

## Debate & Analysis

# The politics of clientelism



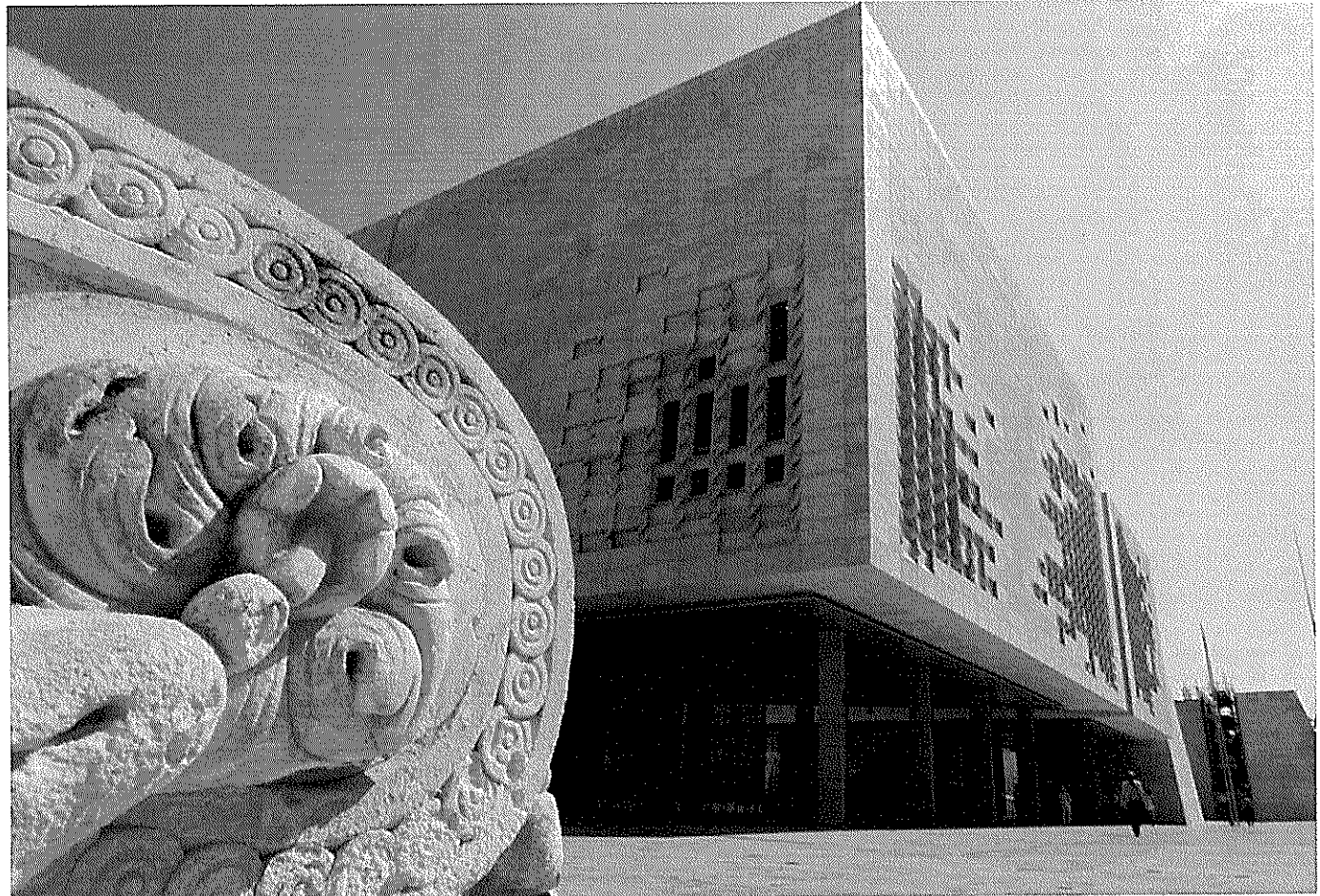
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If there is one thing that both political parties represented in the House of Representatives totally agree upon, and endorse unreservedly, is the politics of clientelism.

**L**ike Covid-19, this is a virus: it attacks good governance and has various variants such as nepotism, cronyism, and favouritism. Sometimes the beneficiary of such policy is a supporter of the party in government and rarely of an opposition sympathiser unless such person is being lured to vote for the party in government through privileges, immunities, and favours bestowed thereupon.

At other times these privileges, immunities, and favours – to assuage the blood thirsty party propaganda machinery – are handed out to blue-eyed government opponents who have decided to switch political allegiance. At other times they are awarded upon relatives or even upon friends of friends. Under the latter category would fall unelected general election, European Union Parliament, and local council candidates who would have missed the boat but need to be somehow compensated for their political loyalty. But it is the state – not the political party concerned – that foots the bill. It also includes political party activists, canvassers, sympathisers, political party employees, and radio and television broadcasters of the political party in government.

In this way, as a sign of gratitude for their loyalty to the political party in government, they are conferred a consolation prize generously sponsored by the State. Sometimes it is Cabinet ministers themselves who are bestowed privileges, immunities and favours from a fellow Cabinet minister in terms of the misrule of law principle known as you scratch my back and I will scratch yours. This could take place in various ways such as by instructing the police not to take criminal action against a minis-



ter, sanctioning illegal development by a minister, and employing a minister's relatives within another ministry as a consultant, advisor or in some other capacity in the public sector.

In Malta clientelism and its mutants is not only a political phenomenon but also forms part of the organisational culture – to borrow a term from Geert Hofstede – of the two political parties represented in the House of Representatives. This policy is, through the political class of both flavours, extended to government. In government this structure that is responsible for the organisational culture of clientelism is the Cabinet but the day-to-day implementation of this policy manifests itself through Customer Care Units within ministries. The operators of these units are themselves the product of this policy. Indeed, these operators – known as persons of trust – are all appointed by all administrations in breach of the Constitution.

This unconstitutionality has been reported upon by the Public Service Commission, the Ombudsman, and even the Council of Europe's (Venice) Commission on Democracy through Law in their respective reports. So far as I am aware, it is only Cabinet, the Attorney General (prior to the establishment of the office of State Advocate) and the previous Principal Permanent Secretary who

defended positions of trust.

Yet no institution of the State, the opposition, a political party, or a non-governmental organisation has challenged in court government's abusive behaviour when appointing persons of trust whose duties can and should all be performed by public officers not ministers cronies. Take, for instance, the Public Service Commission. It knows that positions of trust are unconstitutional. In three of its reports it has reported negatively on these types of appointments. But it never had the courage to stand up to government's abuse of power to challenge this unconstitutional behaviour in the courts. After all, it is the Public Service Commission that is entrusted by the Constitution with the appointment of public officers. If there is an entity in Malta that has a personal interest to ensure that government does not subvert its constitutional functions, it is the Public Service Commission itself.

Yet the Public Service Commission, although established as a constitutionally independent commission from government, has decided to renounce to its independence and constitutional duty, in order to appease government and be in the latter's good books, thereby transforming itself from a constitutionally independent commission into a government lackey. Contrary to

Chief Justice Emeritus Joseph Said Pullicino who, when Ombudsman, sued the government in court, the Public Service Commission is hesitant and unwilling of performing its constitutional duty lest its members would not have their appointment renewed whenever its lapses. But Said Pullicino not only sued the government – as it was his constitutional and legal duty to do – but even won the case against government both before the court of first instance and the Court of Appeal. But how many Said Pullicinos can we count in Malta who are prepared to challenge government when it is abusing its powers?

The Public Service Commission, therefore, is independent only in name. When it gets down to brass tacks, it has opted for self-castration at Cabinet's altar of power preferring to be docile and loyal to the government of the day than to the Constitution under which it is supposed to operate. But if the Public Service Commission – the constitutional entity that is directly affected by government's abuse of power – has no qualms in abdicating its constitutional duty and do its job, who should? For whilst the Public Service Commission has the juridical interest to challenge government's unconstitutional behaviour in court, others cannot do much once the courts continue to apply the civil proce-

cedure institute of juridical interest to public spirited persons in full breach of the constitutional and conventional human right to access to a court, in full disrespect of that same Constitution that they not only swore to obey but also to enforce. The courts and the State Advocate have, in this respect, rendered the public-spirited citizen powerless in enforcing the highest law of Malta.

Yet the public sector is also complicit in this politics of clientelism when they wholeheartedly comply with the Customer Care unit's request to assist ministerial clients, even when they know that they would end up breaching the law. Of course, once the employees of the public sector are caught violating the law to appease their political masters, ministers are the first to proclaim that they never ever requested the public sector to violate the law to satisfy their clients' needs. As though any person is going to believe them.

But so long as both political parties continue to practice the politics of clientelism over the politics of merit, then there is no end in sight to the ongoing injustices that both the Labour Party and the Nationalist Party support tooth and nail.

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