

Legislating, protecting, knowing:
legal issues and cultural heritage in the Maltese
Archipelago

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Preamble

‘They used to see this woman carrying a large stone on her head. She had a baby ... some say that she carried her baby in her arms, others that she carried the baby in a pocket of her dress, others that the baby was placed in a sling across her body; in her pocket were more than 300 square metres worth of broad beans; she also had four kilograms of flax; when she walked she ate beans, worked the flax, and steadied the stone on her head.

In Gozo she built the small stone hut at Ta’ Ċenċ, called Id-Dura tal-Mara.

From there she carried the stones to Ġgantija, in Xagħra, as she had carried the standing stone to Qala, and the stones to Borġ Għarib near Għajnsielem.

On the Ta’ Ċenċ heights, on the windswept plateau, there is a construction similar to Ġgantija, and along the edge there are remains of many stones forming a wall. Even these were carried by this woman.

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About the standing stone they say that it was carried by a woman one and a half times taller than the stone. She used to climb over it to work flax. In her pockets she could hold more than 600 square metres worth of broad beans.’

I chose to start with this popular narrative from the Maltese islands, recorded in the early twentieth century by the Jesuit father and pioneer archaeologist, Emmanuel Magri, when he was studying the prehistoric remains on the island of Gozo (Magri 1994, 128). It is one glimpse into the way that farming folk perceived and understood the world they inhabited, a world in which stones of stupendous size feature prominently. Another glimpse of the same stones can be had from the narratives of antiquarians and pioneer archaeologists. Received knowledge about European megalithism at the turn of last century, in fact, had several archaeologists define the stones using a more exacting terminology: ‘menhirs’ and ‘dolmens’, ‘trilithons’ and ‘monoliths’ characterize the scholarly literature of the day (e.g. Ashby *et al.* 1913; Mayr 1908; Peet 1912, 98-113). Many of these megalithic monuments still stand today: the Ġgantija temple complex has become a national icon of world heritage status; the Qala menhir is huddled in a small plot of land, between modern housing and devoid of its landscape context – the grazing grounds of yesteryear’s farming folk; other sites, especially those on the windswept plateau at Ta’ Ċenċ may face an uncertain future by developers who until recently had set their eyes on the private land where the stones stand. The principal aim in this paper is to discuss the strong interplay between legislation and protection of archaeological sites on the one hand and between protection of sites and knowledge creation on the other. The case study from Malta offers a distinctive characteristic of archaeological heritage management rooted in geographic smallness and particular socio-political dynamics (cf. Pace 2007). The scope of the paper might appear marginal and narrow, restricted as it is to the edge of southern Europe, and a perspective from an island group whose construction of self-identity continues to be a tortuous one (e.g., Baldacchino 2009). However, it is felt that the analysis of the Maltese situation should have relevance for a debate that has often been biased towards the continental European perspective. Participation in the gathering that gave rise to this publication, moreover, allows me to structure my discussion around the effects of the

European Convention on the Protection of the Archaeological Heritage signed in my country twenty years ago.¹

Legislating to protect

The signing of the Valletta Convention in January 1992 could not have come at a better time for Malta. It followed the consolidation of planning policies through the publication of a Structure Plan for the Maltese Islands (Buchanan & Partners *et al.* 1990) and coincided with the enactment in parliament in October of that year of the Development Planning Act (Laws of Malta, Chapter 356), an act that was to be a legal instrument intended to restore more technical objectivity to development planning. To paraphrase a former Maltese politician, the law was meant to replace the direct control that ministers hitherto had on the planning process with an authority set up for the purpose (Mifsud Bonnici 2008, 106). Archaeology fell firmly within the scope of the Planning Authority's work of spatial planning, contracting, and public decision-making and by the mid-1990s the Authority had its own graduate in Archaeology.²

The importance of this legislation cannot be underestimated for an archipelago which supports a total population of 416,055, mostly located on the largest island, Malta, with a total land surface of 246 sq. km. This makes the archipelago the most densely populated country within the European Union at 1,320 persons per sq. km (Census 2011). In the post-war period, population and construction boomed: between 1957 and 2006, it is estimated that about twenty per cent of the total land area was lost to

¹ I am grateful to Foundation 'Anastasios G. Leventis' for inviting me to participate in what turned out to be a thought-provoking gathering. In drafting this paper I picked several brains, and answers to questions were forthcoming from several individuals in the know both in Malta and during the conference in Nicosia. They will all recognize how their input has been used. I thank them for their patience and diligence in supplying information and for helping me set Malta in a wider southern European and Mediterranean context. Although I feel knowledgeable about the situation prevailing in Malta, I do not purport to present here an official or national viewpoint. This paper is written in a personal capacity and should not be seen as an expression of the University of Malta. Indeed, the views expressed here are mine alone and I take full responsibility for them.

² A degree in Archaeology was first offered at the University of Malta in 1987, producing its first graduates three years later (see Bonanno 2008).

development, both industrial and housing, while the population grew by more than twenty-five per cent (Attard 2006, fig. 2.2; Malta in Figures 2011, 3). Several archaeological sites were destroyed. On the Kordin promontory alone, for instance, where archaeologists had long known of the existence of a number of prehistoric monuments, two megalithic sites were damaged or destroyed, probably when the area was given over for industrial development in the post-war years (Vella 2004). Plans from the early 1970s related to the transformation of the area into an industrial estate show how the orthogonal layout of the factories was superimposed on the terrain with an obvious disregard for the two sites recorded on the survey sheet (Fig. 1).³ Many other known monuments were saved thanks to the practice of erecting boundary walls round them since 1883, and it is unfortunate that the planned enclosures for the two Kordin sites were never built (Bugeja 2012, 5). The third group of megalithic remains at Kordin survived the industrial sprawl thanks to such a wall (Figs 1 b, c and 2). Although it is hard to quantify, we also know that the impact of construction on the buried archaeological heritage must have been substantial at best, devastating at worst. This transpires not only from the brief archaeological reports published by the antiquities authority (the Museum Department set up in 1903), but also from recent re-development projects that are now uncovering archaeological sites that had been damaged by construction and went unreported.⁴ Of course, the Development Planning Act did not come about in a legislative vacuum. The public management of the archaeological heritage of the Maltese Islands has a long history, very much tied to developments taking place abroad, in particular Britain, Malta's colonial

³ The plans reproduced here as Fig. 1a and 1b are found at the Archives and Records Office, Ministry of Resources and Rural Affairs, Floriana, Malta. They are published with permission.

⁴ Three examples can be cited: those of a Late Neolithic megalithic site at Ta' Sardinja in Tarxien, known from photographs taken in the 1950s (Pace 2004, 206), that had been buried under housing in the 1970s (SCH 2008b, section 3.1.4); a site at Ta' Qali consisting of a cluster of Bronze Age silo pits and rock-cut tombs from Late Roman times discovered during the construction of the new American embassy in an area that had been levelled off by building construction in the 1970s (SCH 2008a, section 6.1.2); and three ancient (probably Late Punic) quarries uncovered during the demolition of a factory built in the 1960s at the Industrial Estate of Bulebel near **ejtun** in south-east Malta (Pace *et al.* 2012, 69-72).

overlord between 1800 and 1964 (Grima 2011). The recognition there of the general significance of archaeological monuments for the public and the responsibilities of the state to ensure that the interest was safeguarded led to passing of legislation to manage and protect archaeological sites and monuments, in particular Sir John Lubbock's private member's bill of 1873 and the Ancient Monuments Protection Act of 1882. Colonial administrators were obliged to apply the same policies to care for and manage the monuments. In Malta, the megalithic sites – then thought to be Phoenician rather than prehistoric – became potent symbols of local resistance, a 'useful stick', as Grima aptly puts it, 'with which the native nationalist movement could beat the colonial authorities' for their neglect or depredation of these same sites (Grima 2011, 352). This situation led to the setting up of a Permanent Commission for the Inspection of Archaeological Monuments in 1881 and the wish immediately thereafter to place monuments under the protection of the law. The enactment of such an Ordinance was to languish until 1910 when matters were brought to a head by the destruction of archaeological remains the previous year. Fifteen years later, in 1925, the Ordinance became the Antiquities Protection Act. There the Government was given the exclusive right to excavate and an Antiquities Committee was set up to carry out the provisions of the law (Ganado 1999).

Major legislative changes only happened in 2002 with the enactment in the Maltese parliament of the Cultural Heritage Act as Chapter 445 of the Laws of Malta, changing considerably what until then had been the role of the Museums Department as operator and regulator of cultural heritage (Pace and Cutajar 1999).⁵ For the first time, three organs were created by the state to perform its function of superintendence, conservation, and management of cultural heritage. Cultural heritage also took on a much broader definition, including both movable and immovable objects and intangible cultural assets as defined in Article 2. In 2002, the Superintendence had four full-time archaeologists and two technicians; another five young archaeologists were employed in the last three years ensuring the possibility of screening relevant development applications submitted to the Planning Authority (renamed Malta Environment and Planning Authority in the

⁵ It transpires that an act had been presented to parliament already in 1995, the same year that the **Valetta** Convention was ratified by the Maltese parliament; this was completely rewritten (Mifsud Bonnici 2008, 92).

same year) and development-led archaeological investigations more closely. A professional register of persons who can be contracted by developers has existed for about seven years; that register now includes four categories – Monitors, Excavations and Post-Excavations, Archaeological Survey, and Research Assistants. The criteria by which applicants make it to the register in order to obtain a license are not publicly known, although a university degree in Archaeology coupled with relevant fieldwork experience appear to be the minimum requirements.⁶ At present, the monitors number 25 of which 16 were gainfully employed in 2011 (SCH 2012, 73). In that same year, a document about operating procedures and standards for archaeology services was announced to all operators (SCH 2011). This was a commendable attempt to introduce rigour and quality control in data capture, bringing Malta in line with other European countries (cf. Willems and van den Dries 2007; Harding 2009, 634-636). This does not replace the close supervisory control that the Superintendence keeps on the fieldwork, often using its own resources to have officers on site when the remains are of significant importance and the impact on the planned development is bound to be substantial.

Legislating to know

I come to my second point – that legislating should lead to better knowledge of cultural, specifically archaeological, heritage. It is clear that the coming into force of the Development Planning Act in 1992 effectively meant that the Planning Authority was to be the sole authority in the planning and management of development. The Authority wanted to act as a one-stop shop in planning, whilst of course safeguarding the heritage. For the purpose, a Heritage Advisory Committee was set up effectively taking the place of the old Antiquities Committee that was not reappointed. On the Heritage Advisory Committee sat a member from the Museums Department that until that time had acted both as the operator and the regulator of cultural heritage. However, in the words of the lead drafter of the Cultural Heritage

⁶ Even at the European level, what constitutes adequate training is not clear and each country's laws, conventions, and bureaucracy in relation to licensing arrangements are in effect barriers to employment across the continent (cf. Harding 2009, 633 and 638). The fact that the Treaty on the European Union specifically excludes Culture under its Article 128 complicates matters in this regard.

Act, ‘it was being felt that at times the Planning Authority could not animadvert to heritage matters with the required force’ (Mifsud Bonnici 2008, 92). Under Article 7(5), the Cultural Heritage Act made provisions so that the interaction between the Superintendent as principal guardian of the heritage and the Planning Authority would be enshrined in law. In particular, the Superintendence was now given the task to recommend to the Planning Authority sites and buildings for scheduling and that the Superintendent was to approve any interventions on cultural property.

De facto, however, the interaction between the Superintendence and the Authority has never been a smooth affair (cf. SCH 2008b, section 2.1) and the Committee of Guarantee set up for this and other purposes under Article 16(6) has seemingly failed to facilitate interaction and bridge divergent views (cf. Spike and Dümcke 2010, 11). The Superintendence, for instance, has long lamented the fact that without data sharing and networking agreements, especially access to inventories of cultural heritage assets drawn up by other entities, including the Authority, Heritage Malta (the agency that manages state-owned sites), and the Church, it is hard to carry out its tasks not least populating its own digital inventory system (SCH 2008b, section 1.1). On the other hand, the Authority has often lamented the lack of timely consultative responses from the Superintendence and from the Museums Department (prior to 2002) leading to the creation of loopholes and other legal quagmires, much loved by unscrupulous or zealous developers.⁷ Matters came to a head in May 2011 during a seminar organized by the Superintendence about the provision of archaeological services, as a result of which a revision to the developing planning system took place through the intervention of the minister responsible for culture, frustrated by the conflicting reports received affecting decision making on major development projects. Essentially, this has meant a clearer definition of roles for both entities and cooperative ties across offices. In theory, moreover, legislation should have increased the knowledge base about cultural heritage not only as a result of data from development-led archaeological investigations that until 2011 were reaching both the Authority and the Superintendence but also as a result of the ongoing data capture for inventorying purposes that both offices embarked

⁷ One example is being referred to here: <http://www.timesofmalta.com/articles/view/20060317/local/mepa-criticises-heritage-superintendence.60005> (accessed on 18 January 2013).

upon. In practice, however, with monitoring reports being submitted *only* to the Superintendence and not to the Authority since 2011, knowledge is *not* being generated to predict the location of areas with high archaeological potential when planning applications are considered by the Authority! So legislation is effectively resulting in the examination of archaeological remains which in turn result in ‘new data’. Indeed, for the Superintendence, ‘the examination of archaeological remains results in new data which contributes to the enrichment of our country’s history and its past societies’ (SCH 2011, 6) –but at the moment the new data are available only to its own officers. This brings me to my third point.

To know is to protect

The Cultural Heritage Act of 2002 places the onus on the public to safeguard cultural heritage. Article 4(2) is very clear in this regard:

‘Every citizen of Malta as well as every person present in Malta shall have the duty of protecting the **cu ltural** heritage as well as the right to benefit from this cultural heritage through learning and enjoyment. The cultural heritage is an asset or irreplaceable spiritual, cultural, social and economic value, and its protection and promotion are indispensable for a balanced and complete life.’

So the state places the onus on all of us –specialists and non-specialists alike– to protect the cultural heritage but the act of protecting surely implies the recognition of what to protect in the first place. And recognition or acknowledgment of the existence of something significant found, for instance, by chance during construction works, may not be an easy task for somebody not trained in the discipline. The farmers who concocted the story of the woman who carried megaliths on her head and stood them up to form menhirs, dolmens, and other megalithic structures, may have known no better; this was *their* way of understanding large stones that were attracting a great deal of ‘foreign’ interest. For let’s not forget that archaeology in its infancy was essentially an elitist activity, often carried out by foreigners or foreign-looking Maltese, who spoke differently, dressed differently, and had their own story to tell about these prehistoric megaliths. It has been argued, in fact, that this situation may have played not a small part in the alienation of the Maltese from archaeological, specifically prehistoric, monuments for

a good part of last century (Grima 1998). How far have things changed since? There might be more general awareness of sites and monuments, and popular narratives and folklore might not feature megalith-wielding superhuman women.⁸ The general feeling, however, is that the narratives based on scientific or specialist knowledge produced as a result of archaeological practice are not filtering down to the grassroots. Although this is hard to demonstrate empirically, an idea can probably be had from the very few instances that charges were pressed against those who break the Cultural Heritage Act; there are certainly many instances when this could not be done because the accused would clearly not have been aware of the significance of what they damaged.

As I see it, one of the principal problems here lies in the failure of using development-led archaeological practice to process the data gathered and disseminate widely the knowledge that is being produced within a reasonable period of time. The Valetta Convention made specific reference to this in its Article 7, differentiating between a ‘publishable scientific summary record’ or preliminary report and ‘the necessary comprehensive publication of specialized studies’ (O’Keefe 1993, 410; the French text is even stronger in demanding ‘*les documents scientifiques de synthèse*’, cf. Willems 2007, 64). The Maltese law makes no specific reference to publication as a medium for the dissemination of knowledge even if ratification of the Convention in 1995 should have led to this specific issue of publication being tackled in order to avoid what is clearly a grey area. Indeed, I can mention no substantial report of development-led archaeological excavation from Malta

⁸ A study conducted amongst elderly folk in Gozo in the early 1990s recorded several tales and rhymes that are variations on the story that served as a preamble to this paper (Veen 1994). I would like to add that in no way should my views be construed so that I am seen to refuse to accept the validity of oral tradition and folklore to enhance research undertaken to define the values of archaeological sites and landscapes. On this, see Darvill 2007, 451.

⁹ Here, I am not counting the useful but all too brief text entries uploaded to FastiOnline (www.fastionline.org). No archaeological reports from Malta have appeared in the website’s FOLD&R (FastiOnline Documents & Research), the on-line peer-reviewed journal containing both preliminary and final reports. I am also disregarding the useful desktop research produced in connection with EIAs of large development projects; since January 2012 these are available for viewing through the website of the Malta Environment and Planning Authority (www.mepa.org.mt/permitting-ea-cons); earlier ones can be consulted at the offices of the Authority.

produced in the past twenty years that is in the public domain even though at least 550 monitoring briefs were issued between 2008 and 2011 alone (SCH 2011, 72 and table 34).⁹ Many of the investigations have produced significant results if we go by the attention received in the local media when news is either leaked to the press or apposite press conferences are held on site. Out of the 248 cases from 2011, for instance, 84 yielded a discovery ‘worth recording and examining’ (SCH 2011, 73). The authorities, however, are reluctant to pass on to the developer the cost of analyses and publication of the data gathered because the costs would be too high. This is certainly a sensitive issue elsewhere in Europe. During the Vilnius 2004 conference on European Preventive Archaeology, it was pointed out how the lack of dissemination of results of the work generated by development-led archaeological investigations is halting the generation of new knowledge (e.g., Thomas 2007, 41); another speaker pointed out how developers are not required to finance a scientific publication based on the results (Schaumann-Lönnqvist 2007, 55) and a speaker from Greece claimed that study and publication of large-scale excavations is difficult to accomplish once archaeologists move on to other projects (Koukoulis-Chrysanthaki 2007, 103). Recent attempts in Malta to divert funds –a sort of heritage tax or planning gain– by the Heritage Planning Unit of the Malta Environment and Planning Authority to facilitate the publication of archaeological reports have failed to receive the blessing of the senior management. Finally, tapping a Heritage Fund, for which provision was made in the Cultural Heritage Act (Article 15), for the purposes of ‘research, conservation or restoration’ cannot be done because the fund has remained empty since 2002!

Lack of knowledge generation cannot be blamed on the archaeological monitors or excavators who submit their reports in the required format and standard to the Superintendence but on the state that is keeping the rights of publication of an archaeological investigation to itself. Indeed, although there is no mention of who holds the publication rights to any excavation, the Register of licensed archaeologists comes complete with a note stating that ‘data captured [...] are the property of the Superintendence’.¹⁰ As in several European countries, including France, Austria, Greece, and in part

¹⁰ The list is updated every year and published on the website of the Superintendence: www.culturalheritage.gov.mt/page.asp?n=OngoingNewsdetails&i=14654&l=1. The quotation appears on p. 4 of the document accessed on 18 January 2013.

Germany (Willems 2008, 285), all archaeological work is seen as research carried out on behalf of the state. One could probably contest the legal foundations for this stand, especially the assumption that conducting fieldwork on behalf of the state is tantamount to giving up altogether the dissemination rights on the results of that work (cf. van den Dries 2011, 598), but what matters here is the simple fact that when excavation results are not published, knowledge does not enter the public domain. Not knowing implies a divorce between archaeological practice and the public, the same ‘public’ around whom national cultural policies are often constructed and on whose behalf funding is often sought to recover material evidence of the past (cf. Grima 2002, 87-88; van den Dries 2011, 597-599).

A way forward

The **Valetta** Convention brought with it very clear obligations for its signatories, including Malta. For a start, the archaeological resource base is deemed essential for proper management of the archaeological heritage; moreover mitigation measures must be sought to avoid damage to sites, wherever possible. Where excavation is considered unavoidable, the work must be carried out by qualified personnel and financed properly. The principal legal instruments related to cultural heritage have had a most positive effect on the preservation of archaeological sites in Malta, a success story that has been achieved amidst tight budgets and all sorts of pressure. We now have to move towards the positioning of archaeology in a knowledge society, so that data generation can effectively be transformed into the sort of ‘knowledge creation’ argued for by many archaeologists (e.g., Grima 2002; Cooney *et al.* 2006; Darvill 2007). For the Maltese context, that of course will depend on how quickly we are able to disseminate the results of more than twenty years of fieldwork to as wide an audience as possible. One way forward could include the following measures:

1. Collaborative research projects have been carried out jointly by key institutions in Malta for a long while, producing significant results, some of regional and others of international importance. This has included key players from the University of Malta, the Superintendence of Cultural Heritage, the Malta Environment and Planning Authority, Heritage Malta, local voluntary organizations, and a host of foreign research institutions of

repute.¹¹ There is no reason not to extend that collaborative spirit to include research on the data generated by development-led fieldwork, now overflowing in several stores, to *bona fide* researchers, both students and seasoned practitioners. A publication programme should be set up with clear timeframes and conditions to clear the enormous backlog and ensure the prompt publication of results, taking the cue from similar initiatives elsewhere (e.g., Cooney *et al.* 2006, 38-42). The effects of the dissemination of information is bound to have a substantial impact on the current knowledge of the Maltese cultural landscapes, if we go by the results obtained in other European contexts (Bradley 2006; Moore 2006; cf. Aitchison 2010).

2. A serious effort has to be made to break down the barriers that are keeping data generated by any type of research from being shared effectively in order to allow *all* entities recognized by legal instruments – including museums, the university, and other institutions of learning – to carry out their duties properly. The role of the Committee of Guarantee will be a seminal one if we want to transform policy into palpable action. Besides, the principle of dissemination of information is also enshrined in the Maltese Government’s National Cultural Policy document which seeks to ‘increase the digital online access to cultural material and other information’ (Malta Cultural Policy 2011, 81).

3. Given the size of the archipelago, it is clear that the cultural heritage resource base will diminish further with the spread of development. A clear and sustainable research framework related to cultural heritage in its widest sense, should be set up in order to prioritize and direct research initiatives, as is being done elsewhere (e.g., The Heritage Council 2007; Cunliffe 2010).

¹¹ I direct readers to the Anglo-Maltese Brochtorff/Xagħra Circle excavation project (1988-1996), the Għar ix-Xiħ (Gozo) excavation project (2005-2010), the two major excavation projects at Tas-Silġ led by an Italian archaeological mission (1996-2011) and by the University of Malta (1996-2005) respectively, the Belgo-Maltese Malta Survey Project (commenced 2008), and a host of initiatives starting in the mid-1990s intent on exploring the underwater cultural heritage off the Maltese Islands involving the Département des recherches archéologiques subaquatiques et sous-marines, Texas A&M University, and more recently the Aurora Trust. At the time of writing, a consortium set up by the universities of Belfast, Cambridge and Malta, Heritage Malta, and the Superintendence of Cultural Heritage has been awarded about €2.5 million from the European Research Council in order to investigate the theme of fragility and sustainability in restricted island environments in prehistory.

The minister responsible for culture should take heed of the advice given by the Superintendence and others in setting up such a framework and to identify 'cultural heritage reserves comprising extractable deposits, building and monuments, cultural landscapes, and archaeological sites on land and at sea' (National Strategy for the Cultural Heritage 2012, 47).

4. Finally, the effects of the ratification of international conventions by signatories cannot be stressed enough especially those legal instruments that place the public – at the level of the individual and collectively – at the centre of definitions, perceptions, values, and knowledge consumption and production. Several conventions still await the signature of the Maltese government, including the Council of Europe Framework Convention on the Value of Cultural Heritage for Society (Faro, 2005), the Convention on the Protection of the Underwater Cultural Heritage (Paris, 2001), the Convention for the Safeguarding of the Intangible Cultural Heritage (Paris, 2003); the European Landscape Convention (Florence, 2000) awaits ratification. If I single out the timely importance of the latter, it is because there is a marked democratic interest in the landscape by Maltese society, that same landscape where archaeology, tourism, environment, entertainment, and industry overlap (cf. Boissevain 2006).

The time is right to reap the fruits of the social relevance of archaeology in this smallest of European nations.

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Discussion

DESPO PILIDES: The first part of Dr Vella's presentation, which concerned the history of the development of archaeology in Malta, is in many ways very similar to what we have gone through; the second part, where you have touched upon the salient issues of how to deal with rescue and development is very interesting for us in Cyprus as we can gain an insight into how Malta has dealt with this issue, and the pros and cons.

CHARALAMBOS BAKIRTZIS: The material of your paper was archaeology, excavations, monuments. Why do you use the term 'cultural heritage' and not 'archaeological heritage'?

NICHOLAS VELLA: I stick to the definition that is given in Maltese legislation. Archaeology is one part of the cultural heritage in the current law. I can easily use 'archaeological heritage' but then I would have to define my term. For the Maltese government at least, 'cultural heritage' encompasses a much wider definition.

NADINE PANAYOT HAROUN: I wanted to mention our experience with unpublished material, especially when it comes to salvage excavations. I think that this tendency twists the scientific facts. Even though it is possible to publish later, there is no way of confirming the facts. I believe that this is the most dangerous aspect of unpublished excavations.

NICHOLAS VELLA: It is an interesting point. My concern lies in the fact that an archaeological project involving preventive archaeology in Malta is usually in the eye of the public. The place is very small, and if you want the public to know what you are doing, to justify the whole excavation process, it is important to take the public on board. Considering the amount of time required to see real results, even if this does not entail publication, it is necessary to display what was discovered in temporary exhibitions attached to local councils. This could be a fantastic way of bringing the public on board and, for example, help them understand what was it that held up the traffic in or near their town for three months. The current attitude where very little public engagement takes place has a lot of negative repercussions; it is therefore vital to have the public with us, in order to have their full support concerning measures affecting the cultural heritage. As far as the dissemination of information is concerned, it is certainly possible to get a television crew to show what has been done or what

was recovered. In other cases, however, the full publication of the results and the subsequent dissemination to different groups should be a *sine qua non* of what we do. Furthermore, although the Valletta Convention has provision for the developer to pay, it is perhaps not right to place the entire onus on the developer as this may be very expensive. Yet, there are some countries with a good publication record that follow this practice. The Cultural Heritage Act in Malta was enacted ten years after the signing and ratification of the Valletta Convention, but it still did not provide for these provisions. In my opinion, this is not acceptable; the writers of the law should have addressed these concerns.

SOPHOCLES HADJISAVVAS: You ask who has the right of publication, but can you provide an answer to that? And what is the responsibility of the State?

NICHOLAS VELLA: I am talking about development-led or preventive archaeology, and not about systematic research excavations here. If the developer is responsible for paying for the publication for the dissemination of knowledge the Valletta Convention has two levels of application in this regard. The full scientific results however should be made available, and I believe that it is the responsibility of the archaeologists who excavated to do so. It is they who were in the field, and should consequently hand over the results together with the raw data and be given the possibility to publish. If the State wishes to ensure that standards are met and a proper quality control is kept on the results, provisions should be put forward by the director of the excavation, so as to secure an adequate result. It is my belief that the excavator should even be obliged to do so.

SOPHOCLES HADJISAVVAS: At least the excavator has the ethical obligation. However, when on contract, the excavator only works for a few months. It is my opinion that the obligation to publish remains the responsibility of the State. I would like to ask you about the post-excavation responsibility in Malta.

NICHOLAS VELLA: Post-excavation only provides for the washing of the pottery, putting it in bags with labels, and depositing everything in the stores of the Superintendence. For results, however, someone is needed to police the system. What do we do? Do we have a directive from the European Union, specifying what should happen because the State has the monopoly to excavate? And who is the adviser to the minister if not the state regulator itself? The reason why we have this exasperating situation in Malta may be because the office of the state regulator is advising the minister what to do or else its concerns about lack of resources generally are not being heard. So far I have not seen a promising result; unfortunately, there is supposedly a committee of guarantee that should

be overseeing the smooth running of the Act. However, the person running the committee of guarantee happens to be the principal writer of the law, which makes it rather awkward and difficult to highlight problems and pitfalls in the current legislation.

STELLA DEMESTICHA: A lot of archaeologists that conduct rescue excavations want to publish but they do not have the time to do so. By that I mean that they work full time doing administration, so the state, as you put it, should give them leave to go and publish.

NICHOLAS VELLA: This discussion concerns contract archaeologists.

STELLA DEMESTICHA: We do not have contract archaeologists in Cyprus or Greece anyway.

NICHOLAS VELLA: If we ratify the Valletta Convention, we either ratify the spirit of the convention properly, otherwise we should not ratify at all. In fact, we go there, we sign and we ratify, presumably we take provisions to make sure that things are being done properly, and then what? I think that ratification of a convention should grant power to the administrators, in this case my colleagues at the Superintendence, allowing them to notify the government in case it is not possible to deliver according to the provisions of the legislation currently in force. Often my colleagues from the Superintendence cannot speak in public in this manner. I and others sometimes do it on their behalf because we are relatively independent. Material that is unpublished means 'destruction', and we are to blame; this is what we will be accused of in the future. If we think that we can pass on the problem to another generation, we will be assessed negatively by others. Somebody in the future will come along and say 'a hundred completed excavations, completely unpublished'. We have to consider ourselves in a context.

DESPO PILIDES: Yes, but there are inherent problems in the very nature of contract archaeology. If you are the contractor of the developer and you are paying an archaeologist to do that work for you, there is a conflict of interest starting directly from there. Moreover, who decides if the site is very important and has to be preserved? Have there been sites that have been preserved as a result of contract archaeology?

NICHOLAS VELLA: In Malta there have been such cases. The developer chooses the archaeologist from the list. The archeologist has to give a (very limited) report to the regulator, who is responsible for deciding how to manage the property. What is not happening is to name the developers who are going

out of their way to help in preserving the archaeological remains *in situ*. Indeed, these are the people that we should congratulate, which is something that is not happening. We should acknowledge the excellent efforts of the developers in changing the building plans. Unfortunately, it is only problems that come to the fore and NGOs are very vociferous in this regard; NGOs, however, should give prizes to developers who are very conscientious and promote successful cases.