

A CASE OF “*PLUS ÇA CHANGE*”, A “MISSED OPPORTUNITY”,
OR A “NEW LAND-GRAB”?

A SUBMISSION ON
THE ‘AGRICULTURAL LAND REFORM WHITE PAPER’
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PREFACE

This is an anthropological analysis of the White Paper on Agricultural Land Reform. It is not a legal analysis, and legal experts may well be dissatisfied with its lack of discernment with respect to land lease law in Malta. Its basic premise is that law cannot be seen in isolation to its social and economic effects, particularly one that deals with land and its exploitation. Certain interpretations of the law here may be wrong or tempered by other aspects. But popular views of what the law entails, as explored in this submission paper, still have a social reality that influences people's perceptions, and actions, even if they may be erroneous. In that respect the law has a reality and social effects independent of the legislators' intentions and the legal experts' interpretations. One of the most surprising aspects of this White Paper (WP) is that it treats land tenancy primarily as a legal issue quite independently of its agricultural implications. And yet, on the other hand, it justifies itself by the need to provide a 'secure food supply'. This necessitated enquiring not just whether Malta has ever been able to provide for itself, but also whether the actual land tenure regime that the WP attempts to shore up has ever been adequate for this purpose.

The answer to both questions is negative. Malta has never been able to supply itself food wise, and I argue that the current land tenure regime is a significant contributory factor to Malta's agricultural underdevelopment. Our current land tenure rental regime can never supply the country with an ample food supply; it also supplies us with the 'wrong products', shadowing and trying to compete with cheap food imports rather than concentrating on niche markets. This is not the fault of the tenants. It is the fault of the State that, in the name of 'protection', turned tenants not into commercially oriented farmers but into part-time cultivators who progressively considered the land they worked ultimately more significant for its transmissible (and divisible) capitalizable value as potential real estate, rather than in terms of its productive agricultural income through cumulative investment. Nor is there any evidence that the agricultural authorities ever previously *explicitly* oriented their policies, efforts, and announcements, towards the aim of a 'secure food supply'. The conclusion is that the authorities were obliged to scabble around to find a quick legitimating fix and alighted on 'food supply' as the widest, most populist, and most unassailable argument to fix what they considered a legal problem. The authorities claim that they desire to protect agricultural land. This may be disingenuous. Rather, they seem intentioned to shore up a monopolistic land tenure system through the White Paper. Ironically, it is this land tenure system itself that (in my opinion) is a major cause of Malta's agricultural underperformance. This is an odd blind spot given that the White Paper is issued by the Ministry of *Agriculture*. It is also unfortunate because any legal tenancy regime has direct causative effects on the type of agriculture that emerges, e.g., whether it is dynamic, static, or even regressive, the level of investment, innovation, and the introduction of new ideas, crops, niche products or cabbages. This paper thus explores the structure of Maltese agriculture arguing that it evolved into two segments: (i) the private more professional sector innovating in new crops and products oriented towards the market such as wineries, olive oil producers, intense greenhouse horticulture, etc, and (ii) what I label a 'simulated peasant mode of production', where the ultimate capitalisable value of the land is more important to the protected part-time cultivating tenant than its agricultural output. The latter is largely the consequence of the protected private land tenure regime and explains why "farmers" (often employees deriving

their main income elsewhere) try to hold on to it so tenaciously. The full-time farmer presents a different profile.

This paper is both a political economic and an anthropological treatment of the motivations, effects and implications of the Private Land Rental Regime on agriculture. It is *political economic* in that it looks at the State's motivations in framing and sustaining it in the name of "protection", as well as the rental regime's effects on agricultural development; *anthropological* in that it explores some of the attitudes and dispositions of tenants and landlords emerging from this framework in which they have been enmeshed sometimes uncomfortably for generations. It is far from extensive. The literature quoted is strictly limited to the task: official papers, reports, comments etc. It does not compare the local scene to other examples of land tenure reform. That would have necessitated more than the 4 weeks available for comments and submission. Nevertheless, it is hoped that these observations will be useful for policy makers, legislators, and the interested public, and contribute to a positive resolution of what is more than a legal challenge despite what most participants seem to believe.

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Abbreviations used in the text:

Common Agricultural Policy: CAP

'Commission': EU Commission

European Parliament: EP

National Agricultural Policy for the Maltese Islands 2018 – 2028: NAP 2018

Rural Rents Regime: RRR

White Paper: WP

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A. INTRODUCTION: BACKGROUND TO THE WHITE PAPER ON AGRICULTURE (2022). A CASE OF PLUS ÇA CHANGE?

1. The White Paper on Agriculture Land Reform 2022 (henceforth WP) comes at a critical juncture in Maltese law where the previous legal regime governing rural leases has been declared to have weighed disproportionately against landlords and violated their rights. This was paralleled by similar court judgements that also declared that old private leases on residential properties at protected fixed, low, non-market tenancies equally violated owners' rights. In both, one social group (the owners), rather than the State, was obliged to subsidize another (the renters). They were (and generally still are) unable to recover their properties whilst successively taxed on their capital value. Although these judgments were no surprise to public opinion and even common sense, they challenge the dependency, protection, and expectations long fostered by the entrenchment of what many recognize as a misbegotten rural lease regime. The Malta Government reacted to this challenge by publishing its WP wherein it identifies the principles it intends to uphold when formulating new legislation. It begins by identifying the aim of the anticipated legislative reform: *'The link with agriculture, food and the environment'*, concluding with the following statement, the indubitable aim of the WP: *'That is why controlling of the **acquisition and ownership of land** is one of the key elements among the range of measures in support of farming and food supply and is part of what must be protected in the **public interest**'* (14: original emphasis). *Plus ça change, plus c'est la même chose?* It then specifies 10 measures to realise this.

2. The first rule in any theatrical production is to persuade the audience that despite an unsolvable problem the playwright will find a way out of the dilemma, usually by a *deus ex machina* (lit. "God out of the machine"). The audience happily connives with this implausible solution because they all want a 'happy ending'. The problem is 'solved'... until the next theatrical production, i.e., local politics, must confront the previous 'solution' which was merely a postponement of the issue. To anticipate the basic argument of this paper: the *mise-en-scène* is a fictional and never achievable 'food security' that the Malta government is employing to postpone an *almost unsolvable problem* it created in the first place. This is the "protection" in "the national interest" it gave one group by taking from another to the detriment of their rights. The protected group remained in a state of dependency because little was done to wean them off it. On the contrary, new dependencies and expectations were incubated, the inevitable consequence of all "protections". When the anticipated crisis occurs, the State is afraid to tackle it head on. That is its mode of operation, the cause of the mess it created in the first place. A *deus ex machina* is thus required, the 'God' or hero who descends out of the theatrical machine of pulleys and ropes to 'solve the predicament': in this case, the evocation of EU legitimation by the WP's authors. After the necessary pieties [The right to enjoy your property', 'The fight against hunger and poverty' and 'Respect for fundamental freedoms', p.6] the WP evokes Article 39 of the *Common Agricultural Policy* (henceforth C.A.P.) 'which sets food supply and security as an objective' (p.7), and an extensively quoted *European Parliament Resolution* (27 April 2017) (henceforth EP).¹

3. This paper begins by examining the key objective of the WP: food supply and security (Section B). It argues that this has never been realisable for Malta and regretfully never will, whether we like it or not. The evidence is unambiguous, historically verifiable, and transparently evident to any rational observer. It is unfortunate that the WP's authors identified this as its main objective, both for their credibility and for legitimating the proposed reforms. No evidence is offered that Malta has been, or can ever be, food secure or self-sufficient, such as the relationship between population and available arable land across time. Malta's growing population across the last 500 years shows that whereas in 1593 there was roughly 2.7 hectares (2700 sq. metres) of arable land per head of population, this ratio had shrunk to 0.055 hectares or 550 sq. metres of arable land or half a *tumolo* per person in 2022. Increased productivity cannot compensate for this vertiginous drop, compounded by the environment damage wrought by local contemporary intensive agricultural practices.

4. Such incontrovertible facts raise doubts about the credibility of the Government Departments that participated in the WP's formulation which does not stand scrutiny. Indeed, it could be paradoxically argued (perhaps counter-intuitively) that Malta thrived, and its population grew precisely because it has *not* been food self-sufficient, and certainly despite its non-realisation because it obliged its inhabitants to develop a diversified economy. The Maltese always knew that farming could not support them. This argument is far from extraordinary: there are many historical examples of thriving city-states (as Malta is) from antiquity to the present that thrive(d) despite not being food self-sufficient. One can therefore legitimately question whether the intentions in evoking such an evidently unrealisable argument amounts to another legally sanctioned land-grab that again transgresses their owners' rights to recover their properties that could lead to legal action up to the EU level.

5. Section C analyses the legitimisations employed in the WP to 'set the scene' (the *mise-en-scène*) for its proposals. These are the Common Agricultural Policy (CAP) and a European Parliament Resolution (EP) (Sections B and C in the WP). It argues that the evocation of the CAP is selective ("food supply") and unachievable, whilst excluding other important elements of the CAP (environmental preservation and enhancement) that are more relevant and achievable for Maltese agriculture. The WP's proposals 'safeguard' the environment only by default: "by preserving agriculture and excluding building we preserve the environment". Granted, but this is minimalist and can be catered for existing legislation. This paper argues for a much broader environmental and agricultural investment strategy by dismantling the protected tenure system and opening the market to popular agricultural access. At present some 95% of the population are excluded from renting land to invest in agricultural innovation, new crops (and thus possibly augmenting Malta's food supply, according to the WP's declared aims) and participating in the environment's preservation and enhancement.

6. A critical plank in the WP's proposals is the EP resolution which is neither prescriptive nor has the force of law. Section D shows that in attempting to shoehorn the EP resolution to Malta, the WP pays insufficient attention to differential causation, abuses the principle of proportionality between ends and means, and selectively draws unwarranted and misleading conclusions for Malta from the EP's general demands. The WP applies a highly selective interpretation of the EP Resolution to legitimate fixing a looming national *political problem*

(complaints by renters who now face higher rents or owner land recovery) that had originally long been engineered as a *political 'solution'* of the State's own making.

7. Section E notes with surprise that the WP, whose explicit aim is ensuring an adequate food supply by re-regulating the acquisition and possession of land, disregards the evidence that the current private land tenure regime is itself a major contributory factor to Malta's agricultural inadequacies. It is incomprehensible that the WP's concern for an adequate food supply did not take on board what the *National Agricultural Policy for the Maltese Islands 2018-28* (henceforth '*NAP 2018*') and EU observers ('*Commission Recommendations 2020*') have noted: that the current land rental regime, particularly that governing part-time cultivators (the majority of 'farmers', a term that needs redefining), is itself a major cause of the current sorry state of Maltese agriculture. . Protected land tenureship across generations, apart from its violation of owners' rights, has had three deleterious effects: (i) land fragmentation leading to inefficiencies (ii) de facto exclusion of young blood, and (iii) the reinforcement of a 'peasant' mode of production. By overregulating the land rental market to its disappearance, the State has effectively incubated a conservative agricultural productive system that ill-serves the country's food supply and excludes the rest of the population from entering part-time agriculture.

8. Section F further explores how through its protected rural land private leases regime the State has incubated what is called a simulated 'peasant mode of production'. By 'peasant' no offense is intended. It is an anthropological classification of a certain type of agricultural producer as distinct from a 'farmer'. The peasant produces mainly for his own consumption, often a variety of vegetables or pulses, and sells his surplus at the market. Typically, he does not cost his labour as a factor of production, evidenced by lack of proper accounting. The farmer by contrast produces cash crops exclusively for the market: olives, tomatoes, wine grapes, citrus, and he costs all factors of production including his labour. He is commercial, runs a business, and keeps accounts. Profit and loss determine his enterprise's continuation like a shop or restaurant. In Malta many part-time cultivators are like 'peasants' in that they may grow a variety of crops for home consumption but do not count labour costs, *even though they are aware of them*. Many tenants are full-time employees or self-employed, from builders to accountants. For a variety of factors, they may renounce any costly investment or risky innovation. As the tenancies are cheap, inherited, and protected, labour costs are not *calculated against crop output but as a 'servicing investment' in the land's potential capital value should that be realisable*. The land's capitalizable value is superordinate over its agricultural potential. As an employee and a part-time cultivator, the tenant (like many Maltese) aspires to become a rent capitalist not a full-time dedicated farmer. Thus, the protected private lease system militates against agricultural innovation and investment, including the WP's 'secure food supply' except in a minimal sense. The monopolisation of agricultural land by protected part-time cultivators with transmissible leases has also strangled the private lease market, preventing new blood or investors.

9. Safeguarding the rural environment is a WP priority. It proposes to do so through 'controlling the acquisition and possession of land'. Its argument is that if land remains devoted to farming then the rural environment is safeguarded. Granted, although Section F argues that it is far from self-evident that "farmers" (i.e., part-time cultivators) are assiduous environmentalists. Evidence suggests many planning infractions. And 'controlling the

acquisition and possession of land' cannot not be taken to mean that specific individuals require tenure protection for *that would mean protection not of the land from development but of specific individuals*. The forced coupling of "genuine farmers" (whatever that may mean) with 'environmental protection' is disingenuous. Its primary aim is to protect a special sector that can never provide national food security, for it has been lost centuries ago. It is iniquitous as it excludes some 95% of the population from access to horticultural land both for domestic food production and for psychological solace in a highly urbanized overcrowded environment.

10. Section H tackles the most intractable problem that the WP recognizes but skirts over: how to identify a "farmer" and how to distinguish a "genuine farmer" from others, as meriting special protection. There has been no attempt at benchmarking and identifying farmers. Practically anyone can register as a "farmer". Genuine farmers have long complained about this. State authorities know this but have been fearful to do anything. A major reason? The rural leases protection. Inheriting a tenancy makes you *ipso facto* a "farmer". *It is not the farming activity that makes the "farmer", it is the inheritance of a protected rural lease*. From that privileges and protection accrue. There is no other self-ascribed occupation in contemporary Malta that brings with it a State supported set of *inherited* privileges and protections. Heirs never relinquish their tenancies, even if not farmers. They have everything to gain. Hence their multiplication across generations as plot sizes reach postage stamp proportions. It's their negotiable capital resource even if not theirs. Distinguishing genuine farmers from "genuine farmers" is likely to prove a hornet's nest unless the State lays down strict criteria.

11. The final Section makes several recommendations.

B. THE SOCIALLY USEFUL DELUSIONS OF “FOOD SUPPLY”, “SECURITY” AND “SELF-SUFFICIENCY”

1. In Malta the concepts of ‘food security’ and ‘food self-sufficiency’ are used interchangeably on the popular level. It is popularly believed that recent trends (urbanization, ageing farmers, etc) have severely impacted the ability of the country to be self-sufficient. That appears to be the premise of this White Paper (WP) when it identifies ‘the significance of recent legal developments and the danger that they will continue to threaten the resilience of the farming sector and its function with regard to food supply and security.’ It argues that ‘The aim of the reform is to protect the land in the public interest ... []... and above all, support agriculture in the wake of its importance *for guaranteeing an ample food supply*’ (WP:15, added emphasis). In fact, the White Paper employs the term ‘food security’ 4 times. The suggestion is therefore that its proposed reforms will ensure ‘food supply and security’.

2. The WP is worryingly vague by what it means by ‘food supply and security’. Most people understand ‘food self-sufficiency’ to mean food autarchy, i.e., the ability to produce all or most of its food for domestic consumption (FAO). FAO defines the self-sufficiency ratio (SSR), as the percentage of food consumed that is produced domestically (FAO 2012). That is clearly not the case in Malta as the subsequent discussion shows, and not even achieved by North Korea. Another measurement is the dietary energy production (DEP) per capita within a country. Some countries may produce more than the DER of 2500kcal per capita per day to be theoretically self-sufficient but may export a substantial amount of its produce (e.g., wheat or livestock) to import foodstuffs that it lacks (e.g., vegetables and fruit). It is also unclear what the WP means by ‘ample food supply’. This may seem self-evident, until one asks for quantification. What precisely is the WP aiming for? ‘Ample’ would seem to suggest *at least half*, if not more. Has Malta ever produced at least half of its food supply, and across all areas? The evidence below suggests not, certainly not now. Nor is the WP specific about the *constituents* of its desired food supply. Does that mean *everything* from wheat, vegetables, fruit, and livestock? Is the aim of the WP policy to achieve an across-the range food self-sufficiency? Or is its aim for an ample food supply oriented towards to a dietary energy production (DEP) of 2500kcal per capita per day (Pradhan et.al. 2014)?² What indeed is meant by ‘food supply’? Is viticulture excluded? Wine production is an agricultural segment, but it is not strictly ‘food’; it is a specialised agricultural product. So why did the WP formulators emphasise ‘food’? The answer lies in the persuasive deceptions of a false syllogism:

Acquisition of land by others = ‘farmers’ losing ‘their’ land’ = loss of ‘food supply’ = “local starvation” = State necessity to intervene = (implicit re-denial of owners’ rights to recover their property)

This has certain assumptions: (i) why should others not have access to an unencumbered market to grow their own food? (ii) why indeed should owners not recover their land also to engage in horticulture? (iii) is a “farmer” merely an inheritor of an agricultural lease, even if he is an employee, as most are?

3. The more one begins to investigate the WP’s ‘food supply’ and ‘security’, and the complex scientific literature behind it, the more one realises that its formulators *have done very little research on this topic and relied on what they assume are self-evident popular*

(mis)understandings. This may be suitable for a local legitimisation exercise to push through some legislation, but it is unlikely to stand scrutiny in courts of law, much less European ones less inclined than local courts to genuflect towards the Malta government. The WP's vagueness of aims, definition, terms, and outcomes with respect to food supply are too general and too overbearing to justify the extraordinary measures it proposes, much like "security concerns" cannot be used to justify arbitrary civilian arrests. There must be a *minimum* proportionality between ends and means, not a maximal overreaction. At most, it can only mean "*we still need to produce food*". Granted; this is natural and desirable. But does that aim necessitate a repackaging of the current restrictive legal regime that has already run afoul of local courts, in short, another land grab? It may well transpire that this could trigger new legal challenges, all the way to European courts.

4. It is essential to dispel any suggestion that Malta could (or has) ever be self-sufficient in food production, a notion that would never have been entertained by our more honest and less dissimulating forefathers who farmed the land. Paradoxically, the very fact that this fanciful notion has been aired now, particularly when the relationship between agricultural land and a rapidly growing population is historically the most acute (and irreversible), is indicative not so much that food security is currently threatened as some would argue, but that *Malta has never been more secure* precisely through its integration in European and global markets. In short, the unprecedented food security that Malta now enjoys through EU membership (primarily through the dismantling of the 'closed shop' regime, see below, Section F) has so *distanced* the population and policy makers from Malta's historically endemic food self-*insufficiency* that they may fancifully believe that recent developments (particularly the abuse of Planning Laws) threaten Malta's 'food security'. The public may have been induced to believe this by a combination of now-clamouring vested interests (beneficiaries of the rural rents 'closed shop', alarmed by the legal threats to their entrenched land occupation monopoly) and public disquiet at urban sprawl. The former readily capitalise the latter's disquiet. But the WP's suggestion that this can be countered by a revamped private rural leases regime may be dissimulating. It harnesses and capitalises this popular disquiet not so much to protect 'food supply' but to allay the clamorous indignation of a particular long-protected social segment - in short, a *political ploy* that may disastrously reproduce the damage that has been wrought on Malta's agriculture precisely by the Rural Rental Regime (RRR).

Let us state at the outset that this paper roundly condemns and criticises urban encroachment on rural land (as much by 'farmers' as by 'greedy developers', for greed is a universal human quality not an occupational specialisation), and in no way condones this. Nor does this paper criticise farmers in any way. They are very hard workers and deserve our respect. This paper argues that they, like property owners, are the victims of a system of governance that privileges short-term political convenience over long-term planning that necessitates hard choices.

5. The assumption that Malta either had 'food self-sufficiency' or 'food security' borders on the historically illiterate both for the wider Mediterranean regions and even more specifically for Malta. Practically no Mediterranean society has been food secure for some 2000 years.

Horden and Purcell (2000), noted Mediterranean historians, identify the survival imperatives of Mediterranean societies to 'diversify, store and redistribute' because of their extreme ecological variabilities. All ancient societies were not food-secure, much less food self-sufficient. Fourth century BC Athens (with a population of some 100,000) could not supply itself with wheat and bought it (as the world still does) from Ukraine. This is even more so now in our globalized world. The notion of food autarchy (self-sufficiency) is a very deceptive illusion. Even Malta's traditional Maltese bread (the "*hobza*") has been made from Sicilian wheat (15-19th centuries), then Ukrainian (British period, 19th century), then Canadian wheat (20th century). As 'A' level students of Maltese history know, the "Universita" was Malta's Sicilian wheat buying agency. In 2022, the average consumption of imported wheat during the first 9 months (1 Jan-30Sep) was 435 Metric tonnes per week,³ i.e., 22,620 tons per annum. Malta's production of wheat (subsidized by grants) in 2017 reached 12.2 kilo tons, mainly as animal feed. Let us recall the saying where Malta as habitual beggar poses self-ironically as a grandee: *Malta qatt ma irrifjutat il-qamħ* (Malta never refused wheat).

6. This dependency is centuries old, as noted by a Sicilian historian of the 17th century:

"La Sicilia, in particolare, da sempre era stata la «nutrice» di Malta . Un'idea dell'intensità di questo legame commerciale ci viene data, alla fine del Settecento, dall'economista Saverio Scrofani: «E' impossibile calcolare i vantaggi che ricava il contado di Modica e in generale tutta la Sicilia dall'isola di Malta. Questa *tira la sussistenza quasi intieramente* dalla Sicilia, dalla quale compra non solo i grani, i vini, gli oli, il bestiame ec., ma sino il pollame, le uova, la crusca e *la terra stessa*" (Militello, 2008:18, added emphasis).⁴

Yet Malta was often wealthier than the Sicilian countryside because of other sources of external income: European land rents and the *corso* during the Knights, defence spending by British imperial authorities, EU grants today. In the historical scheme, poor agriculturally dependent countries *export* food, wealthy economically diversified countries *buy* the former's produce.

It was not only Sicily that supplied Malta, but also North Africa. When Napoleon freed the 600 or so Muslim slaves in Malta, he reached an agreement with the Bey of Tunis that the Beylik would supply Malta with livestock for slaughter, a connection that lasted until the mid-20th century. Some readers of this submission may remember the large luzzus that carried livestock and supplies from Valletta to Gozo, further evidence that even that most rural redoubt in the popular imagination has not been 'food self-sufficient'.

7. The irrefutable conclusion is that Malta has not been food self-sufficient for centuries because of its small size, poor soils, uncertain low rainfall, burgeoning population, and low productivity. An indication of the poverty of traditional agriculture is the reliance on the goat until the late 1930's, the scourge of agriculture and trees, and a frequent visitor to Valletta.⁵ Furthermore, the burgeoning population, extraordinary for any Mediterranean island, is ironically *the most convincing evidence that Malta has done well for itself over centuries despite occasional troughs*, for why would people immigrate to the island (as they have often done from neighbouring societies) were it not flourishing? In difficult times the island exported its *urban* (not depleted rural) population through emigration. Malta's population growth across the centuries is proof that (i) Malthusian population theories have little

applicability, and (ii) that *it was never sustained, nor sustainable by, its agricultural base*. Witness the growth of Malta’s population between 1593-1691, counterposed to 2022:

YEAR	1593	1636	GROWTH	1681	GROWTH	2021	GROWTH
MALTA	21,102	42,433	+101%	48,900	+15%	572,594 ¹	+ 1170 %
VALLETTA ²	11,591	21,991	+89%	22,143	+0.6%		
% ARABLE LAND/CALCULATED	95% = 30,020 HECTARES	95%		93%		28.38% =8968 HECTARES	
RATIO: POP/AREA/HECTARE	2.7 HECTARES/PERSON= 27,000 m ²					0.055 HECTARES= 550 m ²	

Table: Malta Population Growth 1593-1681, counterposed to 2021, and Population/arable land ratio

Source: Militello (2008) plus others readily available

The Table requires some explanation. Malta’s total land area is 31,600 hectares which clearly hasn’t increased. The Table traces the changes across time of the growing population against the decreasing arable land. The percentage of urban/built-up/non-agricultural land is calculated for 1593 (5%) to 1681 (93%). But the figure of 28.38% of arable land or 8968 hectares of arable land in 2022 is recorded fact (there may be some quibbles). We need to calculate the amount of available (shrinking) arable land against the growing population to identify how much arable land there is per head of population. Malta’s policy makers often exclude visitors from their population calculations. The Malta Tourist Authority provides the figures: 19,338,860 tourist guest nights in 2019, equivalent to 52,982 average per day residing in Malta who need to be fed. Adding this to the permanently resident population results in a total resident population of 572,594 at any one time/day on average. Divide this by the amount of arable land and the theoretical amount of arable land available per head is a princely 550 square metres, or *nofs tomna*.

8. There is thus no need to enter hypothetical agronomic discussions on the amount of land needed to achieve self-sufficiency in Malta. It should be obvious to any rational observer free from any romantic autarchic illusions that agriculture has not sustained the population from at least the 15th century, even had all land be given to agricultural production. In 1920 a British agronomist noted ‘there is little prospect of the Island ever being able to produce any large proportion of the wheat required for consumption’ (Dawson Shepherd 1920:15).⁶ The urban poverty and rural-urban migration (and emigration) from the 19th century to the early 20th

¹ Malta’s population figures include not just the resident population but its tourist arrivals that also need to be fed (2019 Tourist guest nights in total were 19,338,860 divided by 365 days/year =52982). Thus 519,612 (local population) + 52982 (average number of tourists residing in Malta at any time) = 572,594. (Source, Malta Tourist Guest nights: MTA. <https://www.mta.com.mt/en/file.aspx?f=32328>)

² Valletta’s population is introduced to indicate the growth of the urban population, for most immigrants and the local population soon migrated to urban centres and jobs, right up to contemporary times.

was precisely because its agricultural base was incapable of sustaining the increasing population that depended on *external sources of income*.

9. WWII is the clearest example that Malta is not food self-sufficient that, like Britain (dependent on the US), nearly starved. This, with a third of the current population, miniscule urbanism (therefore much more agricultural land then), and full agricultural production. What it needed was *food security*, i.e., the *secure supply of food from overseas* to augment Malta's inadequate food self-sufficiency, and food storage facilities. Hence the Granaries in Floriana excavated under British rule. *Food security was never, and can never, be achieved in Malta through food self-sufficiency*. It is therefore odd (and contrary to the literature) that the WP's formulators conceive of food security in terms of *local production*. The FAO noted that "the concept of food security *does not include a consideration of the origin of food or a country's capacity to produce it*, so long as it is available, accessible, nutritious, and stable across the preceding three elements". It contrasts this to food self-sufficiency 'mainly concerned with the availability (i.e., supply) pillar of food security, and focuses on origin of food, or at least *the domestic capacity to produce it in sufficient quantities*' (FAO 2015-16:3, added emphasis).⁷

The same technical note observes that 'A number of countries are unable to increase their level of self-sufficiency due to their natural resource endowments [like Malta- PSC]. Fader *et al.* conclude that approximately 66 countries today are not able to be self-sufficient due to natural resource constraints, including limited amounts of available cropland, water, and fertile soil (Fader *et al.*, 2013). Imports have been important for these countries to meet their food needs' (FAO 2015-16:5). Indeed, international food trade has increased dramatically in recent decades. In the mid-1980's around 15 percent of world food production was traded internationally (D'Oroico *et al.* 2014).⁸ This grew to 23 percent (2009) and is currently 33 percent (2020).⁹

10. Conclusion.

The WP's claim that it is designed to 'support agriculture in the wake of its importance for guaranteeing an ample food supply' is, this submission argues, a dangerous self-delusion, a populist contrivance, and borders on the politically disingenuous, given Malta's long-compromised population-land ratio even before our recent massive urbanism growth. There is no way of 'guaranteeing' a food supply, much less an 'ample' one. At most, this will remain a supplement to external food dependency, as it has always been. The key issue is to *reform* Malta's agriculture to be more efficient, innovative, and accessible to all, particularly through a serious critical analysis of *how the State-imposed private land tenure regime has been a major cause of the paltry state of Maltese agriculture and horticulture*. Unless this is tackled, and there is no evidence of this in the WP, the WP threatens to amount (as often happens in Malta) to a new, revisionist, repackaged land grab by the State (the largest landowner in Malta), as always from the private sector, employing the long rehearsed neo-patrimonial 'protectionist' language of the State.

The next two sections argue that the WP's quoting of the Common Agricultural Policy (CAP) and the European Parliament's resolution amounts to selectivity in the first, and causal misrepresentation in the second.

C. THE CAP IS MORE THAN 'FOOD SUPPLY' AND 'SECURITY'

1. The general impression the reader may obtain of the WP is that the Malta Government is proactively applying the CAP and a *general* EP resolution to resolve the mess progressive Governments themselves created and has presided over for decades: the problem of low rural land rents and the denial of their owners' rights. This is a *suggestio falsi*. The employment of Article 39 of the CAP (the objective of 'food supply and security') is selective and distorts the CAP which has much wider objectives and which most observers have recognized as more relevant for Malta. These other CAP objectives are: 'help tackle climate change and the sustainable management of natural resources; *maintain rural areas and landscapes across the EU*; keep the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors (added emphasis)'.¹⁰ After surveying the state of Maltese agriculture three noted researchers suggested 'The significance of agriculture to Malta is **neither its economic or employment contribution**, but rather its **significance in maintaining the landscape**, which has a secondary economic impact through tourism and maintaining a cultural tradition (Markou, Kavazis, George Stavris 2005:27, added emphasis).¹¹ Whilst the WP refers to the environment, it merely links this as a *beneficial consequence* of the continuing protection provided by the Rural Rents Regime (RRR). By contrast, it could be argued both agricultural productivity and the environment have been *negatively* affected by the RRR. In short, it assumes that the 'protection' (read 'market monopoly') given to a large segment of the farming community (the part-time cultivator heirs and hobbyists) = 'food supply' + 'environmental protection'. As this paper argues (Sections E and F) the consequent food supply is minimalist, the environmental protection dubious, and the rural land rental market should be accessible through adequate rents to *all* Maltese. There is little proactivity in the WP; it is merely defensively reactive.

2. It is astounding that the WP draws legitimation for its proposals from just one *general* objective of the CAP (food), whilst disregarding the more specific and relevant targeted EU 'Commission recommendations for Malta's CAP strategic plan' (18.12.2020).¹² In this important document the Commission makes no recommendation or reference to food supply. It knows full well that Malta's agriculture cannot provide 'sufficient and adequate farming in order for the country to ensure its food supply' (in the words of the WP, p. 13). Instead, it makes an *oblique critique* of Malta's CAP strategic plan: 'Rather than competing based on price, Malta's farm sector should focus more on *adding value* to agricultural products and orientate towards producing for niche markets.¹³ In this way, it would be able to charge premium prices for its products and become a *more sustainable* sector' (2020:2 added emphasis). When the Commission refers to 'competing based on price' it is basically saying that local farmers are producing the same types of foodstuffs that are imported which benefit from economies of scale. Local profit margins are inevitably reduced because they must shadow imported food (mainly vegetable and poultry) prices. The Commission warns this is not sustainable (consumption of fertilizers, soil nutrient depletion, scarce water) and does not optimise scarce land. So why does Malta persist along this path? The answer is that our agriculture relies heavily on being subsidised by protected cheap land rents and many part-time cultivators practice a 'simulated peasant mode of production'.

Thus, when the WP states that it wants to ensure an ‘ample food supply’ it primarily means that it wants to ensure that Malta produces what it imports from abroad at roughly the same prices that we pay for similar locally grown produce. If our externally sourced food supply were to be disrupted local supply would not suffice, and prices would skyrocket. Relatively inexpensive food imports therefore not only feed the Maltese but keep farmer incomes *low* because they persist in producing the same things that we obtain cheaply from abroad thanks to the single market and external economies of scale. We must ask whether, in the name of ‘food security’, the WP is doggedly determined to protect a now ill-suited and economically incoherent agricultural productive system, or whether it is intended to protect a particular social sector. The two have become so functionally interdependent that protecting one means protecting the other, and vice-versa.

Malta’s minute agricultural sector must choose between *either* inadequate food supply (‘competing on price’) *or* niche products (with export possibilities). It cannot have/be both. By angling for the former as a recently fabricated national objective the WP will ensure that Maltese agriculture will remain underdeveloped. Let us be clear: the *deplorable inadequacies of local agriculture* are primarily the cumulative result of State protection through the private rural tenancies regime. Section F calls this a ‘simulated peasant mode of production’. The WP’s proposals will merely prolong this. The great strides Malta needs to make, as identified in the Commission’s advice, are of little concern.¹⁴ The reason is clear: the WP’s aim is primarily to ensure that the part-time farming sector continues benefitting from State protection through a new ‘Land-Grab Mark 2’. This will merely re-entrench Malta’s underdeveloped agriculture.

3. The Commission’s advice is to concentrate not on ‘food supply’ but on *sustainability*. Sustainability is both *economic* (a decent living for full-time *specialist* farmers) and *environmental*, including that farming itself does not irreparably harm the environment, for farming is not *ipso facto* environmentally enhancing. This fact is completely bypassed by the WP that adopts a popularly held misconception that ‘farming = environmental protection’. In fact, on one set of criteria, Malta’s farming as practiced is unambiguously *environmentally degrading*. The Commission’s report notes: ‘Malta’s agricultural sector has high emissions of greenhouse gasses (GHG) per hectare, mainly coming from livestock’... [].. The land use, land-use change and forestry (LULUCF) sector emits more carbon dioxide that it absorbs, *making Malta one of the few Member States where this sector is a source and not a sink*... [].. Malta has been found to be at high risk of non-compliance with its ammonia emission reduction commitments’ (2020:3, added emphasis). Nor is farming as practiced necessarily environmentally sustainable. The National Agricultural policy noted: ‘crop rotation is not possible for most farmers, and they are forced to keep on practising mono-cultivation methods. This implies that the most active farmland is *over cultivated* and has been drastically depleted of nutrients leading to a drop in productivity and an *increase in soil pathogens*’ (NAP 2018: 138).

4. Contrary to the WP’s proposals, this paper argues for a liberalisation of the private land leases market. Whilst full-time farmers merit some degree of state protection through subsidised rents, the great majority of agricultural leases are held by part-time cultivators who benefit from other sources of income. This group monopolises access to large percentages of agricultural land depriving both the full-time farmers from expansion, and

most of the population (some 95%) from access to land. It is unjustifiable that landowners should continue to be deprived of the recovery of this land. They too should have the right to this land's use and enjoyment, as should the rest of the population through a fixed term rental regime. By bringing in new blood, new ideas, and more investment, local production could improve, diversify, and specialise according to the *'Commission's Recommendations 2020'*. Whatever direction this takes (hopefully niche production rather than 'inadequate food supply') the WP's stated aims (food supply) would be stimulated by a market liberalisation.

D. THE WP's MISUSE, MISAPPLICATION, AND MISINTERPRETATION OF THE EP RESOLUTION

1. The WP makes extensive use of a European Parliament Resolution (27 April 2017) (henceforth EP). It is the WP's *deus ex machina* and is very simple: land is a special commodity because it contributes to agricultural production, and therefore should be under *some* controls.

Let us begin by noting that, contrary to the WP's attempted persuasive strategies, the EP Resolution is not prescriptive. Some less informed local readers may conclude that the WP's proposals are a *necessary, almost obligatory, response* to the EP Resolution, and even "applying EU law" to Malta. In fact, the EP Resolution is merely an *appeal* to the Commission to take measures regarding land use. It notes in the preamble "there is no exclusive or shared competence of the EU on land, as various EU policies deploy different political, social, cultural and environmental aspects of land management, *creating the need for a more holistic approach to land governance at EU level*" (added emphasis). This has not yet transpired. In short, the EP sounded an alarm that requires EU attention, but *its Resolution is neither a recipe nor a prescription* to be adopted *in toto* by the Commission. If adopted and worked on by the Commission, it is likely to be substantially sieved to ensure *inter alia* that fundamental human rights and the four freedoms are not transgressed.

2. In short, the EP Resolution does not have the force of EU Law. It is the European Parliament's "Own Initiative Resolution" not a legislative one, and thus non-binding. This is not to say that it lacks persuasive power, or that it does not identify important challenges affecting agricultural land in the EU. But the WP's indiscriminate prescriptive application of the Resolution's desired *general* principles regarding agricultural land in the EU to Maltese particularities suffers from three problems: (i) insufficient attention to *differential causation*, (ii) lack/abuse of *proportionality*, and (iii) *biased selectivity*. These are explained below, using 'medical' analogies.

3. (i) *Differential Causation*: The WP bypasses significant differences in the causes of the challenges facing agricultural land throughout the EU that resulted in a summatively expressed problem in the general resolution. Put differently, the symptoms of a problem (land as a special resource) may bear similarities in different countries, but their underlying causes may be different and thus require locally specific resolution-paths.

(ii) *Lack/abuse of Proportionality*: The WP's proposed local recommendations *misfit* the recommendations in the EP Resolution. Its argument is the following:

‘Necessity to ensure food supply’ ⇒ State control over the disposal of land ⇒ Restriction to current tenants. But that is no ‘solution’; it is merely an attempt to re-establish the previous legal regime with its protections that run afoul of other principles (in this case, that owners should have the right to their property recovery). Nor are the WP’s proposals self-evidently logical. If most of the farming is done by part-timers, then why protect them to the detriment of others and prevent owner recovery for the same food production purposes?

(iii) *Biased Selectivity*: The Malta WP selectively interprets the EP Resolution, excluding some critical elements fundamental to its intentions and scope. It bypasses important problems identified by the EP Resolution, such as providing openings for new young farmers (and not necessarily from farming families) to land through a rental market that also guarantees the owners’ rights.

Appendix I further identifies some of the WP’s selective trawling through the EP Resolution.

Finally, it is far from certain whether this EP Resolution, passed in the last legislature (2014-19), is being prioritised by the present European Parliament. It may have been placed on the backburner. Were it to be pursued by the Commission etc it is likely that the Government’s proposals through the WP would be struck down. The following paragraphs (4-9) explore the different backgrounds and contexts between the general EU agricultural situation that led to the passing of this Resolution, and the Maltese situation. They can be bypassed by the reader if s/he is convinced that the WP’s evocation of the EP resolution is a ‘red herring’.

4. There is immense variety throughout the EU member states in access to agricultural land via sales and rents. These are generally member state competences subject to the EU Charter. Nevertheless, the Commission and the EP initiated several comparative studies of agricultural land market regulations in the EU Member States. The latest is Vranken et al (2021) which describes the situation of land market regulations in 22 Member States (MS) as it was in 2020. Regrettably Malta (along with Portugal, Luxemburg, Cyprus and Greece) was not included. The report notes that ‘While some countries have heavily regulated markets (e.g., Croatia, Hungary, Poland and Romania), other countries have a very liberal approach to land markets (e.g., Czechia, Denmark, Ireland and Finland). Countries with heavily regulated land markets can mainly be found among the new MS [i.e., ex-Communist countries]. The country with the highest number of measures is Hungary followed by Poland, Croatia and Romania’ (2021:4). The report contains some important insights that are quoted throughout this paper.

5. WP readers may be unaware of the background to the EP resolution. Many EU countries have large, vibrant and export-oriented agricultural sectors, engaging a significant proportion of the population, with a free market in land sales and rentals. In some EU countries, particularly in eastern Europe where rural land is relatively cheap, large corporations and foreigners have been purchasing agricultural land either as an investment or to establish large agro-farms pushing out the small-holder. Foreigners, initially excluded from purchasing land, had signed ‘pocket contract’ land sales (i.e., undated contracts of sale that could then be dated when the legislation changed thus enabling them to acquire land before the market was liberalized thus benefitting from lower prices).

6. Let us now note the Maltese situation: *there is no effective open market in rural rents*. The heirs of the original tenants (mainly part-timers often doing other jobs) have already monopolised the land, preventing rental to others. Following the court cases quoted in the WP, the Government through the WP appears to be angling for a new land reappropriation by reforging the previous hold the original tenants had on this land. The difference between the EP resolution and its Maltese interpretation is critical. Whereas the EP resolution calls for some *limits on the subsequent accumulation of land via an existing free market*, the Maltese WP employs the legitimisation of the EP resolution to prevent 'land accumulation' by *blocking the owners from recovering their property* and thus entering any rental or sale market, except to the sitting tenant. In the EP resolution, the proposed principle is: You can own your property, but the State will ensure that it cannot be accumulated by others for non-agricultural purposes via the market.

7. The Maltese proposed application of the EP resolution is different. There is no explicit provision in the WP for the property owner to recover his property, except some pious words. Rather, the State aims to ensure that there is no market by blocking the owner from recovering his land. The WP is disarmingly explicit: "That is why controlling of the **acquisition and ownership of land** is one of the key elements among the range of measures in support of farming and food supply and is part of what must be protected in the **public interest**" (p.14 original emphasis). But this is *not* controlling the market acquisition and ownership of land as in the EP resolution. It is primarily *preventing* the owner from recovery of his land, excluding him from its actual enjoyment and use. Instead, it further entrenches the tenant's rights to purchase it at a price determined by him in the absence of any market competition. Proposal iii states:

'To incentivise the acquisition of private agricultural land by genuine farmers who are currently making use of agricultural land leased to them, by giving them a right of precedence to purchase that same land if the owner chooses to sell' (WP: 17).

8. The above begs the question: Can the owner recover his property for his own use? If he cannot, then the above proposal is a continuation of the distorted rural rents' regime with an added sting: the lessor can set the price for no one would want to purchase land with a permanently ensconced tenant. Indeed, why would any tenant even want to purchase the land if the owner's family pays the succession duty for his heirs in perpetuity? A charming generous proposal. The only reason any "farmer" would want to buy the land is to sell it for development or build on it and thus perfectly 'safeguard the rural environment'. Turning "farmers" into land speculators. Let us make an important observation: inheriting a tenancy makes you *ipso facto* a "farmer". *It is not the farming activity that makes the "farmer", it is the inheritance of a protected rural lease, even if one is an accountant, builder, or an employee.* It is a legally inherited status. Clearly some work must be put into it to ratify the lease, but this is often minimalist, what this submission calls a "simulated peasant mode of production". There is nothing to stop a "genuine farmer" who purchases his tenanted land from then saying: "I cannot make ends meet as a farmer. I want to sell my land or develop it". Any subsequent checks or clauses will be impossible to enforce. The moral is clear: regulations beget more regulations. It is the chronic addiction of the Maltese state.

9. Conclusion: The WP applies a highly selective interpretation of the EP Resolution. Briefly put, it employs the Resolution to legitimate fixing a looming national *political problem* (complaints by renters who now face higher rents or owner land recovery) that had originally long been engineered as a *political 'solution'* of the State's own making (how to ensure that one social group – the owners- was obliged to subsidize another– the renters- rather than the State itself). Let us note that the State in Malta is the largest landowner (nearly 50% of land) whilst the cost of supporting the rural sector, the political 'solution', was (and still is) borne by private individuals through some 80-year-old fixed rents and their *de facto* exclusion from their property recovery.

E. THE CURRENT PRIVATE RURAL RENTAL REGIME (RRR) IS A MAJOR CONTRIBUTORY FACTOR TO MALTA'S AGRICULTURAL INADEQUACIES

1. Malta's agricultural sector consists of two segments: the relatively recent owner-occupied capitalist sector producing specialized niche products for the market (wine, olive oil, food delicacies, etc.), and the tenant-occupied, primarily part-time, sector producing partly for home consumption, partly for the market, that *appears* like a 'peasant mode of production'. The former sector additionally engages the latter in supplying particular products (grapes/wine, tomatoes/*kunserva*) benefitting from their non-costing of their labour or rents their land.

2. WP is lop-sided in that *it approaches the issue of private land leases independent of the type of agriculture that results*. A land lease regime determines how people treat land and what they do with it. Owner-occupied and worked land will probably have different outcomes than tenant-worked land: in investment, care, innovation, and crops. Land rental regimes and agricultural outcomes are fundamentally linked both in practice and in effects. The former is causative of the latter. It stands to reason therefore that *the current state of Maltese agriculture in its strengths and weaknesses is largely an effect of its current land regime*. Of all the factors that have cumulatively contributed to the current state of Maltese agriculture (lack of innovation, micro-farms, low productivity, lack of crop rotation, etc.), the land tenure system is surely a critical contributory factor. It is a *fundamental causative agent not an independent variable*. It is therefore particularly disappointing that the WP has treated this issue merely as a *legal-fixing problem*, rather than an *opportunity* to initiate changes in agriculture starting with the base, the land tenure system. A challenge (such as recent court decisions) should be an opportunity at root and branch improvement: 'corrective surgery', if necessary, rather than continual 'blood transfusions' to keep the patient alive.

3. The WP bypasses an important issue that requires emphasizing. This is that the special, now largely indiscriminate, legal protection granted thus far to private heritable agricultural leases is the major factor for the *survival and reproduction* of a simulated 'peasant mode of production'. It *survives* because the legal land regime and the nature of part-time cultivation encourages what appears as peasant cultivation that does not factor land and labour costs. And it *reproduces* itself because the part-time cultivator has an interest in reproducing this form of minimalist production as he knows he is sitting on a capital resource that he can benefit from through 'redemption' (the "*rigal*"). The current legal regime of private leases is thus ill-suited to satisfy the WP's declared aims ('food supply', 'environmental protection')

and is partly responsible for the sorry state of Maltese agriculture emerging from reports such as the National Agricultural Policy (2018).

4. Since the end of WWII the Maltese State has incubated through 'protection' a simulated 'peasant mode of production' nested in a modern capitalist economy that has become a major cause of Malta's agricultural inadequacies. It did so first through enclaving and protection (the *closed market*), and second by legislating that the cost of rural leases would be kept at fixed low rates and transferred across generations (the *rural leases regime*). The closed market consisted of high protective tariffs on imported products that threatened local produce, and trade deals with other countries that produced inexpensive food (New Zealand mutton, Argentinian beef, etc). The aim was cheap imported food from abroad to feed the workers, for local farmers could never feed the burgeoning population despite the emigration from the 19th to the mid 20th century. So long as Malta imported cheap meat and flour, exported cash crops (potatoes) through special trade deals giving farmers an important income source whilst being protected through high tariffs, this peasant mode of production could be cocooned. With Malta's EU accession this was no longer possible. Local farmers lost the protection of local tariffs, new EU tariffs were imposed on previously cheap imported foodstuffs, etc., and the island was opened to food imports in the single European market.

5. With Malta's incorporation in the single European market local agriculture lost its protection. A new private more commercial farming sector emerged oriented to niche production (viticulture, olive oil production) but a substantial segment of the part-time sector continued producing the same things. Local products must now shadow and compete with imported European foodstuffs produced more inexpensively with greater economies of scale with consequently lowered local profit margins. This is the gist of the Commission's critique of Malta's agriculture. Ironically *it is this sector* ("ample food supply" sic.) *that the WP wants to protect through State control over access to land*. Economists argue that protecting uneconomic sectors is unwise, particularly if that sector is incapable of performing the task it supposedly requires protection for. And when the cause of that inability is the appealing 'protector' itself, we are entering the territory of the absurd.

Local part-time cultivators cannot be blamed for sticking to what they know: they work small plots and are of a certain generation unwilling to take risks. This is a part-time sector. But the State's responsibility for having presided over this slide is indubitable. By allowing the rural rents regime to get out of hand (transmission and subdivision of owners' properties across generations with consequent fragmentation) and 'subsidising' it at the owners' expense with derisory fixed low rents, in short abandoning any engagement because it thought it had 'fixed' the problem, it incubated an extreme form of small-scale, 'peasant', uneconomical agriculture (Section F below). The renters responded in the way they knew, producing the same crops and subdividing the land formally or informally among children, kin, or affines. Why give up 'free land' whose inheritance transmission taxes are paid by the legal owners? To them this land holds more promise than mere agricultural income value.

6. The culpability for this sorry mess lies unambiguously with the State. It generated an extreme form of uneconomical 'peasant' agriculture totally unsuitable for the open market. It did so out of other persons' properties and from whose recovery it now proposes to 'protect' once again, by reference to a newly conjured argument: a fictional 'ample food supply'. *But it*

is precisely this "food supply" task that this sector cannot satisfy. Had the rural rents regime been pursued responsibly and selectively with concern for both cultivators and owners, the State could have nursed *some* small peasant cultivators into dynamic rural entrepreneurs, weaning them off protection. Due to populist political concerns and grassroots expectations, Malta's leaders preferred the easy option: do nothing. This 'protection' nurtured economic inefficiencies, unreasonable expectations (among those habituated to it), and inevitable resentments (by those obliged to bear the costs).

Let us examine the consequences of this protection.

7. The most obvious is that **agriculture has suffered the greatest decline of all economic sectors.** Labour power shrinkage is inevitable but not the precipitous *decline including GDP* contribution when compared to other sectors that have *grown*. **Malta's agriculture has not shrunk despite protection, but because of it.** Its decline is proven from the figures. If the figures are scrutinised, the only agricultural sector that has thrived after initial market shocks is the full-time dedicated private one, benefitting from targeted, specific assistance. The part-time, *passatemp*, or subsidiary-income segment enjoying state protection through low rents has not thrived and is likely to remain so. In 2017 only 0.7% of the population was employed in the agricultural sector, 1.9% in the food industry (EU Commission 2020:19). According to the Commission's Recommendations (2020) *Only 1,350 persons can be counted as being involved in full-time agricultural work* (ibid.:7). It further notes that the mainstay of agriculture is via a part-time private hobby or at most a supplementary income equivalent to any other non-specialist job: Of the 0.7% of the population employed in the agricultural sector, '70% of the persons... work less than 25% of a full-time equivalent job' (ibid.:7). *These are the main beneficiaries of the protected private tenure regime*, in contrast to rental of Government land which is strictly subject to full-time engagement and demonstrable sufficient sales

8. A considerable, though not all, segment of the small-scale part-time farming segment is not "traditional" but *neo-traditional*, made so by surviving on State 'life support'. Through its protected rural land private leases regime, the State has incubated a simulated 'peasant mode of production'. By 'peasant' no offense is intended. It is an anthropological classification of a certain type of agricultural producer as distinct from a 'farmer'. The peasant produces mainly for his own consumption, often a variety of vegetables, and sells his surplus at the market. Typically, he does not cost his labour as a factor of production, evidenced by lack of proper accounting. The farmer by contrast produces cash crops exclusively for the market: olives, tomatoes, wine grapes, citrus, etc, and he costs all factors of production including his labour. He runs a business, keeps accounts and submits tax returns. Profit and loss determine his enterprise's survival like a shop or restaurant. In Malta many part-time cultivators are like 'peasants': they may grow a variety of crops for home consumption but do not count labour costs, *even though they are aware of them*, and sell their surplus. Many are full-time employees or self-employed, from builders to accountants. For a variety of factors, they may renounce any costly investment or risky innovation. The degree they are prepared or able to innovate is often a function of age, time, education, access to capital, and aspirations.

9. The part-time cultivator is equally as good a farmer as his full-time commercial colleague. But he is distinctive in two respects: *his attitude to the land he rents and the significance he gives to his labour*. The two are related. Both the part-time cultivator and the full-time

commercial farmer are market oriented, the former partially and residually (i.e., sell surplus after consumption), the latter intentionally and wholly (i.e., grow crops for the market). But their economic rationalities are different, oriented towards different aims. Both sectors are accustomed to calculating their labour as a production cost, including part-time farmer cultivators who have long done so through their engagement in other economic activities (from blue to white collar employees, builders to accountants, etc). But there is a paradox. As part-time cultivators sell their labour elsewhere, they are *aware of labour costs yet appear not to factor these in on a rational cost-benefit analysis*. Seen from 'the outside' they seem like "peasants", and many claim that they are farming at a loss (so why do it?). But whereas the private owner-owned or full-time land-leasing commercial farmer calculates his labour input against product output, the part-time cultivator invests minimalist labour but does not cost it against product output. This can appear 'economically irrational' particularly from individuals aware of labour costs. We could explain it by reference to two possibilities: first, it is considered a 'hobby', a *passatemp*. Many part-timers assert this (in which case why should the owners have consistently been denied this right or why exclude the rest of the population from benefitting from a liberalised market?).

Second, more importantly, the activity is economically rational because the part-time tenant cultivator is interested in the *capital value of the land he occupies with legal protection*. His labour (which he often claims is "done at a loss") can be seen as his 'investment' to be paid to vacate, or as proposed by the WP to acquire for a song. He thus services it minimally by producing traditional crops, not costing his labour, in a simulated 'peasant mode of production'. But he is perfectly economically rational even if he seems to be 'working for nothing'. Indeed the 'sacrifice' in having done so further fuels his self-nurtured expectations with State encouragement. He is thus likely to be particularly indignant if he is asked to vacate it, for he has invested his labour not so much towards his agricultural income but towards reaching a point in time where he hopes to realise its capitalizable value.

10. Such part-time tenant's aspirations can be sustained because *they have no cost*. Rents are cheap, inherited, and protected. He doesn't even have to pay succession duty. Thus, his labour costs are *calculated not against crop output but as a 'servicing investment' in the land's potential capital value should that be realisable*. The former is insignificant, the latter a dream in its double sense. He is no different to many Maltese. *He farms but is not a farmer*, nor does he aspire to a hard life of full-time farming. His livelihood comes from selling his labour elsewhere. As an employee and a part-time cultivator, the tenant (like many Maltese) aspires to become a rent capitalist not a full-time dedicated farmer: to live off rents rather than to toil the fields. He cannot be blamed for having such dreams, so long as they are not at someone else's expense, but which the State has encouraged him by default to entertain. In such a manner, the protected private lease system militates against agricultural innovation and investment, including the WP's 'secure food supply' except in a minimal sense. Is it any wonder that the part-time tenant tenaciously holds on to this land and protests that he has "worked the land for free"? He may be partly right in trying to persuade by dramatization, but he has done so because of his crypto aspirations, where "food supply" is the by-product not the intention. Is it any wonder, too, that the monopolisation of agricultural land by protected part-time cultivators with transmissible leases has also strangled the private lease market, preventing new blood or investors?

11. A conclusion from this section, further explored in Section H: *not all those who farm are farmers requiring state protection*. We need to carefully scrutinise the differences between part-time hobbyist ‘cultivators’ from full-time market oriented ‘farmers’, just as DIYers are not professional electricians, mechanics or plumbers. If the State were to continue with this indiscriminate protection it would be doing a disservice to Maltese agriculture by maintaining it in a state of permanent underdevelopment where lands are merely farmed in order to hold on to them without any investment. It would be perpetuating the recognised injustices against landowners many of whom would like to invest in their land to develop niche production and undercutting the professional farmers. There should be a space for part-time cultivation, but this should not be the monopoly of the few but accessible via a liberalised market to the rest of the population given the chance to engage and invest. State ‘protection’ has done very little for agriculture except keeping it on life-support.

F. POOR AGRICULTURAL OUTCOMES OF THE PRIVATE-LEASE SIMULATED ‘PEASANT MODE OF PRODUCTION’

This Section explores how the following general principle is realised in the RRR: *Protection incubates abuse, generates inefficiencies, disincentivizes innovation, ghettoizes a social sector, prevents introduction of new blood, and generates a resentful but expectant dependency among the protected that is very hard to wean off.*

1. Monopolization of access to agricultural land to a small group and its subdivision across generations among the heirs of original tenants has had *inter alia* three effects:

(i) **Land fragmentation and dispersal of holdings leading to inefficiencies.** The National Agricultural Policy notes that ‘the present inheritance law on agricultural land encourages further fragmentation of land through division between siblings, even when these may not be inclined to pursue farming’ (NAP 2018:133). The latter can always informally sublet to his/her siblings, or others, despite violations to the contract at a higher price, expressed in the phrase “*nahdima jien*”, meaning that he is not the legal tenant. Most large plots are subdivided formally (either through new contracts with the landowner) or informally, because each heir wants to spread the potential for a windfall in case the land’s zoning classification changes where they hope for a “*rigal*” to vacate. No one is thinking about “food security”; they are naturally thinking of themselves. They consider the land “theirs” because the law gives them effective possession. Recommendations were made at the National Conference to revise the land inheritance system ‘in order to prevent subdivision of land holdings beyond a certain size and prevent further fragmentation of land holdings’ (NAP 2018: 133), but nothing was done about private leases. The reason is obvious and well-known: everyone can gain, except the original owner, and at his/her expense.

The National Report noted another suggestion: to ‘encourage small leaseholders or dormant leaseholders to surrender their leases through a set of incentives in favour of larger, agriculturally active adjacent holdings’. It observed that this was impossible ‘since persuading leaseholders to give up their lease would get into complicated and lengthy legal procedures’ (NAP 2018: 134). ‘Complicated and lengthy legal procedures’ certainly because the legal

regime over land tenure entrenches inheritance rights, rendering owner recovery of his/her land virtually impossible.

Unless tenancies are terminable, for shorter periods, and certainly not transmissible, 'ring-fenced' by a moratorium on further divisions, fragmentation will continue, further ensuring that the much vaunted (if fictional) "food security" remains illusory. By contrast the Government is much less liberal with its control over its own land (Chapter 268 (Article 3, Section 6 (d) Disposal of Government Land Act).

(ii) **Preventing the entry of new blood into agriculture**, thus contributing to the ageing of the agricultural segment and the discouragement of innovation. Already in 2005, Markou, Kavazis, and Stavris noted: 'Even more troubling is the age breakdown of all farm tenants, both part-time and full-time. In 2002, about 42.6% of farm tenants were over sixty years old, while only 10.7% were under forty years of age. Scrutinizing specific age groups though shows that *the collapse in the number of part-time farmers in the 20-29-age bracket is almost total when it demonstrates a drop of almost 94% in the period of 1991-2001*. There is no replacement with young farmers, especially in part time farming where the relevant population seems to have stabilized (ibid.:7-8 added emphasis). By 2020 the EU Commission's report noted the **drop from 10.7% to 3.8%**: 'Malta has one of the lowest share of young farmers (3.8%) in 2016 in the total number of farm managers, below the EU-28 average (5.1%), and this share decreased by about 40% in 2005 to 2016. Among the young farmers, the share of women is among the lowest in the EU' (ibid.:17).

Granted, it is always difficult to attract young people into agriculture, and Malta's rapid social mobility, from farmer father to lawyer son etc. should be one of Malta's proudest achievements. This also means that significant numbers of current lessors, heirs of original leases, are not 'farmers' but part-time cultivators, employees like the rest of the population who rarely live in the communities whose lands they farm. The farmer residing close to (or on) his worked land is now a folkloric fiction. Most cultivators ("farmers") live in different urban communities popping over to their rented fields on weekends or the summer. Higher educational aspirations, mortgage obligations, and anticipated low agricultural income play a part in youth deterrence, but a major reason *specific to Malta* why young people do not enter agriculture is simple: they just can't rent, even if they wanted to.

(iii) This is the third consequence: *the legal regime has effectively strangled any free market in private rents*. Access to land is monopolized in the hands of the older generation by legal protection that further induces hesitation on the part of the landowner even if he has managed to recover the land, for he fears a repeat of the loss of his land. And the land-monopolizing older tenants want to transmit their protected rights to their offspring who have their own reasons to hold on to it as outlined above, even if they don't go into agriculture. A perfect vicious circle, and an example of how a short-term (political) fix for a small group kills the collective patient. It also excludes the more educated innovative (and perhaps idealistic, but why not?) young people from outside the inherited enclave of the original tenants from gaining access. A disaster of the State's own making. The EU Commission's warning is dire: 'Faced with a situation of an ageing farming population without the ability to foster new farmers in a difficult business environment, Malta's farming system *risks collapse*

bringing down with it the socio-environmental fabric of rural areas. This poses a serious challenge for generation renewal' (2020:18, added emphasis).

It is extraordinary that State authorities have failed to recognize or acknowledge that the decline in farming population recruitment is a direct result of their temerity to tackle a land tenure system that has fatally damaged the country and its agriculture which they claim they want to 'protect'. Tinkering at the edges will not change it. The inescapable conclusion is that Malta's poor showing in agriculture is a direct result of a primary causative agent: the stranglehold by a limited group of beneficiaries over the means of production that is not accessible to the rest of the population via the market because the State has killed it.

2. Speculating tenants? The implications of the protected private-lease regime.

In 1920, J. Dawson Shepherd, an Inspector at the Egyptian Ministry of Agriculture carried out a detailed study of farming in Malta. The cultivated field crops then¹⁵ are the same crops grown today. Some have largely disappeared (cumin, cotton, saffron), others are not mentioned above.¹⁶ Crop diversification on privately leased land has hardly changed. There is no reason to question why the same crops should remain popular for a century if they are popular recipe staples. But the interesting questions are two (i) whether some crops have changed destination-purpose (e.g., wheat and grains now for animal fodder). The latter may have increased because they are less labour intensive and cater for increased demand (animal feed). They are thus more easily slotted-in by part-time cultivators. Wheat production has remained relatively buoyant for such purposes. It has little to do with 'food security'. But the protection afforded by the state to part-time cultivators (a more precise definition than 'farmer') becomes further questionable as it discourages innovation and excludes others who might be more inclined to invest in new crops.

The second question (ii) is more revealing: why have so few new crops or innovations been introduced by farmer-cultivators on rented private land? The answers are conservatism (a function of a peasant economy), innovation/risk aversion, and the part-time nature of farming oriented to income supplementation. 'Age' is no answer for current tenants were once young. The same problems of 1920 re-emerge in 2020: as most part-time cultivators grow the same crops, they are vulnerable to seasonal oversupply and price collapse (the classical case being summer melons). Increased access to irrigation augments productivity but also seasonal oversupply, exacerbating losses and the sentiment of "we are farming at a loss". But that is also a result of "follow my neighbour" and plant the same crop, a feature of peasant agriculture.

3. We can call this renouncing of any costly investment or risky innovation an *employee part-time 'peasant'* culture. This contrasts with the investment (e.g., greenhouses), innovation, new crops, production for the market, largely undertaken by full-timers on owner-occupied/farmed land, such as boutique wineries, olive and citrus groves, etc. The employee part-time cultivator may seem like a peasant in that his production is modest and does not calculate his labour costs, partly but not exclusively because it is recreative. As an employee he is aware of labour costs, but he brackets his horticultural work as a psychologically important *passatemp*. Any extra income from the part-time tenant cultivator's other job is not ploughed back into agricultural investment but into consumption. He is disinclined to

innovate - he mainly desires a supplementary income, like any part-time job - and is reluctant to invest. He considers the land he rents 'not his' to warrant investment (*mhijjex tieghi*) although he knows full well that he has security of tenure, but *de facto* 'his' to hold on to (*ghandi id-dritt*) to transmit to his children or demand a '*rigal*' to vacate. He calculates this "gift" not as a multiple of the land's agricultural income, but on its potential value as a building plot, and he fiercely resists any suggestion of rent increases. This is the second reason why he appears not to calculate labour costs. *His labour costs are not calculated against crop output but an investment in the land's potential capital value should that be realisable.* That is his 'sacrifice', a labour invested in crops that yield little income.

Paradoxically both the landlord and the tenant are victims of the State's 'protection', the former deeply resentful at having had something *taken* and permanently denied to him, the latter sullenly obliged to remain a peasant to enjoy the former's property. The landlord's grievances are greater, more calculable, and visible: low rents, high succession duties unrecoverable by the former, and denial of his land's enjoyment. The tenant paradoxically is an unwitting 'victim' because he has had the former's land *given* to him to work but which he cannot capitalise as a resource. He thus continues to service land in a peasant mode of production, not costing his labour, selling cabbages, onions, or lettuce that inevitably must shadow imported prices. He continues doing so despite the awareness of his labour input, partly because it might be a hobby, but also "*why give it up?*" "*I can be paid to give it up. This is a capital resource*". No tenant thus relinquishes land to its owner. The legal regime encourages him to consider his tenureship as his capital and to invest not in the land's agricultural output but to anticipate its capital windfall either through a '*rigal*' to vacate (thus compounding the owner's indignation), or even to purchase it for a good price if the cumulative costs, deprivation, and aggravation to the owner tilt the balance in his favour. Like many Maltese he aspires to be a rent capitalist, i.e., to live off rents, further whetted by the Airbnb boom. His rented land thus becomes a tenaciously held *capital resource owned by another that he can capitalize from that very person*. He may 'justly' complain: why should I give up my tenancy now for others to 'develop' when I can do so myself? Have I not put in so much 'peasant labour' for so little income? My 'reward' for all this should be to do something with it. You cannot blame him. It is the direct result of patrimonial state 'protection'. He is not so much a commercial full-time farmer but an urbanite with a rural heritage who wants to retain his agricultural pastime but develop a modest estate. The part-time cultivator does not aspire to become a full-time commercial farmer, but a country gentleman. It is society's aspirational model where land is at a premium; 'agrotourism' with a pool: more tourism than 'agro'. Haven't others obtained similar permits? Is it any surprise that agricultural innovation, investment, or enhanced productivity is subordinated to land as a capitalizable resource by cultivators themselves?

3. In the name of 'protection' the State has thus presided over a veritable disservice to agriculture, particularly via private leases. This has not enhanced 'food supply' except minimally, nor encouraged cumulative generational investment in the land to enhance its productivity, crop variety, and environmental potential. Equally tragic, it has contributed to wasting the considerable skills of Maltese cultivators, potentially all good farmers, by encouraging them to work as peasants with considerable sacrifice in the hope of becoming land speculators. They know they will never be able to make a living from agriculture, so why not see the land as a capitalizable resource? Everyone else does, including those who

complain about “greed” which everyone else but oneself possesses. This is the regime the WP aspires to re-entrench in Malta, all to sustain a fictional ‘ample food supply’.

4. Swinnen, Van Herck and Vranken (2016) who examined tenancy protection in EU countries on behalf of the Commission noted that ‘extensive tenancy protection resulted in perverse effects’ (ibid.:67). Another group of researchers noted that when the regulations became so extensive ‘landlords were no longer willing to rent out their land’ and consequently ‘new efficient producers [could not] access the market either through sales or rentals’ (Vranken et al . 2021:67). Such *de facto* prohibition on land transactions ‘can have far-reaching consequences from an efficiency point of view, as land cannot fluently move from less to more efficient producers’ (Vranken et.al. 2021:9).¹⁷ The same authors caution that ‘very strict tenancy regulations might backfire if they reduce the amount of land that is offered for rent or if they diminish a landowner’s incentive to make land-related investments (Swinnen, Van Herck and Vranken, 2016)’. It could be argued that Malta’s progressive governments *have over-regulated the agricultural land market to its disappearance and inaccessibility to everyone except the original beneficiaries’ heirs*. This has a negative effect on prices of unencumbered land pushing them upwards, further encouraging tenants to ‘land hoard’ in an upwards spiral: ‘The sale prices of free land were considerably higher than the sale prices of land with a rental contract, and land sales prices increased much more than land rental prices, so that renting out land became less attractive’ (Vranken 67). We have here a perfect recipe for a long-foretold State-concocted disaster that the paternalistically pious and dissembling words of the WP risks further exacerbating.

G. THE WP’S “FLUFFY ENVIRONMENTALISM”

1. Although the WP makes “the environment” central to its argument (p.14), it is frankly ‘fluffy’.¹⁸ It couples a restriction of the acquisition of land with the protection of the environment:

‘When the acquisition and possession of land are not controlled, there is a risk of farmers losing agricultural land, to the detriment of their livelihood, as well as to the country’s ability to produce food and safeguard the rural environment.’ (p.4).

There are two assumptions here: (i) uncontrolled acquisition and possession of land = decline in the country’s ability to produce food, and (ii) inability to safeguard the rural environment.

2. Both assertions are far from self-evident and grievously flawed. There is no *prima facie* support for the suggestion that people not hitherto involved in farming may not wish to obtain land either by sale or rent to install new cultures, olive trees, vines, etc. and would not be responsible environmental caretakers. The trend in many western countries has been to *encourage wider public access to farming* land such that the number of people involved in growing food and engaged with the environment increases. This is evident in the European Parliament resolution (27 April 2017)¹⁹ that informs the WP proposals.

In Maltese, the term for environment is *l-ambjent*, meaning mainly ‘nature; a place that is not built up’. The WP formulators have adopted these everyday popular meanings. Their key point is that if land is farmed then it is *ipso facto* excluded from ‘development’ or building;

hence, 'environmental protection'. This borders on the tautological. Does that necessitate a continuation of the current rural leases regime or the denial of the owners' rights to the recovery of their properties? Assuredly no. The WP's argument must be that if land remains devoted to farming then the rural environment is safeguarded. It cannot not be taken to mean that specific individuals require tenure protection for that would mean protection not of the land from development but of specific individuals.

3. But do existing farmers protect the environment and in what way? Actively or passively, i.e., by actual enhancement or by merely sticking to the Planning Regulations? By 'active' is meant that farmers are actively involved in the protection of the environment, most evident in the care of the lands they rent, and therefore do not act abusively. According to my fieldwork amongst property owners this is often far from the case on either the active or passive levels. Their views are important for this is their family patrimony for which they have paid dearly in consecutive succession duties over generations of protected rents.

Property-owners state quite unambiguously that a substantial number of their agricultural leases to protected 'farmers' have environmental transgressions from illegally constructed structures (even illegal habitations in extraordinary locations) and boreholes, use of land for dumping, deteriorating rubble walls and traditional structures, cleared bird trapping hides, fake declarations including neighbours' (and therefore others') land for building permits, to informal parking lots, even scrapheaps, etc. Practically every piece of rented private agricultural land has a problem, either environmental, planning, or abusive. Given the protection farmers enjoy and the labyrinthine and laborious legal processes, despairing property-owners are discouraged to put things right, and the degradation continues unabated.

Protection breeds abuse. The cultivator is happily entrenched on the lands he is confident he cannot be evicted from but which he can abuse as it is not legally his own and for which the property-owner is legally responsible for environmental transgressions. The WP's proposals will further entrench this widescale long-established, legally sanctioned propinquity to abuse. This is not to single out farmers as a distinctive group. *Any* social group that is protected will inevitably take advantage of that status, and this is evident in all sectors of Malta's protectionist history.²⁰ Only rigid zoning rules can protect the environment, plus rural planning enforcement that is evidently lacking, and frankly almost impossible given the human resources available and the subterfuges employed. The WP's 'whitewashing' of the facts on the ground by identifying farmers as assiduous active protectors of the environment is thus somewhat astounding, and certainly not based on any active surveying of rural leases. Indeed, it could be argued on the principle of *bonus pater familias* that it is the *owner* who is the most likely and the keenest to protect the environmental integrity of his land.

4. The conclusion is that the forced coupling of "genuine farmers" with 'environmental protection' is rather simplistic and somewhat disingenuous. Its primary aim is to protect a special sector that can never provide national food security, for it has been lost centuries ago. It is iniquitous as it excludes some 95% of the population from access to horticultural land both for domestic food production and for psychological solace in a highly urbanized overcrowded environment - land that they can enjoy and exploit through rent or transmit (sale). As access to horticultural/agricultural land is State-rigged the public is reduced to a passive observer of the rural environment. It also does a disservice to agricultural

development by excluding a new, young, highly diversified group from engagement through the free market in land. Nor does it ensure food supply sustainability

5. The other flaw of the ‘farming = environmental protection’ is that it excludes the mass of the population from farming or horticulture in favour of so-called existing “genuine farmers”, however tortuous in definition and abusive it may transpire to be, a difficulty the WP recognizes. But there is nothing *a priori* to say that new part-time horticulturalists would not be equally benign environmental caretakers, or indeed the landowners themselves, so long as they all engage in responsible farming activities.

H. CLASSIFYING THE “FARMER”: A GORDIAN KNOT?

1. The WP recognises that its proposed reforms are critically dependent on one requirement: identifying “genuine farmers”. It employs the term several times. This paper warns that this is likely to be very difficult to realise in practice and will be heavily vulnerable to abuse. The first task is to note that *not all those who farm are farmers*. We need to carefully scrutinise the differences between part-time hobbyist “cultivators” from full-time market oriented “farmers”. Nor can a “genuine farmer” be defined by exclusion. Claiming “no other job/occupation” does not mean “farmer”, either full time or part time. “Farmer” particularly “full-time” or “genuine” needs to be backed up by hard, verifiable, and plausible evidence (sales receipts, land acreage farmed, identification of land farmed on cadastral sheets, rental receipts, confirmation of tenancy by landowner). And the evidence should be checked by field officers.

This difficulty was already acknowledged in the National Agricultural Policy report: ‘As a matter of fact, the amount of registered full-time and part-time farmers in Malta is very high and *there is no means to classify the active farmer segment that is producing food for the population*’ (2018:135, added emphasis).

There is a simple answer why the number of farmers is high: anybody who inherits a lease or comes to some informal arrangement with a lease inheritor to work some land registers as a ‘farmer’. It has nothing to do with the plot size or food production; it has to do with obtaining a state recognition. “Farming” is a protected profession. Once registered you establish some rights against eviction.

The NAP further noted that ‘this lack of farmer benchmarking *is conducive to abuse*, where non-active recreational farmers benefit from the status of being a farmer at the expense of genuine diversification and innovation efforts. Thus, any scheme, strategy and policy instrument that is proposed, risks being abused’ (NAP 2018:135). Why then does the WP, that claims to have consulted the NAP (2018), persist in this delusion? The answer is simple: financial costs to the State are minimal, the costs are borne by the landowner unable to recover his land.

2. Registering as a farmer in Malta is easy and can be lucrative. The NAP notes ‘There is currently an identification system, based on a full-time or part-time status, where anyone can

register at JobsPlus. At this point registration can occur even on a back-dated basis and a self-declaration by the applicant of having been farming for a number of years is the minimum requirement. This full-time or part-time status is most often sought for tax purposes, planning applications, EU funding schemes and more' (2018:135)

Surprising? It should not be: 'Farmers have been criticising the current farmer registration system at JobsPlus *for many years* since it is prone to abuse from recreational farmers who can benefit from any schemes by competing with active farmers, ending up diluting the benefits intended for productive farming or complicating the process for genuine farmers' (NAP 2018:135). Why therefore have the relevant Ministries done nothing to curb this abuse? Everyone knows the answer except our leaders and their administrators who refuse to acknowledge it: it will be unpopular; we want to be re-elected. Suggestions were even made at the National Conference 'for the establishment of a minimum land holding as benchmark criteria to distinguish between a full time and part time farmer status' (NAP 2018:135). Again, nothing transpired. Is it any wonder that the greatest culprit for the deplorable state of Maltese agriculture is *the State itself that first incubates abuse then offers 'protection' from that very abuse*. In a recent book chapter, I argued that 'There is a very real sense in which the State in Malta can be seen as Tilly's 'protection racket' in shielding its subjects from the *'consequences of its own activities'* (Sant Cassia 2022:57).

3. Thus far we have shown how the official classification of a "farmer" is liable to abuse, in which the State has been complicit. We now examine how the status of being a "farmer" is not just slippery but is *self-defined by the claimant and requires little or no proof or demonstration*. We repeat an observation and draw a consequence. The observation: inheriting a tenancy makes you *ipso facto* a "farmer". *It is not the farming activity that makes the "farmer", it is the inheritance of a protected rural lease*. From that privileges and protection accrue. There is no other self-ascribed occupation in contemporary Malta that brings with it a State supported set of *inherited* privileges and protections.

The consequence? *Self-classification as a 'farmer' can be strategic*, often related to the individual's aims (subsidies, legitimization of tenure, escaping under the taxation radar, etc.). It is probably the most flexible and slippery adopted self-ascription of all occupations, and *the least state scrutinized*. As farming is often combined with other gainful more taxman-scrutinized self-employed occupations (e.g., plumbers, tilers, builders, lawyers, accountants, etc.), *it is likely to be the most overrepresented* of all self-ascribed occupations. This has implications both for the WP's obsession with identifying "genuine farmers", and for the calculation of reliable and reflective statistics

I. CONCLUSIONS AND RECOMMENDATIONS

1. Distinguishing “genuine farmers” from others (part-timers, hobbyists, simulated peasants) is a gordian knot that will, in most likelihood, not resolve the mess that the State created through the protected tenancies regime. Or to put it differently, it will create a new mess with new problems, new strategies at circumvention, and new laborious procedures that will continue to prevent owner recovery of their land because practically all tenants will claim to be “genuine farmers”. It will probably result in ‘plus ca change’ which may have been the intention in the first place. If so, the tragic result will be that Maltese agriculture, particularly in the small tenant sector, will continue its inexorable decline producing cheap vegetables to compete with Lidl imports from Sicily.

2. The main reason? The predominant part-time nature of Maltese agriculture. If a requirement is full-time registration and no other occupation, this will exclude most. Others can argue “I am part-time, but I grow crops”. Anybody can claim this even a simulated peasant. No one is going to claim being a hobbyist. Protected tenants want to hold onto their land, even if some professional or highly paid technician. The rents are derisory, and the owner pays the succession tax to enable them to pass on their rights to their children. Who is going to give up such State-enforced generosity? The State can of course require that a genuine farmer produces sales receipts above a certain amount (a ‘means test’ to qualify, below which one is not entitled to protection), over (say) the past three years to pre-empt anticipated ‘book cooking’. This is not new but the State, being more tight-fisted over its own land, was not generous enough to extend this privilege to private owners. An amendment, Chapter 268 (Article 3, Section 6 (d), Disposal of Government Land Act) permitted horizontal land transfers only in cases where the recipient is a full-time farmer with a minimum annual turnover of 20,000 EURO supported by proof of sale and from the declarations made in VAT returns (NAP 2018: 133). The State clearly considers full-time farmers for its own land those who can demonstrate such an annual turnover of 20.000 EURO. This could be adopted for identifying genuine farmers benefitting from protected private rural leases. That would certainly prove that the land is being worked genuinely rather than being held abusively in the hope of speculating with it.

4. Another additional qualification requirement should be *minimum amounts of farmed land* to qualify for ‘protection’ though at commercial rents: for example, that a ‘genuine farmer’ claiming that status cultivates above a certain minimum amount of land (say 5 *tomniet*) with landlord ratification of authenticity. Tenants who cannot satisfy variants of these criteria should not be considered “genuine farmers”. They may do farming, but they should not benefit from state protection. The reason is simple and available in the EP Resolution that the WP evokes: agricultural land is a special commodity necessary for a society’s well-being. It is also *a scarce resource and should therefore be available for reasonable terminable rents by all the Maltese*, not monopolised by inherited leases that has in effect killed off access to land for the rest.

5. The EU Commission identified one main problem in Malta's agriculture that the State knows only too well: **no new blood**. This confirms the assertion made earlier: Malta's agriculture has not declined *despite* protection, but *because of it*. An obvious economic lesson. The solution to 'no youth take-up' in agriculture is **to terminate protected tenancies** that do not pass certain thresholds and make them available to a new intake of tenants. If farming is dying then open it up to new blood who want to experiment with organics, hydroponics, new crops, investment, etc. And if land is a special and scarce resource important for psychological well-being in a highly urbanised society it should also be made available through decent rents for the people's enjoyment. At present, rents are derisively low: in most cases not enough to feed *erbgha qtates* (as the saying goes) for a couple of months.

6. **Inheritance Tax.** For the last 3 generations, if not longer, owners have been dutifully paying succession duty on these properties, *de facto* on behalf of their tenants who have enjoyed security of tenure. The tax percentages were even higher in the past. Owners do so to ensure that their properties continue to be registered as theirs and as their link with their ancestors. There is no need to rehearse the generational injustice and discrimination inflicted on individuals. For properties/tenancies intentioned for protection by the State that result in the owner not being able to recover his/her property, the State should come with a formula: refund and relief from Succession Duty, plus rental subsidies paid to the owner.

7. **Removal of all heritable tenancies and automatic expiry on death of tenant.** The final recommendation is that rents should not be heritable. With Malta's rapid and extensive social mobility transmissible rural rents even to "genuine farmers" are not justifiable, quite apart from transgressing the owners' human rights to the recovery and enjoyment of their properties. It also has pernicious effects in a sugar coating: it ghettoizes and enclaves a farming group isolating them from the rest of society tying their descendants to the land. No departing generation should exercise a '*mortmain*' hold over the opportunities of the replacing generation.

8. **A 'Lesson' we all know:** The Rural Leases Problem may be a *sui generis* problem but is a common symptom of a mode of Governance that has bedevilled Malta's neo-colonial state: **Governance by Protection.** Protection incubates abuse, generates inefficiencies, disincentivizes innovation, ghettoizes a social sector, prevents introduction of new blood, and generates a resentful but expectant dependency among the protected that is very hard to wean off. The irony is that the State first offers 'protection' then is obliged to pay or 'compensate' these sectors out of public funds once that protection is declared unconstitutional or against human rights. In contrast to 'The Postman who always rings Twice', the 'Public in Malta always pays Twice for the Other': first by exclusion (of the aggrieved), then by compensation (paid by the public). One could call this *Governance through Special Group Protection to Public Compensation*. The tragedy is the genuine cases can then suffer because of previously tolerated abuses, encapsulated by the well-known proverb "*mal-ħażin jeħel it-tajjeb*". We often think of this as 'unjust fate', but it is not. It is the direct result of a system of *lax misgovernance* that attempts to correct previous mistakes by new ones, because it never had the courage to tackle them in the first place. The public is always the victim in some form or another.

This submission is entitled 'A case of "*plus ça change*", a 'lost opportunity' or a 'new land-grab'? The WP should be none of these. It should promise a new bold imaginative initiative where everybody should gain in the long run. Not a zero-sum game but a win-win situation. That requires courage, innovation and imagination.

APPENDIX 1: European Parliament resolution of 27 April 2017 on the state of play of farmland concentration in the EU: how to facilitate the access to land for farmers (2016/2141(INI))

The White Paper makes much of the above Resolution attempting to derive some legitimacy for its proposals. Intrigued by the generosity and clairvoyance of the EP in providing a tailor-made solution to a problem that Malta only encountered after the Resolution was passed, I scrutinised it to examine its applicability or otherwise to the WP's proposals. The following is an identification of the areas of inapplicability, irrelevance, or misapplication of this Resolution to the White Paper's objectives.

1. The Resolution starts off by referring to 'Land Grabbing'. In what way is the recovery by owners of their property a 'land grab'? At most it would refer to third-party acquisition through sales.

2. Article J states *inter alia* : "*on the other hand, by the concentration of land in the hands of large-scale agricultural undertakings and investors from outside the farming sector; whereas, at the same time, it is the responsibility of the authorities to control and limit the loss of agriculture land through such activities*". In what way is this relevant to Malta, and in particular to the major initial issue that triggered the WP, i.e. that owners' rights to the recovery of their land looks like being recognized by the courts?

3. Article K states, *inter alia*: "*given that young people seeking to establish themselves have greater difficulty, owing to cost, in gaining access to land, especially when they do not come from farming families*". Indeed, as noted, young people in Malta have no chance to gain access to land because all privately leased land is monopolized by the heirs of farming families, who because of heritable leases are considered "farmers". The WP conveniently bypasses this article and does not acknowledge how the Rural Rents Regime has killed any access to land to young people who do not come from non-farming families. Nor does it provide for this.

4. Article Q states *inter alia*: "*whereas the sale of land to non-agricultural investors and holding companies is an urgent problem throughout the Union*". But in Malta the primary problem is that property owners cannot recover their land. It is not a question of sale; it is a question of *recovery*. Is the WP proposing that in order to prevent the sale of land to 'non-agricultural investors', the owners cannot recover their land? This is an unacceptable and unwarranted by any possible reference to this article.

5. Article R states: "*whereas a broad distribution of agricultural land is an essential founding principle for the social market economy, and an important precondition for social cohesion, job creation in rural areas, high agricultural value added and social peace*". In Malta *the distribution of agricultural land has not been broadly distributed*. On the contrary inheritable tenancies have restricted land to the heirs of the original tenants. One could call this a 'rural lease aristocracy', where by 'aristocracy' is meant 'the intergenerational transmission of protected privileges' whether it be a crown, duke, a tribal sheikh, or a land occupancy in this case.

6. Article V states, inter alia: *“whereas farmers who do not own their land should be ensured leases that are robust enough, and of sufficient duration, to safeguard a return on their investments”*. We can certainly agree that Malta’s rural rents regime has certainly been of long duration, cheap, free from inheritance taxes, and sufficient to “safeguard a return on their investments”, if any investments have indeed been made, for they are rather rare...

7. Article AB states inter alia: *“whereas farmland prices and rents have in many regions risen to a level encouraging financial speculation, making it economically impossible for many farms to hold on to rented land or to acquire the additional land needed to keep small and medium-sized farms viable, let alone to start new farms, as there is hardly any land available on the market”*. *Indeed, and this is so because the rents are so low and transmissible that they are never relinquished but hoarded. As a consequence, all newcomers are excluded.*

8. Articles AD and AE refer to *‘rents no longer based on incomes that farms can sustain’*. But rents in Malta have been static for the past 80 years. So how could the WP in all honesty draw some legitimation from most of the determining facts the EP resolution draws up to justify its requests to the Commission?

This is a far from exhaustive scrutiny by a non-lawyer. There are many more points of divergence, misapplication, and irrelevance that become tedious and exhausting to list. It should be clear to any reasonably attentive reader who would care to read it that this Resolution was formulated to deal with very different developments in eastern Europe and has very limited leverage for the Maltese situation.

¹ On ‘the state of play of farmland concentration in the EU: how to facilitate the access to land for farmers (2016/2141(INI))’. European Parliament.

² Food Self-Sufficiency across Scales: How Local Can We Go? Prajal Pradhan, Matthias K. B. Luldeke, Dominik E. Reusser, and Juergen P. Kropp. *Environ. Sci. Technol.* 2014, 48, 9463-9470
[dx.doi.org/10.1021/es5005939](https://doi.org/10.1021/es5005939) |

³ Joseph Zahra, Senior Control Room Manager, Kordin Grain Terminal Company Limited, personal communication via email (17/10/2022)

⁴ From: *Ritratti di città in Sicilia e a Malta (XVI-XVII secolo)* Paolo Militello . Palermo : Officina di Studi Medievali, 2008. – (Kasa ; 5)

⁵ All early 20th century photographs of the countryside show it as bone-dry and bereft of trees. The reason is the voracious indiscriminate goat

⁶ Dawson Shepherd, J. 1920: *Report on Agriculture in Malta*. Malta: Government Printing Office

⁷ FAO 2015-16: ‘Food self-sufficiency and international trade: a false dichotomy?’ The State of Agricultural Commodity Markets in Depth. IS222E/1/12.15. Report prepared by Jennifer Clapp. FAO: Rome.

⁸ D’Odorico, P., Carr, J.A., Laio, F., Ridolfi, L. & Vandoni, S. 2014. Feeding humanity through global food trade. *Earth’s Future*, 2(9): 458–69.

⁹ State of Agricultural Commodity Markets (SOCO 2020) ref **The State of Agricultural Commodity Markets 2022** The geography of food and agricultural trade: Policy approaches for sustainable development. FAO Rome 2020.

¹⁰ https://agriculture.ec.europa.eu/common-agricultural-policy/cap-overview/cap-glance_en

¹¹ Agricultural Situation Report – MALTA Dr. Marinos Markou Dr. Andreas Kavazis Mr. George Stavris. Agricultural Research Institute Nicosia – CYPRUS JANUARY 2006 Market and Trade Policies for Mediterranean Agriculture (MEDFROL): The case of fruit/vegetable and olive oil - SIXTH FRAMEWORK PROGRAMME PRIORITY 8.1 Policy-oriented research Integrating and Strengthening the European Research Area Call identifier: FP6-2002-SSP-1

¹² COMMISSION STAFF WORKING DOCUMENT : Commission recommendations for Malta’s CAP strategic plan. EUROPEAN COMMISSION. Brussels, 18.12.2020 SWD(2020) 387 final.

¹³ Such as wine grapes, olives, pomegranate and carob juice as health foods, etc. -PSC .

¹⁴ These include: (i) Bolster environmental care and climate action and to contribute to the environmental- and climate-related objectives of the Union; (ii) Strengthen the socio-economic fabric of rural areas and address societal demands; and (iii) Fostering and sharing of knowledge, innovation and digitalisation in agriculture and rural areas, and encouraging their uptake.

¹⁵ ‘wheat, *mischiato* (mixed wheat and barley), barley, cumin, potatoes, beans, pulse and peas, vetches, sulla (a kind of clover), melons, pumpkins, marrows, onions, maize (which, like barley, is cut green and also grown as a grain crop), tomatoes, cotton and saffron’ plus the following vegetables: ‘beetroot, carrots, turnips, artichokes (Globe and Jerusalem), kohlrabi, radish, cabbage, cauliflower, lettuce, French beans, capsicum, egg-plant, spinach’ (1920:12).

¹⁶ Such as Carob syrup/*julep*, now making a comeback in Cyprus where it is known as ‘black gold’.

¹⁷ Vranken, L., E. Tabeau, P. Roebeling, P. Ciaian with contributions from country experts, *Agricultural land market regulations in the EU Member States*, EUR 30838 EN, Publications Office of the European Union, Luxembourg, 2021, ISBN 978-92-76- 41990-7, doi:10.2760/86127, JRC126310.

¹⁸ “When the acquisition and possession of land are not controlled, there is a risk of farmers losing agricultural land, to the detriment of their livelihood, as well as to the country’s ability to produce food and safeguard the rural environment”(p.4).

¹⁹ European Parliament resolution of 27 April 2017 on the state of play of farmland concentration in the EU: how to facilitate the access to land for farmers (2016/2141(INI))

²⁰ From white taxi drivers, ex-dockyard employees, coach providers, pharmacies, *burdnara*, Air Malta employees, to housing and shop tenants etc

References

Pavel Ciaian, d'Artis Kancs, Jo Swinnen, Kristine Van Herck and Liesbet Vranken, 2012: *Rental Market Regulations for Agricultural Land in EU Member States and Candidate Countries* . No. 15, February 2012 FACTOR MARKETS Working Papers. Coordination: Centre for European Policy Studies (CEPS) . Brussels. ISBN 978-94-6138-154-5

Dawson Shepherd, J. 1920: Report on Agriculture in Malta. Malta: Government Printing Office

D'Odorico, P., Carr, J.A., Laio, F., Ridolfi, L. & Vandoni, S. 2014. Feeding humanity through global food trade. *Earth's Future*, 2(9): 458–69.

EU COMMISSION STAFF WORKING DOCUMENT 2020. Commission recommendations for Malta's CAP strategic plan. EUROPEAN COMMISSION. Brussels, 18.12.2020 SWD(2020) 387 final

Horden, N. & Purcell, N. (2000): *The Corrupting Sea. A Study of Mediterranean History*. Oxford: Blackwell.

Markou, M. Kavazis, G. & Stavris, G. 2006. Agricultural Situation Report – MALTA. Agricultural Research Institute Nicosia CYPRUS

Ministry for the Environment, Sustainable Development and Climate Change, Malta. 2018: *National Agricultural Policy for the Maltese Islands 2018 – 2028* . Atriga Consult

Prajal Pradhan, Matthias K. B. Luldeke, Dominik E. Reusser, and Juergen P. Kropp. 2014. Food Self-Sufficiency across Scales: How Local Can We Go?. *Environ. Sci. Technol.* 2014, 48, 946319470.

Militello, Paolo.2008 Ritratti di città in Sicilia e a Malta (XVI-XVII secolo) Palermo : Officina di Studi Medievali, (Kasa ; 5)

Vranken, L., E. Tabeau, P. Roebeling, P. Ciaian with contributions from country experts. 2021. *Agricultural land market regulations in the EU Member States*, EUR 30838 EN, Publications Office of the European Union, Luxembourg, 2021, ISBN 978-92-76- 41990-7, doi:10.2760/86127, JRC126310.

FAO (2020): State of Agricultural Commodity Markets (SOCO 2020): The geography of food and agricultural trade: Policy approaches for sustainable development. FAO Rome 2020