Social dialogue and civil liberties in Malta

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An important plank in the electoral manifesto of the Labour Party that was elected into office in Malta in March 2013 was a strong commitment to facilitating dialogue between the country’s social forces and enhancing consultation with citizens. Another major pledge was to further promote democratic consolidation with the recognition of minority rights and diversity in its various forms.

Social dialogue

Despite the small size of the Maltese Islands and the closely-knit family relationships that are a characteristic feature of the local community, for successive generations, civic involvement and constructive forms of dialogue between the various forces of Maltese society in diverse aspects of local and national administration were, to a large extent, a rare occurrence. Rivalry and confrontation were not uncommon, particularly on issues that concerned the internal political situation or that were related to some aspect of the national economic strategy. Solidarity and social cohesion among the various sectors of the community were not also particularly strong during this period.

When Malta gained independence in 1964 and the Maltese Government assumed direct responsibility for the island’s economic affairs and social progress, the introduction of more meaningful forms of collaboration and consultation to underpin the national growth process became necessary. This gradually allowed Maltese citizens to become increasingly involved in their country’s development. Since then, trade unions, employers’ associations, NGOs, traders’ organisations, co-operatives, local councils and special interest groups have come forward on many occasions with their views and suggestions on important matters facing the country.

Perhaps in recent years the most notable example of this collective endeavour was the wide-ranging national debate on Malta’s proposed accession to the European Union. It is widely known that civil society played an active role in the formulation of Malta’s position throughout negotiations leading to the *acquis communautaire* and in the subsequent referendum on Malta’s membership in 2004.

Set up in 2001, the Malta Council for Economic and Social Development serves as the national forum for consultation and dialogue between social partners and civil society organisations to advise the government on emerging issues related to the sustainable economic and social development of Malta. The council’s submissions to the government on the formulation of the annual budget are generally valuable as they serve to open new perspectives to the country’s policy makers.

The Malta EU Standing and Action Committee (MEUSAC), which was reactivated in 2008, is another consultation body that has served the country in good stead. Among its other functions, the committee engages civil society in the EU decision-making process and manages this by means of discussions on the impact on Malta and on Maltese institutions of proposed EU measures.

Besides strengthening these organisations to enable them to better fulfil their role in favour of economic democracy, the government is committed to launching other initiatives that are meant to widen the consultation process. This allows citizens to assist policy development by giving their opinion on proposed policies and influencing their direction.

An electoral pledge of the labour government is the organisation of regular public meetings with ministers, where citizens can freely and publicly meet with members of the cabinet, question and critically scrutinise their work and address broad issues. The main aim behind these meetings is to promote connectivity and encourage a culture of engagement between the government and the people as an essential element for good governance and transparency. Above all it reflects a genuine cards-on-the-table approach. The first round of such meetings, held earlier this year, was by all accounts a truly positive experience for all those involved.

Other initiatives under the electoral manifesto that are due for implementation in the coming months include:

- Improved access to information by citizens primarily by means of an online electronic system that will enable the public at large to put forward views and opinions, and to participate directly in and influence decisions and choices made by the government
- The use of social networks to enable citizens to submit their ideas towards government policies and proposals as a means of widening and improving the consultation process
• The launching of an online consultation platform for the posting of parliamentary bills to allow citizens to submit their comments, questions and suggestions at a stage when they can still influence the shape and direction of government policy

**Civil liberties**

The incoming Labour administration, which projected a new vision across the country as a movement of progressive forces in the run up to the last national elections, lost no time in pushing forward its pledge to update and modernise the traditional Maltese mindset in the field of civil liberties. This is no easy task in a deeply conservative and traditional society that, despite EU membership since 2004, retains a rather strong attachment to concepts and values that are manifestly at odds with contemporary European perspectives and outlooks. Suffice it to say that divorce was only introduced in Malta in 2011 and this only after two MPs presented a private members’ bill and a referendum was held.

On the strength of its mandate, the Labour administration vigorously launched a plan of action based on a series of reforms that would radically enhance civil liberties in Malta.

One of the first steps by the incoming administration in April 2013 was to solve the case of Joanne Cassar, a transgender woman who had waged a protracted battle against the former government to be able to marry her male partner. Although the Constitutional Court in Malta had ruled that the ban on transgender marriage violated the right to marry under the European Convention on Human Rights while the Court of Appeal had also recognised that Ms Cassar’s fundamental rights had been breached when she was denied the right to marry, no substantive remedy was provided. This led Ms Cassar to take the issue to the European Court of Human Rights in Strasbourg, asking for effective remedy and compensation.

The Labour administration lost no time to reach an out-of-court settlement with Ms Cassar by means of an agreement which noted that she had the right to marry a man and that she was also entitled to compensation. A few weeks later the necessary amendments were enacted to the Civil Code by the House of Representatives to enable people who undergo gender re-assignment to marry the partners of the opposite sex according to their acquired gender, while the Public Registry in Malta was no longer able to bar these persons from their right to marry. In this way the marriage rights of transgender persons were fully recognised by the Maltese authorities and Maltese legislation was brought in line with European law.

The Maltese Government considers the new legal provisions to grant civil rights to LGBT people as an obligation. This is, however, only a small step forward since work now needs to be taken to change the attitudes and mentality of citizens in homes, workplaces and schools, and to strengthen the culture of rights, equality and respect for human dignity.

At the same time the government’s commitment to promote the fundamental human rights of LGBT persons was evidenced by the presence of Malta at the first international ministerial forum organised by the Government of the Netherlands on 17 May 2013, in The Hague to mark the International Day Against Homophobia and Transphobia. Malta was one of the signatories of a joint declaration calling on the European Commission to adopt a common policy approach on a European level to combat discrimination on the basis of sexual orientation and gender identity.

True to its electoral promise, the government also set up the LGBT Consultative Council with the specific task of giving recommendations and preparing legislation involving the LGBT community in Malta. The first priority of the council, which is composed of representatives of NGOs involved in LGBT issues, has been to prepare legislation on civil unions by persons of the same sex, which is due to be debated and approved by parliament by the end of 2013. Following this, a gender-identity bill will be presented to parliament.

These initiatives are in line with government policy to uphold equal rights and to respect all people in the context of diversity. This policy is also based on the recognition that the people themselves should embrace diversity and apply the rules and legislation enacted by governments to protect their citizens.

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