and Home Affairs
ERF	European Refugee Fund
NSO	National Statistics Office



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