

**What were the prevailing social and political attitudes to homosexuality
in 1972 and how did these bear on the decriminalisation of
homosexuality?**

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of the B.A. (Hons.) Social Policy.**

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**Dedicated to my Mother, Father and my sister.
No words will ever make just to thank you for your love and sacrifice.**

It's not blood that makes you family; it's love.

**In memory of Jacqueline Azzopardi.
A brilliant academic, a loving mother, a fierce ally and a beautiful soul.
We miss you Jackie – now and always.**

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Abstract

In 2021, Malta ranked first for the sixth time in a row in the annual ILGA-Europe Rainbow Map. Equality took a positive turn in 2014, with legislative amendments introduced to protect and safeguard the rights of LGBTI+ individuals. This turn of events has historic roots in early 1973. This research investigates the socio-political discourse around the decriminalisation of homosexuality in Malta at that time. This investigation is situated within a historical overview of homosexuality in Malta, through the times of the Knights of St. John to the British Empire, independence and accession to the European Union. This study is significant to social policy because policy change is often shaped by historical legacies and thus it is important to understand the backdrop to LGBTI+ rights in Malta.

In order to understand why and how homosexuality was decriminalised in 1973, the researcher collected data including the relevant parliamentary debates, episcopal letters and newspaper articles. After a thorough reading, codes were ascribed and grouped into themes which shed insight on the perception of homosexuality from three major social actors at the time; the legislative, the church and society.

The findings showed that homosexuality was often compared to something different which equated with mental illness, physical abnormality, perversion and paedophilia, presented a negative connotation. Members of Parliament did not agree what is the root cause of homosexuality, and whilst some believed it was by nature, others argued it was a nurture element.

Such sparked the need to dissect the role of institutions in the reformation of homosexuals, and what influence they can have in the cure or perversion of the

individual. Members of Parliament agreed on the need to protect society, and so questioned how such a law can challenge the moral fabric of the Maltese society. Subsequently, the role of the Maltese Church was alluded to and its opinion on the matter played a central part in questioning the need for such a legal amendment.

These results suggest the conversation at the time was not from a place of homophobia, but insufficient conversation and educational awareness around sexuality and diverse identities. Furthermore, the vacuum of social groups lobbying their opinion on this matter reflects on the taboo of homosexuality at the time. On this basis, the research draws attention to a number of recommendations, most prominent further research on the topic through qualitative methods, interviewing Members of Parliament of the time who are still alive. The researcher contextualizes a political reality at the time that led to social conversation that would reflect on the need for progressive laws at the turn of the millennial.

Keywords: Homosexuality, Malta, Legislation, Social policy. Commonwealth, Post-colonialism.

Chapter One: Introduction

1.1 Introduction to the research

On the 17th of May 2021, the International Day against Homophobia, Biphobia and Transphobia represented a major breakthrough in Maltese politics. The local government through the Ministry for Justice, Equality and Governance signed a grant agreement of 300,000 euros to Allied Rainbow Community - a local LGBTI NGO in Malta responsible for the organising of Malta Pride and Euro Pride 2023 (Calleja, 2021). This political recognition was a historical turning point. Literature about sexuality illustrates that historically, laws have tended to criminalise the sodomy act and thus to criminalise practising homosexuals. Indeed, the sodomy act is still punishable in some cultures, and was so in Malta only as recently as 1972. Whilst Malta celebrates its legal progress, some other countries are presenting LGBTI free zones that exclude and discriminate against sexual and gender minority groups (Ash, 2020).

In Malta, a mere 50 years ago in November 1972, the then Minister of Justice at the time Hon. Anton Buttigieg put forward the first draft of a law that would decriminalise homosexuality in the Maltese Criminal Code. This research aims to analyse the socio-political discourse of the time.

1.2 Background to the topic

The 2013 national parliamentary elections were a turning point for Maltese civil rights legislation, with the Labour Party winning the election by 35,000 votes. This was the first time in twenty-five years (with the exception of 18 months between 1996 and 1998) that the Labour Party had been in government.

In the annual report by ILGA-Europe (International Lesbian Gay Association) on the human rights of Lesbian, Gay, Bisexual, Trans*, Intersex and Queer people, Malta was ranked first among 48 countries in 2021. Malta has implemented 94% of 72 LGBTI rights in areas such as health, education, families and legal recognition. When the Labour Party entered government in 2013, Malta ranked 18th with 38% coverage of these criteria. The major milestones that brought about this change were the introduction of Civil Union Act 2014; the Gender Identity, Gender Expression and Sex Characteristics Act of 2015; the Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act of 2016; the Gender Affirmation Act of 2017 and Marriage Equality Act of 2017.

This study uses the ILGA-Europe definition of LGBTI, which combines two elements of human identity, sexual orientation and gender identity. “Sexual orientation is one of the four components of sexuality and is distinguished by an enduring emotional, romantic, sexual or affectionate attraction to individuals of particular gender” (Bartolo & Borg, 2002, p. xiii). These authors define three sexual orientations: “homosexual, attraction to individuals of one’s own gender; heterosexual, attraction to individuals of the other gender; or bisexual, attraction to members of

either gender”. Homosexual is a term often used to explain sexual orientation of gay (men), gay (both men and women) or as lesbian (women only) (2002, p. xiv).

1.3 The research gap

The progress that Malta has made in relation to LGBTI rights is recognised internationally in the annual ranking presented by ILGA-Europe. This progress raises interesting questions about the historical process of how Malta arrived at this point. These questions include why homosexuality was illegal in the first place, and why it was subsequently decriminalised.

In an attempt to shed light on these questions, this research explores the social and political discourse around the decriminalisation of homosexuality. It questions the fact that the 1973 amendment to the criminal code only mentioned homosexuality between consenting men of age and did not account for any other interpretations of sexuality. It analyses written accounts of the discourse of Members of Parliament, the Maltese clergy and society in general in the lead-up to the amendments in January of 1973, and uses our colonial history as a backdrop to attain understanding of the socio-political conversation at the time. To the best of the researcher’s knowledge, this is the first time that the decriminalisation of homosexuality in Malta is being studied from these perspectives.

1.4 Aims & Research question

The aim of this study is to understand the socio-political environment of Malta in the early 1970s, and how this played a factor in what was the first step towards

Malta decriminalising the sodomy law. The research question is: what were the prevailing social and political attitudes to homosexuality in 1972 and how did these bear on the decriminalisation of homosexuality? Thus, the research study seeks to understand the public discourse on homosexuality after the election of 1971, specifically the last few weeks of 1972 and the first few weeks of 1973. The study investigates historical findings from debates in the Maltese Parliament, pastoral letters issued by the Bishops of Malta and newspaper articles to build a comprehensive background of the factors that contributed to the revocation of sodomy law in 1973.

1.5 Relevance to Social Policy

Malta is now classified as a leading country on a global level when it comes to LGBTI rights, placing first in the Annual Rainbow Map issued by International Gay Lesbian Association (ILGA) for six consecutive years. It was not always so, and this research seeks to shed light on an important milestone in Maltese socio-political history when the laws that criminalised sodomy were overturned. This is a historical research study, which adds to the understanding of the local LGBTI movement and how this is affected by, and reflected in, social and political discourse. The progress made in recent years by the LGBTI community has roots in the advances made in the early 1970s. Understanding social policy in historical context, particularly the socio-political pathways in any given policy field, is essential to implementing and sustaining reforms successfully.

1.6 Structure of Work

This work is structured as follows. Chapter Two is a literature review based on books and scholarly journals on the matter of homosexuality. It explains the concept of homosexuality, gives an overview of historical literature on the effect of colonialism towards homosexuality and studies Maltese literature on homosexuality. Chapter Three describes the methodology used for this research. The importance of a proper and well-structured methodology is put forward, as is an in-depth explanation of the tools which were used by the researcher, complemented with a research design and implemented with the adequate research method.

Chapter Four presents the findings of this research, with a historical journey to the past through a thematic explanation of the social political conversation held during the early 1970s and in relation to homosexuality. Chapter Five presents a discussion and connects together the literature review with the findings as presented by the author. It links the themes discovered in the findings with themes presented in the literature review. Chapter Six is the concluding chapter and summarises the work while reiterating the researcher's answer to the chosen research question.

Chapter Two: Literature Review

The aim of a literature review is to establish what is already known about a particular topic and to frame the review in such a way that it can act as a background and justification for the investigation (Bryman, 2016). In this chapter, an overview of literature pertaining to three aspects of homosexuality is presented: the way homosexuality was portrayed throughout the years, an overview of homosexuality in the Commonwealth and more specifically, homosexuality in Malta. This review is preceded by a literature search strategy.

2.1 Literature Search Strategy

The researcher used keywords to elicit findings concerning **homosexuality & Malta** as the first search through search engines like HyDi (an online database with journals, scholarly articles and published books) and Google Scholar. Through HyDi, this search led to a journal by Carmel Cassar: *Homosexuality and Moral Values in Historical Perspective - The Case of Malta in a European Context*. This journal document is included in the published book by Bartolo & Borg, 2003 - *Homosexuality - Challenging the Stigma*. Another publication found and used in this literature was *Queer Mediterranean Memories* by Joseph Chetcuti.

Additionally, the key word **homosexuality & Christianity** through Google Scholars generated the book *Christianity, social tolerance, and homosexuality: gay people in Western Europe from the beginning of the Christian era to the fourteenth century* by John Boswell, when adding the word **Malta** to the above keywords it

generated the book *The Secularization of the Family in Changing Malta* by Carmel Tabone O.P.

To understand homosexuality throughout the times, the researcher understood the need to dive into the concept of heterosexism. The researcher thus shifted his research towards **heterosexism & homosexuality**, which led to the literature from Jung & Smith - *Heterosexism - An Ethical Challenge and Social Perspectives in Lesbian and Gay Studies - A Reader*. Additional text found under this search is *Internalized Heterosexism: A Historical and Theoretical Overview* by Szymanski et al.

The researcher looked up the key phrase **colonialism and homosexuality**, a searched which led to the literature by Robert Aldrich - *Colonialism and Homosexuality & King James and the History of Homosexuality* penned by Michael Young. Lastly, another term was **Homosexuality & Commonwealth** with the book *British Colonialism and the Criminalization of Homosexuality: Queens, Crime and Empire* by Han & O'Mahoney and a report by the Kaleidoscope Trust - *Speaking out the rights of LGBTI Citizens from across the Commonwealth*.

2.2 Homosexuality - An Overview

Young writes how the word homosexuality was not coined until the late nineteenth century (Young, 2016). Thus, according to Young, before the nineteenth century homosexuality did not exist as a concept. Whilst scholars are divided on the invention of the word homosexuality, the sexual act of one man with another is not a modern reality.

In classical Greek culture, homosexuality was not subject to moral concern, and in fact sexual relations were a means of expressing one self and 'self-care' and the knowing of oneself, as practised by the Greeks at the time. It was excessive sexual activity that concerned philosophers (Foucault, 1971).

Brent (2009) argues that whilst the Greeks had a fluid understanding of same-sex relations, the Romans also tolerated same-sex relations but generally stigmatized the passive partner in the relation. This argument is corroborated by the words of Cassar (2003) who writes that "among ancient Spartans the warrior ethic not only permitted but encouraged temporary 'homosexual' relations between soldiers and boys" (p. 105). Edwards argues that in Ancient Rome, "[T]o be penetrable was to be weak. To be penetrable was to be aligned with the female, with the 'other'" (Edwards 1993, p. 75).

It is the role during the sexual act that defined homosexuality for ancient Romans. In fact, the stigma did not stem from the act between a man (the superior) and his male slave (usually of younger age), or between homosexuality and heterosexuality (phrases not yet coined at the time) but between the role of the man and the effeminate, where the latter took on the woman's role. As Christianity spread across the Roman Empire, the view of sexual relations changed. The 'self-care' preached by the Greeks evolved into a practice to control one's sexuality as the 'enemy' was now one's own desires. Freedom was lost and the rigid presentation of what is right or wrong dictated the discourse of the public (Foucault, 1971)

The distinction between active and passive roles was also important in Renaissance Florence. Rocke (1996) wrote that “the conventions governing sexual relations between males operated within a cultural premise about masculinity, status, and shame (p. 88). ”. He explained how the roles in homosexual relations corresponded above all to a disparity in age between partners; the active partner had to be older, usually in his 20s, whilst the receptive partner was a boy or youth under the age of 20. Reversing these roles was considered a deviation from the ‘natural order’.

Noticeably, as Florence thrived as an economic city with trade lanes across Europe, the reality was different in other parts of Europe. In England, the Buggery Law of 1533 was introduced under the reign of King Henry VIII (Sanders, 2009, p.5) this targeted the sodomy act and not homosexuality as such. The seventeenth century is known for Baroque culture, the Spanish and Dutch Golden Age, and the translation of the Bible in English coined as ‘King James Bible’ - the same King James whose sexuality has been questioned to be more aligned towards the male being. (Young, 1999). Sex in the seventeenth century “was a time of direct gestures, shameless discourse, and open transgressions” (Foucault, 1976, p. 3).

By the nineteenth century, the Victorian bourgeoisie once again reined in the narrative of sex, as “sexuality was carefully confined....the conjugal family took custody of it [sex] and absorbed it into the serious function of reproduction” (Voyce, 2019, p. 7). Sex became a taboo subject, and the matter of sexuality was not a conversation for the streets as sexual practices were governed by canonical law, Christian pastoral and civil law (Foucault, 1976). The three merged into the ideal of the matrimonial family, with adultery, rape, incest, homosexuality and bestiality all

condemned and listed as grave sins. The Buggery Act condemned all forms of anal penetration with woman, man or beast, and was subject to the death penalty until 1861. (Sanders, 2009).

2.3 Homosexuality in the Commonwealth

As of the 1760s, the British Empire only comprised a few dominions in North America and the Caribbean (Kitchen, 1996). The rise of the cotton textile industry gave the British the opportunity to grow, and as navigation technology was becoming more and more advanced the British seized the opportunity to conquer the territories lost by the French and Dutch. As the world welcomed the nineteenth century, the empire was expanding its foothold and becoming a strong force of global politics. At its zenith in 1913, the empire had a population of 412 million citizens, ten times bigger than Britain, and accounted for 23% of the global population at the time (Maddison, 2001). Over time, the British Empire engaged in various wars and not only laid claim to land but imposed values, norms and practices on its public. In Article II of the Imperial Conference of 1926, known as the Balfour Declaration (Hall, 1962), the first trace of a unified Commonwealth was written. The text reads:

“They are autonomous Communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations.” (Balfour Declaration 1925, p. 2).

The Commonwealth transformed into what it is today through the Declaration of London (1949), when English laws came to bear upon the social-political realities of newly independent countries. In his writing Hon. Michael Kirby writes “In my school days [1954] in Australia, every 24 May was celebrated as Empire Day”. Part of the legacy of the British Empire were anti-LGBTI laws, more specifically, the criminalization of same sex acts between males and to a lesser extent between females. The Buggery Act survived throughout the years from the time of King Henry VIII towards the late 1800s. A key event that transformed the Buggery Act of 1533 was the creation of the offence of ‘gross indecency’ in the Criminal Law Amendment Act 1885 (Sanders, 2009), in which homosexual activity was outlawed, even if no third parties were present to witness the act. The Act stated:

“Any male person who, in public or private, commits, or is party to, the commission of, or procures or attempts to procure the commission by any male person of any act of gross indecency with another male person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for any term not exceeding two years, with or without hard labor.” (Sanders, 2009, p.8).

The Wolfenden report of the 1950s prompted a reassessment of the homosexual condition (Aldrich, 2003). This report was commissioned to understand in more depth the increasing acts of homosexuality after World War II. It was only through the

Sexual Offences Act of 1967 that England and Wales decriminalised most consensual homosexual acts. This was a little too late for British colonial territories, many of which gained independence in the 1950s and 1960s, with the sodomy law described above still in place (Human Rights Watch, 2008).

The modern Commonwealth is an intergovernmental institution that supports 54 member states and through the Commonwealth Secretariat, these member states work to uphold the Commonwealth Charter and other declarations signed from time to time. The Commonwealth Charter, signed in 2013, commits the Commonwealth to common principles and values. Prior to such a charter, the key ideas of the Commonwealth were first transferred into a common text in 1971 in the Declaration of Singapore. The Declaration articulated the commitment to provide “liberty of the individual [and] equal rights for all citizens regardless of race, colour, creed or political belief”. The 2013 Commonwealth Charter reaffirms this position and states that “We are implacably opposed to all forms of discrimination, whether rooted in gender, race, colour, creed, political belief or other grounds”.

However, over 40 years later, out of 78 countries worldwide that criminalise consensual sexual acts between same-sex adults, half are in the Commonwealth. Thus, in nearly 80% of the 54 Commonwealth countries homosexuality is still criminalised at some level; those countries that do not criminalise same sex acts do not offer the protection and equal status for LGBTI peers (Ramphal & Sen, 2014, p.9). In Pakistan, laws that originate from the Indian Penal Code imposed by the British empire, criminalise “carnal knowledge against the order of nature”, punishable with up to ten

years imprisonment and a possible fine. The law is only applicable to men, with a similar law in Brunei & Nigeria (Ramphal & Sen, 2014, p.26-53).

2.4 Homosexuality in Malta

The Maltese Constitution through Article 2 grants the Roman Catholic Church the duty and right to educate the Maltese citizens about its religious teaching. Religion plays a strong role in Maltese culture, with the village church symbolizing the epitome of village civilization, a place of worship but also one which serves as a centre for villagers to meet. The relationship between the church and the state was stronger until the late 20th century, as the church served not only as a place of faith but as a means of accessing charity, education and health. The Catholic Church was at the heart of civil life in Malta.

The influence of the Church became powerful in the 1530s when the Knights of Saint John took over the Maltese island, abnormal sex was harshly condemned, and sodomy was frequently prosecuted crime. To bring about the church's bidding and uphold moral virtue, the Knights introduced in Malta a number of laws and customs. (Savona - Ventura 2003, p. 25). Some of these have changed in significance over time. For instance, carnival was first celebrated in Malta in the middle of the 1500s. Ironically, later on in history the celebration of Carnival was also one that liberated gay men and women across the island and gave an avenue to express themselves more freely for a few days every year.

Other laws ensured that the practices of the Knights were transposed to Malta. Written in *Diritto Municipale di Malta* and reaffirmed in the *Code de Rohan*: "It is a

shame to see our habit worn by persons infected with crimes: it shall therefore be taken away from such as shall be guilty of the following ones, viz. Heresy, sodomy, murder, robbery, or desertion to the Infidels" (Savona - Ventura 2003, p. 26). Cases of prosecution against those practising sodomy are transcribed in the case of Fra Nikola Carratello, who in 1602 was arrested and restrained to slavery after reports of his "cursed sin against nature" with the aim of seducing others (Chetcuti, 2009, p. 145).

At the turn of the nineteenth century and after two years of turbulence for the Maltese islands under the French, the British occupied Malta; the Empire was establishing itself as a strong force, and a revised Maltese criminal law was needed. The Penal Code was issued by the Ordinance of the Queen (Victoria) and did not include the Chapter against religious affiliation and practices, giving the Maltese the freedom to keep practising the Roman Catholic religion (Lee, 1962). The Code included however the criminalization of homosexual acts in private between consenting adults (Chetchuti, 2009). Throughout the British occupation, stories of homosexual individuals being dishonored are found on record. For instance, Sub-Lieutenant Christopher Swabey found himself accused of indecently assaulting a man and making improper remarks of a homosexual nature (Cilia, 2011). John Baptist Francia, a prominent Maltese businessman and Director of the National Band of Malta had a visible relationship with a male lover, who is known to have organised informal gatherings between men in his Villa in Balzan. In contrast to Swabey, the law was rarely enforced onto the elite.

The language used at the time was stark, direct and not welcoming. Manuel Dimech once likened homosexual attraction to beastly desires (Chetcuti, 2009). This was a common view in Malta, illustrating a culture of prejudice about homosexuality. Derogatory language was commonly used to refer to or offend homosexuals, such as *imtekek* (crazy) or *imxaqleb* (inclined) (Chetcuti, 2009). So gay men retreated to secluded venues in different villages along the shores which served the British service men. Some of the places where homosexuals congregated were Hastings Garden, The Victoria Gate and the Royal Opera House. As an excerpt from *Queer Mediterranean Memories* illustrates “[G]ay men danced openly with British servicemen, and the Venon club welcomed them all” (Chetcuti, 2009, p. 148). Chetcuti wrote that such places were known for loitering and the public kept its distance.

As Malta was attaining independence, the LGBTI civil movement was firing up in major cities such as San Francisco, London and Berlin. The Stonewall riots of 1969 started a movement against oppression. In due course, the LGBTI movement in Malta started to mobilise, with the setting up of the Malta Gay Support Group in 1987. During these years, MGSF fought many battles, but the perception of the public stood still. The Maltese Church through its Pastoral Letter on the *Pastoral Care of Homosexuals* mentioned how the church is to “carefully monitor pastoral efforts to support gay men and women in case the focus went against the teaching of the church” (Chetcuti, 2009, p. 235). It also prohibited the use of church property to accommodate these groups. Writing in 2002, Camilleri opined that “[I]nitiating a debate on homosexuality in our context can so easily trigger all the defense mechanism of a

society which is medieval, modern and post-modern at one and the same time” (Camilleri, 2002, p.90).

With its ideals of equality and rights, Malta’s accession to the EU in 2004 promised a greater freedom to gay men and lesbian women. However, research by the National Commission for the Promotion of Equality shortly after accession reported that when asked about same-sex marriage, only 18% of Maltese were in favour. On the other hand, when asked how one would feel about having a homosexual as a neighbor with 10 being very comfortable, the rating for Malta was 8.4. (NCPE, 2006, p.4). The trend was shifting towards the acceptance of homosexuals within society, but not yet towards the right to marry and have a family. Indeed, “by European standards the Maltese have retained a strict sexual and moral code” (Chetcuti, 2009, p.5) with 73% believing the church should speak out in public against homosexuality.

In conclusion, sexual relations in Malta have traditionally been solely for the purpose of procreation, and marriage was seen in religious terms; it was not until 1975 that civil marriage for different gendered couples was introduced (Tabone, 1987). Both church and state throughout history have held common attitudes regarding sodomy, later referred to more broadly as homosexuality. Even if their perspectives differed somewhat, both church and state still held the belief that homosexuality is different and outside the norm. It is only from the second half of the twentieth century that church and state positions began to diverge. These developments are the focus of the work to follow.

Chapter Three: Methodology

According to Rajasekar et al. (2006), research is a logical and systematic search for new and useful knowledge on a particular topic. Different designs and methods can be used for this purpose. The research methodology enquires into how the research is carried out and further explains why certain tools are used in contrast to others. Furthermore, the methodology shows the process of data collection and analysis, as well as the limitations pertaining to the chosen methodology. This chapter describes and justifies the methodology followed in this study.

3.1 Research Strategy

There are two main research strategies: qualitative and quantitative. While the first approach seeks to understand reality through interpreting the meaning of language and experience, the second is more likely to entail numerical analysis about a particular subject.

There are many different views on the merits of qualitative and quantitative research methods and on which method works best in which situation. This researcher has opted for a qualitative research method, in which specific text, literature and records will serve as the data for this research. Qualitative research is explained as the “naturalistic approach that seeks to understand phenomena in context-specific settings, such as "real world setting [where] the researcher does not attempt to manipulate the phenomenon of interest” (Patton, 2014, p.39).

This approach was deemed most relevant to the research which aimed to increase understanding of the socio-political realities of Malta in the 1970s, illustrated by the conversations between major social and political actors that dictated the moral measure of society. In this context, qualitative research is more suitable than quantitative to conduct an in-depth study of social and cultural phenomena recorded in historical texts (Myers, 2020).

This qualitative research examined the language, conversations and significance of a series of parliamentary sessions, newspaper articles, letters to the editor and pastoral letters published by the Congregation of Bishops of the Maltese dioceses on the topic of homosexuality during the period of investigation.

The researcher first analysed parliamentary debates on homosexuality as a criminal offence from the late 1970s until early 1973. The researcher then searched for homosexuality and decriminalisation in other data sources, including newspaper articles and pastoral letters within the same period, and tried to build an account of the conceptualisation of homosexuality at that time.

3.2 Research Design

Research design is the framework within which research methods and tools are used to collect the necessary data. The research design should allow one to answer the question under study. There are many different research designs such as experimental design, cohort design and case study design. For this literature the researcher chose a historical research design.

“Historical method refers to the use of primary historical data to answer a question. Because the nature of the data depends on the question being asked, data may include demographic records, such as birth and death certificates; newspapers articles; letters and diaries; government records; or even architectural drawings” Tuchman (1994).

Danto (2008) writes about how historical research allows us to expose the stories that are buried, and are often not within our immediate consciousness. Historical research design supports the researcher in drawing out trends and understanding a social reality of the past. The advantage of historical research design for this study is that it has enabled the researcher to analyse the state of affairs of Malta in the early 1970s, particularly in respect of how the colonial laws were viewed by, and in turn affected, the conversations between different stakeholders at that time.

3.3 Research Methods

Research methods are the means of collecting data for a particular research study. There are many types of data collection tools such as questionnaires, structured interviews and observations of participants. The right method for a given research question increases the validity of the research, that is, it will measure what is supposed to be measured. The researcher has chosen documentary analysis for analysing documents, both printed and electronic material (Corbin & Strauss, 2008).

As any other qualitative research method, documentary analysis requires the researcher to examine data, evoke meaning, gain understanding, and develop

knowledge. In order to do so, documents were collected from the Informa Research Library, with the Times of Malta newspaper extracts collected from their online database subscription.

The selected data are based on their relevance to the research question and how they relate to the understanding of the socio-political issue in question, the decriminalisation of homosexuality. The selected documents include the manifestos of the political parties for the 1971 parliamentary elections and parliamentary debates of 1972 and 1973 during which the decriminalisation of adultery and homosexuality was discussed. Documents also included pastoral letters, as well as newspaper articles reporting on the subject, between November 1972 and January 1973 which were sourced from The Times of Malta and In-Nazzjon tagħna.

3.4 Data Analysis

Data analysis is a process that a researcher uses to reduce data to a story and its interpretations (LeCompte and Schensul, 1999). Patton (1987) explains that during analysis three things occur: data is organised, data is reduced through summarization and categorisation, and patterns and themes in the data are identified and linked. There are a number of approaches to analysis such as ethnographic, phenomenological, narrative and thematic analysis.

For the purpose of this research, the researcher used thematic analysis. Thematic analysis is a flexible method that identifies, examines and records patterns within data and in this way can provide a rich, detailed, and complex account of the data (Gaskell & Bauer, 2000). Thematic analysis was considered advantageous for

this research as it supported the researcher's journey to capture data-driven themes that were being discussed during the early 1970s on the topic of homosexuality. After reading the documents, the researcher undertook a coding and categorisation exercise, resulting in a number of core themes that help to interpret the socio-political realities of context under study.

3.5 Research Quality

Research quality refers to the rigour of the research being carried out. In qualitative research, rigour means being thorough and accurate in what you present. The importance of rigour is heightened by Cypress (2017, p.254), as she writes that “without rigour, research is worthless, becomes fiction, and loses its use.”

While in quantitative research, quality is often taken to refer to reliability and validity, in qualitative research the concept of trustworthiness has become standard. Cypress (2017) draws on the classic work on trustworthiness by Lincoln and Guba (1985), who define it in terms of four criteria: credibility, dependability, confirmability and transferability.

“Credibility refers to the ability and effort of the researcher to separate assumptions and biases whilst recognising and presenting the essence of the source” (Cypress, 2017, page 258). For this research, the findings from parliamentary debates, newspaper articles and letters were rigorously dissected and themed according to common phrases and discourse used by the Members of Parliament or authors. The discussion and interpretation were presented separately from the findings to assert that the source is presented factually while minimising researcher bias.

Additionally, according to Lincoln & Guba (1985) dependability can be considered the qualitative research analog to the standard of reliability in quantitative methods research. Dependability is the process to ensure that if another researcher is to replicate your study using the same methods and context, the research would come out more or less the same. On this issue, the researcher has had to trust that the secondary sources used - the official records in the Maltese Parliament – are dependable. Davies & Dodd (2002) point out that when accounting for dependability one is to remain mindful of the partiality and limits of our research findings. In this sense, the researcher appreciates that the newspaper articles and letters to the editors may not be exhaustive and so the themes presented may be limited to the sample of secondary data collected and presented.

Confirmability is the process in which the findings of the study can be corroborated by other researchers. An adequate list of keywords used to start the literature review, a comprehensive document paper trail and dependable and accessible sources throughout the research are all means by which the researcher has sought to ensure that other researchers could corroborate the work done.

Lastly, transferability refers to the ability of other researchers to use the findings of this research in other studies. As Lincoln & Guba (1985) explain, the role of the researcher is not to confirm whether their research can be used in another context, but to present enough evidence (such as techniques used) so other researchers can conclude whether that same research can be applied to different contexts. Through this research, the researcher used a historical documentation analysis, and sourced data from public data records on the topic of homosexuality and how this topic was

perceived in early 1970s. While the findings from 1972 Malta cannot easily be transferred to other socio-political contexts, the researcher hopes that the design followed may be fruitfully transferred to study homosexuality in other former British colonies.

3.6 Ethical Considerations

It is often assumed that research based on secondary data can disregard ethical considerations, but that is not correct. From the very first conception of research, all researchers must ensure that their research does not harm the public. Undergoing research means that one needs to make a number of ethical considerations (Miller & Birch et al., 2012) including informed consent, non-maleficence and respect for anonymity and confidentiality. The research ethics procedures of the University of Malta must also be followed.

Although no primary research is carried out, the researcher submitted a self-assessment as required by University procedure. The researcher has sought to present and analyse the findings in an integral and non-biased manner, without plagiarism and with clear indications when quoting or paraphrasing an already published work.

3.7 Limitations and Strengths

Any research has its own limitations that can impact the validity and reliability of the findings, often not predicted in the original methodology. Some of these can be mitigated, but other restrictions are beyond the researcher's control. One limitation is that the newspaper articles may not be exhaustive and therefore may only present a

limited perspective on the reality of the conversations and opinions being presented at the time around homosexuality. The research proposal was written during the COVID-19 pandemic, and thus access to secondary data through public libraries and other public spaces was limited. This research study was written within a word limit of 10,000 words and so the presentation of the findings was limited, with certain themes not receiving the elaboration they deserved.

With these limitations in mind, the researcher suggests that a strength of this work may lie in its novel approach in local social policy research, adding to our understanding of the roots of contemporary social phenomena. Another strength is that the researcher has sought to abide by quality criteria for qualitative research to his best ability.

Chapter Four: Findings

The first section of this chapter sets the scene in 1973 Malta. The following sections set out the findings in themes, after the coding process. The quotes used in this findings chapter are from parliamentary references derived from House of Representatives, Parliament of Malta – January 1973, as catalogued at the Informa Research Library, Pieta – Malta.

4.1 Malta in the early months of 1973

The early 1970s saw the birth of the Republic of Malta. The 13th of December 1973 is jotted down in history as the day of a new dawn, when the British Monarch was no longer Head of State of the Maltese islands. The vested constitutional powers were transferred under the helm of the President of Malta, Sir Anthony Mamo. The months before this monumental constitutional change were characterised by debates on how this newly found freedom would impact Malta.

Malta at the time was going through a transitional phase in which foreign relations, laws and societal practices were being significantly revised. From the decimalisation of Maltese currency (in 1972) and what would be a new era for commerce, to a rising protection of workers' rights and of manual jobs, to a new government (1971), the fabric of what constituted the Maltese islands was changing.

The 1971 election saw an increase in parliamentary seats from 50 to 55, with the Labour party (hereafter referred to as MLP) clinching 28 parliamentary seats, in

opposition to the 27 seats of the Nationalist Party (referred to as PN). The new Labour government led by Mintoff would introduce a number of legal amendments that were controversial at the time. One of these, Chapter 12 of the Criminal Code, provided that ‘homosexual acts between consenting adults in private would be decriminalised’ and was presented as a first reading on the 20th of November 1972. The objective and reasons behind this bill were as follows:

“The main object of the bill is to update the Criminal Code with regard to sexual offences in the light of the more recent and more generally accepted socio-medical opinion. The bill abolishes the crime of adultery and provides that homosexual acts performed by adults in private shall no longer constitute a criminal offence. The bill also places hetero and homosexual offences on an equal footing in so far as the complaint of the injured party is required for the institution of criminal proceeding....” Supplement, Government Gazette, Nr.12, 764, 19th December 1972.

The timing and presentation of the decriminalisation amendments were to provoke controversy in the House of Representatives. Dr. Farrugia (p.297) on behalf of the Opposition party (Nationalist Party, hereafter PN) stated that:

“This government is proposing such a law [decriminalising homosexuality] precisely during the turbulent times that our country is facing through the

dispute with the British Government and so hindering the opportunity that the public should reflect on the implications of such a serious law”.

Dr. Felice (PN), (p.419) queried why the government had not foretold of this amendment, when he said “Where is it written in any manifesto that a particular political party or government was going to amend such a law?”

The Second Reading followed throughout the opening days of 1973. At the time, it was only same sex relations between men that was a crime. Dr. Brincat (MLP) (p.168) reaffirmed the need for legislative change, as the situation at the time discriminated against men. “What we are removing is the sexual relationship between man and man, and not between woman and woman - as this was never a crime...”.

In this chapter, the researcher proceeds to outline the main themes that emerged from the documentary analysis pertaining to the 1973 decriminalisation. These themes include the following: (a) Homosexuality as ‘The Other’; (b) MPs conflicted over the need for the law; (c) disagreement over the etiology of homosexuality; (d) moral discourse couched in religious terms; and (e) a common desire to protect society but from different perspectives.

4.2 Homosexuality as ‘*The Other*’

Homosexuality was presented as different from the norm. This was articulated clearly in the Episcopal letter written by the Episcopal Congregation in January 1973, which stated that “Homosexuals are sick people or not fully normal” as published on ‘Lehen is-Sewwa’ of 6th of January 1973.

The concept that there is one particular ‘normal’, and that homosexuality challenges that normal was debated by the House, albeit for different reasons. Dr. DeMarco (PN), (p.119) questioned “who is the normal person?” Similarly, Dr. A. Hyzler (MLP), (p.266) queried “...what is normal and what is abnormal?”.

In light of this social construction of normality, a number of MPs believed that practising homosexuals might not have developed ‘normally’ like other people. Departing from this idea, Dr. Brincat (MLP), (p.174) argued that we all have our different points of view and should not generalise, as “This is similar to us seeing Chinese people all the same, just as they from their end see us all the same”.

Homosexuality was portrayed as different to a masculine norm, that is, as closer to characteristics which were typically associated with the female role, as illustrated by the comments of Dr. G. Hyzler (PN), (p.393) “...the real homosexual doesn’t necessarily behave differently from a normal man. However, the majority dye their hair, walk in an effeminate way and use a female voice...”. G.Hyzler continued to say that “such a tactic is used so the ‘homosexual’ showcases that he is open for business. He is in this case a prostitute. One which uses such a tactic, to attract other men and showcases he is the person one is to contact if one need such service”

4.3 MPs conflicted over the need for the law.

It was clear that the law in question was broaching a division, one fueled by the lack of statistics and court cases about homosexuality. Mr. Mintoff (MLP), (p.374) stated that in the last century there were no homosexuals taken to court. This was supported by Dr. Camilleri (PN), (p.482) who pointed out that only one case had been

brought to Court, in 1890. For Dr. Mifsud Bonnici (PN) (p. 374) and Dr. Tabone (PN) (p.189), this meant that no legal amendment was actually necessary.

The British had a solid base in Malta, one which experienced a lot of activity in Malta's years as a colony. Dr. Brincat (MLP), (p.173) pointed out that the few cases that did exist, were those of British soldiers that arrived on ships and stayed here for a few weeks and that were used to homosexual acts abroad. Brincat added that even if one had to request information on how many 'homosexuals' are in this country, it would be impossible for the Justice Minister to present the numbers.

As a counter argument to the lack of statistics Mr. Mintoff (MLP), (p.115) explained that such absence does not mean it is not a reality;

“...this is similar to suicide, if you commit suicide in such a country like Malta records are not going to show, because it is condemned as a sacrilege by society, so the family will avoid that. There are other similar examples such as homosexuality, incest and others - we don't have a record”.

Dr. Camilleri (PN), (p. 482) concurred that homosexuality was a taboo, stating that

“...these acts are being done in private and with a certain degree of fear...”

Dr. G. Hyzler (PN), (pp.400-401) also claimed that “Our Maltese society is not in need of such law” and indeed, that people had not understood the need for such a law. There was a lack of expressed public opinion on the matter. As one opinion piece written on the PN-leaning daily newspaper ‘In-Nazzjon tagħna’ expressed, “Definitely there is no outcry from the public for such a dangerous amendment. The everyday

citizen is definitely not asking for such a change in the law regarding homosexuality”
(Editorial, 1972, p.2).

4.4 Disagreement over the etiology of Homosexuality

The concept of ‘othering’ was clear in the choice of language; *“these people”* was used to identify ‘homosexuals’ Homosexuality at the time was evidently something different, something bad and to be ashamed of. Such negative language would take centre-stage in understanding the etiology of homosexuality.

In his introduction to the proposed legal amendment Justice Minister Dr. Buttigieg (MLP), (p.64) said: “As we all acknowledge, people of homosexual tendencies are sick and so we should not imprison them”. This contradicted what Mr. Mintoff, Prime Minister (MLP), (p.112) of the time stated, that “...this is not a matter of sickness, such individuals are born this way”.

Throughout the representation of homosexuality, the wording used by parliamentarians was the lack of some innate ability or some abnormality. For instance, Dr. Moran (MLP), (p.337) stated “they are not 100% healthy, and when I say healthy I don’t refer to the physical but mental ability“

Dr. A. Hyzler (MLP), (p.228) challenged the implication that homosexuality was an illness to be treated. “These numbers are very small, and I am convinced there is nothing one can do for them...We should not imprison them not because they are mentally sick, far from it - many great minds were like this [homosexual] ... it is caused by a cellular imbalance”.

Pedophilia was another reason put forward for homosexuality. Dr. Cassar Galea (PN), (p.345) said “...if all homosexuals are truly born sick and so we should not condemn them, should we then condemn those who ... defile children, aren't they also sick?” .

Dr. A. Hyzler (MLP), (p.276) also remarked on the power of the environment to shape homosexual behaviour, saying that “...if there is a place where homosexuality exists, and when I say homosexuality, I include also sadism – it is in fact prisons, convents, colleges, retreat houses/ships, and places where there are so to speak - same sex individuals...”.

The argument followed that if homosexuality is caused by the environment, institutions such as prisons are not the place for ‘homosexuals’ to be. In the words of Dr. Buttigieg (MLP), (p.53). “If you imprison the person, the odds are the person will be drawn to homosexuality and so you can endanger other prisoners...”.

However, challenging this Dr. A. Hyzler (MLP), (p.278) pointed out that individuals prefer to be imprisoned rather than subjected to a mental institution due to the stigma regarding the mental institution.

Dr. G. Hyzler (PN), (pp.394-395) synthesised the debate when he questioned: “How should we classify homosexuality...is it a matter of birth? Is it hormonal imbalance? Most importantly, is it physiological? Or are there any two factors of the above?”

This disagreement prompted the Opposition to seek to delay the amendment. Dr. Tabone (PN), (p.261) asked the government “let us have more research on this and then we will see what is most appropriate to do”. Dr. Mifsud Bonnici (PN), (p.373)

rejected the whole debate and sought to reposition it, by stating “it is difficult to determine the scientific cause...however, the conversation should be whether or not there is a social interest in decoupling homosexual acts from crime.”

4.5 Moral discourse couched in religious terms

Dr. Buttigieg (MLP), (p.41) in his initial speech that opened the floor for discussion said that “any crime has a moral aspect, political aspect and legal aspect”. The first of these three, morality would be debated at length.

The Congregation of Bishops through the Episcopal letter touched upon the right and responsibility they have as leaders of the Church to “talk about such subjects and explain to their followers that the legal presentation homosexuality changes nothing from the moral beliefs imposed by God” (‘Lehen is-Sewwa’, 1973).

The letter continued that morality through marriage and family is the foundation of society. The proposed amendments were a threat to such. They recommended that those in power to influence laws are to decide on the principles inherited by our fathers that reflect the moral principles of catholic faith.

A reference to such a letter was then made by Dr. Tabone (PN), (p.191) when he reflected that such law is not an improvement in our morality “Laws should correspond with, not be identical to, the morals and religion professed in a country”.

On the contrary, Mr. Mintoff (MLP), (p.130) claimed that “...from our side [the Government] this law is not about challenging morality, because when it comes to morality everyone should act on it according to what beliefs they have and they are to be courageous to act upon such beliefs.”

Dr. Brincat (MLP), (p.166) observed that “it is not necessary that everything that is immoral or not moral to have a law, as the law one needs to present is that which reflects society as a whole. It would be foolish to make moral law, the law of the land; as catholic beings, we would be observing the law of God not because one truly believes in it nor because one wants to go to heaven, but because it is a crime”.

Brincat then warns that the Members of Parliament are not to criminalise sins. Even masturbation is a sin; however immoral, at no point is it listed as a crime.

On the other hand, Dr. Farrugia (PN), (p.290) mentioned how our constitution states that Catholicism is the religion of the state and as Members of Parliament who are all catholic, they represented a society which was one hundred percent catholic, so “our duty is to reflect the church and the commandment given by God.”

The importance of the Church in Malta at the time was illustrated by Dr. Farrugia (PN), (p.291) when he questioned “...I will directly ask Minister Buttigieg and ask if such amended law was consulted and approved by the local Episcopal authorities,” to which the Minister responded in the affirmative “...this law [homosexuality] has been discussed through the last year and a half, with the Bishops in agreement that homosexuality is a sickness”. The Bishops informed Buttigieg “we have to issue a pastoral letter and condemn such as morally illegal” in which Buttigieg - MLP articulated that he understood such need.

Most Members of Parliament, although from different perspectives and sides of the house, used religious metaphors to express their beliefs and thoughts and to substantiate their arguments. Brincat (MLP), (p.168) said “we are not lent preachers or a confessional”. Dr. DeMarco (PN), (p.105) used the term “not everything I say is

gospel”. Hon. Dr.Fenech Adami (PN), (p.404) used the Old Testament in his argument to protect the family.

4.6 A common desire to protect society but from different perspectives

The need to protect society was a common desire across the floor; however, Members of Parliament articulated different perspectives on why such protection was necessary. One such perspective was that the foundation of society is family, and so protecting the family at all costs should be a priority. Dr. Tabone (PN), (p.190) reminded his fellow colleagues that “we have always been proud of our Maltese family, a strong family as a nucleus of the state, and I’m sure we all agree that we are to keep the family as a strong unit, one which we should shield from any threats”.

Some of the concerns that were expressed by Dr. Tabone (PN) (p.256) were that the introduction of this law would mean a small increase in homosexuality, as the introduction might encourage “associations and clubs as in foreign countries, which would allow those of sexual perversion to practice in public without fear and pervert others”. This presents an insight that, at that time, homosexual associations or open labelled clubs were not a common reality in Malta.

Another perspective was the slippery slope. Dr. Farrugia (PN) (p.296) feared that the proposed amendment would “serve as a stepping stone for other laws, such as divorce, abortion to be legalised” as had happened in other countries.

The Labour Party opted to centre its counter-argument throughout the debate on the literal wording of the law, that is, “...the act is to be in private between consenting adults. The rest of society will keep on protecting itself from

homosexuality”. Dr. Buttigieg (MLP), (p.51) warned that “the person [‘the homosexual’] can do as they wish within the limits of the law and if he doesn’t then society must protect itself from him”.

Yet another perspective was that society would be protected by the exercise of compassion. In the words of Mr. Mintoff (MLP), (p.133) “we are to have compassion and be men enough not to imprison them just because they may be different”. Dr. DeMarco (PN), (p.143) had a different approach to compassion, stating that “Society needs to be protected as well, we have two responsibilities, compassion to the individual and to protecting society”.

To protect society is to protect everyone, even the ‘homosexuals’. Dr. A. Hyzler (MLP), (p.284) mentioned how the law was needed so that they [‘homosexuals’] need not live in fear. He earlier mentioned how an acquaintance “has been blackmailed since being caught in the act” and added that “some live in fear of being blackmailed...this is what we don't want to have" (p.274) This was challenged by Dr. Mifsud Bonnici (PN), (p.375) when he said “I’m afraid blackmailing will still be a factor even if such law is repealed, as [homosexuality] is condemned by society.” He continued “...this is a fact, the person is ashamed and will hide it [‘homosexuality’] and so blackmailing will still happen as the person will be afraid”.

To protect society also meant to safeguard minors. In his remark Dr. DeMarco (PN), (p.119) explained his thoughts on institutions, sexual corruption of the young and the age of consent. “We need to account for corruption as this can do great damage to the individual. The fact is that one who is not sexually mature, can be perverted”. Dr. Mifsud Bonnici (PN), (p.385) suggested that “...there are some who

opt [for sex] with young minors so I believe that young men aged 18 to 21 should be protected.” Dr. Tabone (PN), (p.195) articulated his concern that those with sexual ‘perversion’ would be “the ones who benefit the most [from the amendment], to an advantage for them and a cost to society”.

4.7 Conclusion

In conclusion, on the 29th of January 1973, the amendment bill was presented as a third reading with a narrow margin of 28 in favor and 26 against, with Members of Parliament voting according to their party position on the matter. The parliamentary debates reflected the social reality at that time. Homosexuality was something that was not to be talked about and being homosexual was to be frowned upon. The rights of homosexuals were to be observed merely out of compassion rather than the belief that they are equal. The socio-political conversation strongly suggested that homosexuals either did not exist or were a foreign reality introduced by previous colonial powers. Lastly, the link was repeatedly made between homosexuality and pedophilia, which quite probably further deterred the social acceptance of homosexuality at the time. There was no visible organisation advocating for homosexuals, and no activists writing in the newspaper. The context as presented in the debate was that homosexuality in 1973 was a theoretical concept, one that was discussed and not lived.

Chapter Five: Discussion

5.1 Introduction

As policymakers, it is important to reflect on the historical path that led to the introduction of particular policy or law. This reflection enables us to understand the process by which a law was introduced. It equips us with the necessary understanding of the context in which a policy was written, therefore enabling us to understand how that reality has changed throughout time. Policy does not exist in a vacuum, so it is important to understand changes in the challenges and demands from the public, whilst being attentive to the impact of the adoption of a certain policy on other policies and laws.

Therefore, this research focused closely on the socio-political context of Malta in 1973, through a study of parliamentary debates, newspaper articles and episcopal letters. This allowed the researcher to ‘listen’ to a societal conversation of only fifty years ago, yet occurring in a context so different to contemporary Malta. As in the Findings chapter, references to MPs derive from the parliamentary debates under study.

In the first days of 1973, the conversation within the House of Representatives of the Parliament of Malta reflected the close links between morality, law and society. While at a surface level, the debate revolved around homosexuality, it exposed MPs certainty that they should safeguard society’s moral beliefs. This expectation on the

part of MPs was mentioned in the episcopal letter, letters to the newspapers, and within the parliamentary debate itself. For instance, Dr. Brincat (MLP) spoke of this link between morality and society when he mentioned that “society is based on the nucleus of family...the best situation is for family to dictate the morality of society, through its teaching”.

Mr. Mintoff (MLP) articulated in his statement that everyone should practice their morality as they see fit. Mintoff would continue to say that “we are not here to attack anyone, no one's beliefs, no Muslim, no any other faith, but as individuals who have to govern, we should not use faith in God [to determine] what is right and what is wrong”.

This assertion was a liberating, forward-thinking facet of the debate, detaching the concept of what is right and what is wrong from religious dogma. It touches upon Nietzsche’s work “On the Genealogy of Morality” (1887). In his publication, Nietzsche presents an evolution of concepts like guilt, conscience, responsibility, law and justice, questions the origins of ‘good and evil’ and challenges moral concepts transmitted through Christianity and Judaism (Diethe, 2006).

Nietzsche was not the first to debate the relation between a deity and morality. Socrates, in his dialogue with Euthyphro, asked whether “goodness is loved by the gods because it is good, or whether goodness is good because it is loved by the gods” (Koehn, 2011, p.1). The so-called Euthyphro dilemma reflects the notion of what dictates morality, and whether or not morality is something separate from God. This is not to undermine the role of morality in shaping acceptable behavior, and the

obligations of a citizen, and indeed law is also a source of morality (Bilz & Nadler, 2014).

Historically, one of the major functions of organized Christianity has been the propagation of a moral code (Voert, Felling & Peters, 1994) and the constitutional connections between Church and State are part of Europe's history with religion having a strong bearing on state morality (Sandberg & Doe, 2007). Eras such as the Bourbon Restoration in France and the rule of King William I in the Netherlands, both in the early 19th century, are examples of how the state strengthened its relations with the churches and religion in general (Rutjes, 2017). This would have an impact on the geopolitics of Europe that would be felt throughout generations.

The separation of church and state is considered fundamental to a modern liberal democracy (Rutjes, 2017). Secularization, believed to characterize the modern world as much as urbanization or industrialization (Cox, 1975) has been further strengthened by the emphasis on choice and control that is supported by neo-liberal agendas (Razavi & Jenichen, 2010). The rise of human rights such as gender representation, elevation of ethnic minorities, and recognition of diverse sexual orientations, have also reinforced secularisation. Not everyone agrees that secularisation is all good; some argue that the decline in religion has led to moral breakdown, where people interact on the basis of self-interest rather than on charitable motives (Voert, Felling & Peters, 1994).

In Malta, the church and the state have historically been closely related. As Cassar (2006) reminded us, in the new Council of Government granted by the New Constitution of 1849, three of the elected eight members who represented the Maltese

population were members of the clergy.. Cassar wrote that “it conveys a clear indication of the influence of the Church in the life of the community and the impact this might have on future development” (Cassar, 2006, p.24). The Church was such an influential body that in the Declaration of Rights of 1802 written by the Maltese élite to the newly-arrived British, “the defence of the Catholic Church” was one of the demands (Cassar, 2006, p. 17). Fifty years later, the Penal Code of Malta (1853) issued by the Ordinance of the Queen (Victoria) gave the Maltese the freedom to keep practising the Roman Catholic religion (Lee, 1963, p.13).

The comments made by Mintoff, reflecting that parliamentarians are not to govern by the faith of God, were unprecedented at the time. These comments challenged the role of the church in Maltese society at a time when the Church was the gauge of morality in Malta. The conversations about morality, and the respective roles of the Church and State as suggested in the findings of this study, followed closely on a period of political turmoil around *l-interdett* - the ‘interdiction’ of the late 1960s (Grech & Sansone, 2011). In the early 1960s, the church in Malta was led by Monsignor Gonzi, Archbishop of Malta who many believed to be a strong ally of the conservative Nationalist party. Monsignor Gonzi feared that the socialist movement by Mintoff would spread communist propaganda and Mintoff, then Labour Party leader, was indeed well-known for his battle-cry for the separation between church and state. The interdiction was a war that shed no blood, where the church banned the Labour party and accused its supporters of mortal sin. Labour activists were refused marriage in church and were not buried in consecrated cemeteries but at ‘*Il-Mizbla*’ (the rubbish

dump), which was unconsecrated ground at the Addolorata Cemetery for profanes and the unbaptised.

The impact that the political fallout from interdiction would have on this debate and others during that time is to be researched further. However, a glimpse of the social discourse at the time was presented by Mintoff, when he said that some are using the opportunity presented by decriminalisation to suggest that “we (MLP) are going against religion”. The findings generated an important question for the researcher, that is, whether the MP has a role as a moral compass for society. In their debate, parliamentarians failed to question the origins of morality, nor did they examine critically how history and societal tradition came to represent popular morality.

Another issue worthy of discussion is the way in which homosexuality was defined and characterised at the time. As mentioned in the literature review, the words heterosexual and homosexual were coined in the late nineteenth century by Karl Maria Kertbeby, an Austrian writer (Elton, 2021, 13:46). As G. Hyzler (PN) noted, the word ‘homo’ does not mean man; it means ‘the same’”. To a researcher, this seems a simplistic view of the etymology of the word homosexual. It reflects poorly on the quality and calibre of the debate at the time, and failed to dissect the historical nuances of the term.

Writing in 1976, Foucault used Nietzsche’s work to research the history of sexuality. Foucault wrote that the coining of the words hetero- and homosexuality served to facilitate rather than repress such behaviour, because “...homosexuality began to speak on its own behalf...” (Foucault, 1978) and thus became visible.

However, in Malta, the debate about homosexuality did not seem to fully recognise the fundamental fact presented by Foucault that humans are sexual beings.

As a matter of fact, during the Parliamentary debates, the conversation about homosexuality depicted it as a bad deed, as worthy of taboo. This may have reflected the situation in Malta at the time, where sex was discussed through a negative lens; where societal norms required the repression of sexuality, and where sex was only to be for the procreation of children. Although it was unclear when this started, Victorian social norms helped reinforce this repressive attitude and suppressed non-heterosexual or non-marital sex.

Thus, the finding that homosexuality was challenging many norms in Malta reflects a broader lack of societal understanding of sexuality. The researcher reflects that the insufficient understanding of homosexuality at the time did not necessarily stem from a place of homophobia (a word coined later), but from this general lack of understanding about sexuality as demonstrated, for example, in the linking of homosexuality with pedophilia, kink and perversion in the parliamentary debates.

Throughout different epochs, as an island, Malta was never free from external influences. As Cassar (2000) stated, “Cultural influences from neighboring southern European and North African states continued to be integrated into the socio-cultural fabric of Malta” (p. xiii). This foreign influence shaped the way laws and policies were made and implemented, based on the British Westminster model (Pirota, 2006), as well as the substance of the laws themselves, for instance, the Penal Code of past colonial policy where homosexuality was criminalised.

History has repeated itself. As seen, homosexuality was decriminalised as part of a socialist progressive movement led by Mintoff, with little social conversation around the issue. Just over four decades later, the socialist progressive movement led by Muscat brought about a positive increase in equitable legislation on civil rights. The departure of the British, and Malta's accession to the European Union respectively, were critical points in the development of civil rights for homosexual persons.

This research, which portrays a new angle on historic events, contributes to modern literature about homosexuality in Malta. Through the collection and analysis of parliamentary speeches, it adds new insight into the socio-political context of the early 1970s. It also underscores the need for a future in which policymakers can look at their policies from another historical perspective. This study has unfurled a new path for further research about how socio-political conversations shape the development of laws and policies. This study also generates interest in studying socio-political discourse in the months leading up to the Civil Union Act of 2014, and to compare this with that of 1973. This new information also assists international readers in their search for understanding of the journey that Malta went through to be one of the most progressive LGBTI countries in the world.

5.2 Recommendations

This research aimed to address a research gap in understanding the socio-political context that led to the decriminalisation of homosexuality in Malta. The literature review, methodology and findings have led the researcher to believe there

are a number of recommendations that would help elaborate further on this important period in LGBTI history in Malta:

- Further research on the topic with the aim to comprehensively present other elements of the social conversation at the time, including radio debates, TV programs and more comprehensive newspaper articles.
- A secondary research study that will, through qualitative methods, interview Members of Parliament of the time who are still alive.
- A secondary research study that will, through qualitative methods, interview homosexual men who were adults in the early seventies.
- Further research on official documents, letters, diaries and communiques between the Church and Members of Parliament at the time of the decriminalisation of homosexuality in Malta.
- A comparative research study on the social-political discourse that led to the Civil Union Act in 2014.
- A comparative research study on the decriminalisation of homosexuality in all Commonwealth countries.
- A comprehensive analysis of Melitensia to characterise LGBTI representation throughout different epochs.
- The formulation of a database for literature and research published about, or including, LGBTI Malta.

Chapter Six: Conclusion

This research aimed to contextualize and understand the socio-political discourse in 1973 Malta, and the conversation around homosexuality at the time. The work started with a literature review that outlined a history of sexuality across different broad epochs. Sexuality has variously been viewed as a liberating form of self-expression on the one hand, and the oppression of sexuality and the failure to acknowledge the individual as a sexual being on the other. Such oppression, reinforced by Victorian norms, trickled down to colonial territories (today known as Commonwealth countries), which have shared a heritage including legal provisions and norms such as the family existing for procreation. Almost four in five of the 54 Commonwealth countries have now decriminalised homosexuality.

The literature review was followed by a qualitative analysis based on a historical research design, which allowed the researcher to go back half a century and ‘listen’ to the discourse of the time. Thematic analysis allowed the researcher to elicit a number of themes, through the coding of parliamentary speeches, newspaper articles and episcopal letters.

Reflecting on the local context, the repression of homosexuality is not to be pinned exclusively on the British Penal Code. Various laws and customs were inherited from past colonial powers, such as the Knights of St John, who treated homosexuality as felonious, and often punished it in order to uphold moral values dictated by the Church. Some historical literature in Malta refers to the treatment of homosexuals as criminals. Whilst these cases may be few, the literature reflects a very negative perception of homosexuality, with some homosexuals labelled as *imtektek*

(crazy) and *'imxaqleb'* (inclined – to gay tendencies). The negative labelling and connotations attributed to homosexuality quite likely stemmed from a lack of education and the absence of organised LGBTI groups which only emerged with the establishment of Malta Gay Support Group in 1987 in the middle of the AIDS epidemic, and was later on sustained by the creation of Malta Gay Rights Movement in 2001.

As Malta went to the polling booths in 2003 to vote for or against the accession of Malta to the European Union, it positioned itself on a European map - one which by 2021 would classify Malta as the most progressive country in Europe when it comes to LGBTI rights. However, this journey towards LGBTI rights started long earlier, with the decriminalisation of sodomy in 1973. The political conversation around this topic spanned two months, with the first reading of the amendments to the criminal code presented on 20th November 1972, and the final vote on the third reading being presented on 29th January 1973.

This conversation often entailed heavily heated arguments. Members of Parliament discussed the need to 'protect' society from homosexuality. They had lengthy debates on the etiology of homosexuality, with some arguing that homosexuality is a sickness, others a physical abnormality, and yet others a choice driven by perversion. This nature versus nurture debate would echo across the social realities of years to follow. In all of this, the moral responsibility of Members of Parliament to society was questioned, with newspaper articles calling for Members of Parliament to uphold the moral basis of the country as enshrined in the Constitution.

The debate on the origins of morality is one found through history. In 1973 Malta it took center stage, as some MPs drew on tradition and called for the family to be protected as our ancestors always did, with other MPs arguing the need to shake off colonial influences and laws. Mintoff was driving this change in the shadow of the interdiction a few years prior. The decriminalisation of homosexuality, adultery and other civic code amendments were part of a larger movement towards a truly independent, secular and modern Malta.

This study adds further insight to the civil rights movement in Malta, by looking through a lens of the past. It suggests new research avenues that will broaden and deepen this insight. Two notable suggestions include comparative research on the socio-political discourse that led to the Civil Union Act in 2014, and a secondary research study that could, through qualitative methods, interview persons who were Members of Parliament in 1973 and who are still alive today to gain a fuller picture of this momentous change in the history of LGBT civil rights in Malta.

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Appendix

This is a list of the Parliamentary group that constituted the third legislature (1971-1976) of the House of Representatives, Parliament of Malta as extracted from Parliament of Malta web portal on the 20th of May 2021.

Malta Labour Party

Nationalist Party

Appendix 1 (List of Members of Parliament, House of Representatives, Parliament of Malta (1971-1976))

Abdilla, Rokku	Attard, Coronato
Abela, Joseph	Baldacchino, Alfred
Abela, Wistin	Bonello du Puis, George
Agius, Kalçidon	Bonnici, Alfred
Baldacchino, Joseph	Bonnici, Emmanuel
Barbara, Agatha	Borg Olivier, George - Opposition Leader
Bonaci, Evelyn	Borg Olivier, Paolo
Brincat, Joe	Borg Olivier de Puget, Albert
Buttigieg, Anton	Cachia Zammit, Alexander
Buttigieg, John	Camilleri, Giuseppe M
Camilleri, Anġlu	Caruana, Carmelo
Carachi, Paul	Cassar Galea, Joseph F
Cassar, Ġużè	Cauchi, Amabile
Dalli, John	de Marco, Guido
Galea, Kelinu	Farrugia, Herman
Holland, Patrick	Felice, Mario
Hyzler, Albert V	Fenech Adami, Eddie
Laiviera, Nestu	Gatt, Lawrence
Micallef, Daniel	Hyzler, George

Micallef, Freddie	Mifsud Bonnici, Ugo
Micallef Stafrace, Joseph	Muscat, John
Mintoff, Dom - Prime Minister	Muscat, Josie
Moran, Vincent	Refalo, Michael
Muscat, Philip	Spiteri, Carm Lino
Piscopo, Daniel	Spiteri, Joseph
Sant, Lorry	Tabone, Anton
Sciberras, Joseph	Tabone, Vincent
Xuereb, Pawlu	