

# QUEERING JUSTICE: A STUDY OF THE LIVED EXPERIENCES OF LGBTIQ+ OFFENDERS IN MALTA

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## Abstract

This study explored the lived experiences of LGBTIQ+ individuals who had contact with the Maltese criminal justice system, focusing on how sexual orientation and gender identity intersect to shape encounters with justice institutions. Using Interpretative Phenomenological Analysis (IPA), semi-structured interviews were conducted with five LGBTIQ+ offenders aged 18-54, representing diverse gender identities (cisgender and transgender) and sexual orientations (lesbian, bisexual and heterosexual). Participants had engaged with various institutions across the criminal justice pathway, including police, criminal courts, probation services, prison, and drug rehabilitation services. Analysis identified themes of marginalisation, resistance, identity negotiation, and professional engagement. Participants described navigating justice systems as perceived ‘others,’ encountering stigma, discrimination and hyper-visibility linked to their identities. While some professional interactions provided affirmation and support, others reflected experiences of systemic betrayal and practices that failed to recognise or accommodate their identities. Despite these challenges, participants’ accounts reflected resilience, agency and acts of resistance aimed at preserving dignity and maintaining identity coherence within constrained environments. Overall, the findings suggest that identity-based marginalisation and broader structural inequalities continue to shape LGBTIQ+ individuals’ experiences within the Maltese criminal justice system. This study underscores the need for intersectional and identity-affirming reforms, emphasising the importance of moving beyond tokenistic inclusion towards more equitable justice practices.

**Keywords:** *LGBTIQ+, offenders, Interpretative Phenomenological Analysis (IPA), lived experiences, Maltese criminal justice system.*

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## 1. Introduction

Criminal justice systems are often framed as neutral arenas of fairness and equality aimed at safeguarding society. Yet, they do not operate entirely in isolation and could reflect societal norms and institutional practices that may marginalise those outside dominant social frameworks. International research demonstrates that LGBTIQ+ people face disproportionate discrimination and barriers across justice institutions, reflecting broader socio-cultural inequalities (Ball & Fradella, 2024; Vogler, 2025, Zhang, 2021).

However, existing studies often frame LGBTIQ+ communities as victims of discrimination, with limited attention given to those navigating criminal justice processes as offenders (Ball, 2016; Buist & Lenning, 2022). Accordingly, the term “LGBTIQ+ communities” is used to denote shared identities related to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics (SOGIESC) without implying homogeneity. This reflects contemporary understandings of sexual minorities as diverse and networked, shaped by evolving socio-political contexts (Russell, Bishop & Fish, 2023).

While Malta has made significant strides in advancing legal protections for LGBTIQ+ populations, including anti-discrimination and gender recognition laws, LGBTIQ+ offenders remain underrepresented in research and policy. This may limit the understanding of how legislation translates into lived institutional encounters and whether justice systems accommodate diverse SOGIESC effectively. By positioning individual accounts within socio-cultural and institutional contexts, this research explored how practices might be reformed to promote fairness, inclusion, and identity-affirming approaches.

## 2. Literature review

Criminological research has empirically demonstrated that sexual and gender minorities are disproportionately exposed to social control mechanisms, shaped by historically entrenched

cis-heteronormative assumptions (Peterson & Panfil, 2014; Woods, 2017). Early criminological and psychiatric discourses often pathologised non-heterosexual identities, framing them as deviant, criminal, immoral or mentally disordered. Although formal legal reforms have challenged these classifications, their legacy continues to influence contemporary institutional assumptions about gender and sexuality (Knight & Wilson, 2016).

### **2.1. Societal and systemic challenges of LGBTIQ+ identities**

LGBTIQ+ individuals face disproportionate levels of stigma, social exclusion and material disadvantage, contributing to increased vulnerability to justice system contact, particularly through criminalised survival strategies. (Vogler, 2025; Woods, 2017; Zhang, 2021). In close-knit societies, like Malta, these dynamics may be intensified by cultural shaming, moral surveillance and social policing rooted in traditional Christian values and strong interpersonal interconnectedness, positioning LGBTIQ+ offenders as both criminal and immoral (Clark, 2012).

Consequently, within criminal justice institutions, research indicates persistent limitations to recognise or accommodate diverse SOGIESC, including misgendering, using exclusionary risk assessments, and offering unsafe custodial placements. Transgender and gender-diverse individuals are particularly affected, reporting limited access to gender-affirming healthcare and heightened exposure to harassment and abuse. Such practices may reinforce stigma and obstruct rehabilitation, especially where LGBTIQ+ offenders are treated as a homogenous group rather than through an intersectional lens accounting for differentiated needs and experiences (Knight & Wilson, 2016; Russell et al., 2023).

### **2.2. Queer and critical criminological perspectives**

Queer Theory and Critical Criminology challenge assumptions of legal neutrality by examining how criminal justice systems reproduce cis-heteronormative norms through binary classifications, institutional practices, and disciplinary power (Ball, 2016; Buist & Lenning, 2022). Intersectional approaches further demonstrate how sexuality and gender interact with race, class, and other social positions, potentially producing experiences of marginalisation (Paik, 2017). Minority Stress Theory further explains how sustained exposure to stigma and discrimination generates cumulative stress, shaping LGBTIQ+ individuals' vulnerability and engagement with justice institutions, and in turn increased exposure to recidivism (Moorhead, Lewis & Arnall, 2024).

### **2.3. Policy and legislative implications**

Evidence indicates that formal legal protections alone are insufficient to ensure equitable treatment of LGBTIQ+ offenders where institutional cultures and professional practices remain shaped by cis-heteronormative assumptions (Woods, 2017). Without effective implementation and monitoring, reforms risk remaining symbolic. Comparative research demonstrates how cultural and political contexts shape justice responses to LGBTIQ+ rights, including jurisdictions where homosexuality remains criminalised (Redburn, 2022). Although Malta is widely recognised as a leader in LGBTIQ+ rights, reported rates of identity-based violence and discriminatory attitudes indicate a gap between formal protections and lived experiences (European Union Agency for Fundamental Rights, 2024).

## **3. Methods**

This study adopted a qualitative design using Interpretative Phenomenological Analysis (IPA) to explore how LGBTIQ+ offenders navigate their experiences within the Maltese criminal justice system. The study was guided by the research question: "How do LGBTIQ+ offenders experience the criminal justice system, and in what ways, if any, do intersectional identities influence these experiences?" For the purposes of this study, sexual orientation is defined through participants' self-identification as heterosexual, lesbian, gay, bisexual, pansexual and other sexual orientations, while gender is reflected through self-identification as male, female, transgender or non-binary. However, it is important to note that these categories do not capture the full complexity and diversity of sexual orientation and gender identity.

### **3.1. Participants**

Participants were recruited using purposive sampling and comprised five individuals who self-identified as LGBTIQ+ and had current or prior contact with the Maltese criminal justice system; demographics of the sample indicated in Table 1.

Consistent with IPA's idiographic focus, a small, information-rich sample was sought to facilitate in-depth, case-by-case analysis (Smith, Flowers, & Larkin, 2021). Recruitment was conducted through gatekeepers from organisations working with offenders, including rehabilitation services, NGOs, LGBTIQ+ advocacy groups, and social media platforms. Gatekeepers disseminated study information and screened potential participants against predefined inclusion criteria, including participants' age (18 years or older), capacity to provide informed consent, prior or current contact with the Maltese criminal justice system, and self-identification as LGBTIQ+, after which interested individuals contacted the researcher independently. This approach ensured voluntary participation and ethical access to a small and marginalised population while safeguarding confidentiality and autonomy.

*Table 1. Demographic Characteristics of participants.*

<b>Participant</b>	<b>Gender Identity</b>	<b>Sexual Orientation</b>	<b>Age</b>	<b>Services</b>
P1	Transgender Female	Heterosexual	54	Criminal court, Police, Prison, Probation services
P2	Cisgender Female	Lesbian	21	Criminal court, Police, Probation services
P3	Cisgender Female	Lesbian	18	Criminal court, Police, Probation services
P4	Transgender Female	Heterosexual	50	Criminal Court, Police, Prison, Probation services, Drug rehabilitation services
P5	Cisgender Male	Bisexual	37	Criminal Court, Police, Probation services

### **3.2. Data collection**

Data were collected through in-depth semi-structured interviews, allowing participants to describe their experiences in their own terms while aligning with the study aims. Interviews were conducted face-to-face in private, neutral locations, lasting between 45 and 60 minutes, which followed an identity-affirming approach that respected participants' preferred names and pronouns. All interviews were audio-recorded with consent and transcribed verbatim. An interview guide, informed by relevant literature and IPA principles, gathered demographic information and used broad prompts on justice system experiences before exploring institutional interactions and perceived support or exclusion. Interviews were conducted in English or Maltese according to participant preference. Participants also received verbal and written briefings on the study's information, with information and consent forms provided in Maltese or English in either abbreviated or detailed formats to enhance literacy accessibility.

### **3.3. Data analysis**

Data analysis followed Smith, Flowers, and Larkin's (2021) six-stage IPA framework. IPA was selected for its idiographic and interpretative focus, enabling an in-depth examination of lived experience and meaning-making at the intersection of SOGIESC and justice system engagement. Each transcript was analysed individually through repeated readings, detailed initial noting, and the development of emergent experiential statements. These were clustered into Personal Experiential Themes (PETs) for each participant before undertaking a cross-case analysis to identify shared and divergent Group Experiential Themes (GETs).

### **3.4. Ethical considerations**

Given the sensitivity of the research, strict ethical safeguards were implemented, including pseudonymisation, secure GDPR-compliant data storage, and ongoing reflexive bracketing to minimise researcher bias, manage role conflicts, and ensure participants' stories remained central to the study.

## **4. Findings**

Analysis generated four interrelated GETs describing how LGBTIQ+ offenders experienced and interpreted engagement with Maltese criminal justice institutions, indicated in Table 2.

Table 2. Presentation of Group Experiential Themes (GETs) and Subthemes.

<b>Master List of Group Experiential Themes</b>	
<b>Group Experiential Theme</b>	<b>Subthemes</b>
Navigating Systems of Justice as ‘The Other’	Courtroom Visibility and Vulnerability Institutionalised Discrimination in Prison Homophobic and Transphobic Policing
Professionalism and Pockets of Inclusion	Positive Relationships with Professionals Call for Affirming and Inclusive Support Services
Enduring Societal Judgment and Stigma	Social and Online Harassment Being ‘Too Visible’ in Society
Resilience, Identity and Systemic Growth	Owning Queer Identity in Hostile Contexts Resistance and Advocacy

#### 4.1. Navigating systems of justice as ‘the other’

Participants described criminal justice institutions as alienating spaces in which LGBTIQ+ identities became hyper-visible and subject to scrutiny, particularly for transgender individuals in courts and custodial settings. One participant recalls a derogatory comment made by a Maltese police officer; “they call me a dog, they call me ruthless but they don’t ever call me a faggot!” It is important to note that the terminology used in Maltese carries significantly stronger and more disparaging connotations. One participant’s declaration “I don’t have faith in justice! Nothing!” reveals a profound sense of institutional mistrust. Such experiences illustrate how institutional practices and systemic attitudes may reproduce marginalisation despite equality frameworks (Ball, 2016; Ball & Fradella, 2024).

#### 4.2. Professionalism and pockets of inclusion

Participants also described isolated yet significant moments of affirmation, typically linked to individual professionals rather than systemic practices. One participant described a supportive relationship with a professional stating how “she used to take care of me a lot, even till today. She calls and checks in. I always respected that woman. I will keep thanking her to my death!” Respectful communication, recognition of LGBTIQ+ identity, and access to appropriate support were experienced as fostering trust and belonging within otherwise alienating systems, reflecting “recognition as a form of justice” (Fraser, 2000), supporting restorative justice and reducing recidivism. However, these encounters were framed as exceptions, highlighting the fragility of systemic inclusion. This underscores the limits of inclusion and the need for structurally embedded, identity-affirming practices (Moorhead et al., 2024; Redburn, 2022). One further asserted that “professionals should treat us the same like they treat others. We’re not animals! We’re not pigs just because we’re lesbians! It makes me angry, the thought of it.”

#### 4.3. Enduring societal judgment and stigma

Participants reported societal stigma beyond justice settings, including familial rejection, cultural shaming, and online harassment. Despite Malta’s legal framework, participants perceived a persistent gap between legislative protection and social acceptance (Clark, 2012). One participant reflected: “The problem is not the law... but changing people’s mentality; it is something totally different.” Others noted how community attitudes produced constant scrutiny: “I see the way people look at me. They look at you differently,” and “We are in 2025... but in mentality, we are 100 years behind. People still call me ‘faggot’”. This surveillance contributed to feelings of vulnerability and social exclusion, reinforcing the notion that justice involvement for LGBTIQ+ offenders may extend beyond legal sanctions into everyday life (Ball & Fradella, 2024; Zhang, 2021).

#### 4.4. Resilience, identity and systemic growth

Despite systemic constraints, participants articulated resilience through identity affirmation, resistance, and self-advocacy. One participant reflected: “At the end of the day, we are all human... it doesn’t make a difference.” Acts of asserting identity, challenging misrecognition, and supporting others were framed as means of preserving dignity within hostile environments with one stating “I’m still like this, you cannot change me. Even if you threaten me, even if you threaten to put me in prison, even if you beat me, torture me. I’m not going to change. I’m a lesbian and I’m proud!”. These accounts highlight how participants transform marginalisation into agency, fostering personal resilience and contributing to broader social and systemic awareness (Buist & Lenning, 2022). Participants also called for social acceptance asking for people to “stop judging. Live your life how you want and let others live how they want...”

Everyone is human so there are no rules to be a certain way. We have always existed and we will continue to exist forever!”

#### 4.5. Cross-theme synthesis

Visibility functioned as a central tension, simultaneously exposing participants to harm while also enabling empowerment. While justice institutions frequently rendered LGBTIQ+ identities hyper-visible in marginalising ways, participants also reclaimed visibility as a source of agency. However, these narratives are context-bound and idiosyncratic, and caution is needed in attributing justice system experiences solely to SOGIESC without broader institutional or comparative data.

#### 5. Conclusion

Despite Malta’s progressive legal framework, LGBTIQ+ offenders’ experiences remain shaped by institutional practices and societal attitudes that perpetuate marginalisation. Findings underscore the need for intersectional, trauma-informed, and identity-affirming justice practices, including; ongoing training for justice professionals and access to specialised support services for LGBTIQ+ offenders.

Limitations include a small, context-specific sample which relied on self-reported data, and underrepresentation of certain LGBTIQ+ identities, which may restrict the generalisability of findings. Future research should include more diverse LGBTIQ+ populations, explore long-term outcomes, and examine institutional practices across different cultural and legal contexts. Overall, the study contributes to queer criminology by foregrounding LGBTIQ+ experiences, emphasising the importance of centring lived experiences in efforts to create more inclusive and transformative justice processes.

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