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The Oxford Handbook of
LOCAL AND REGIONAL
DEMOCRACY IN EUROPE

THE OXFORD HANDBOOK OF

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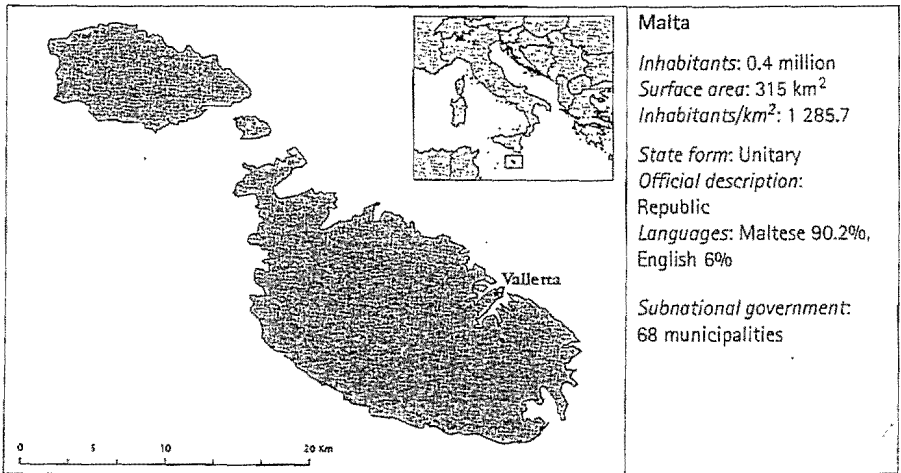
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CHAPTER 18

MALTA: LOCAL
GOVERNMENT:
A SLOWLY MATURING
PROCESS

HENRY FREND O



Map 18.1 Malta

INTRODUCTION AND HISTORY

There is a great deal of variation in local governance throughout the EU. This does not relate solely to notions of law or jurisdiction or fiscal policy; it also relates to space and size, and of course to history. Civil servants and politicians in Brussels tend to forget that in the quest for harmonization and uniformity there is no one size fits all. General theories or even certain concepts grandiosely formulated with 'mainstream' backgrounds and expectations in mind have to be applied to and tested against the particular and the local if they are to be meaningful. This has been the challenge and frequently the downfall in centre-periphery relations theory, which is not to say that the fundamentals of modern democracy change; but devolution in theory and in practice may be severely conditioned by realities on the ground as much as by tendencies over time.

In the case of Malta, which joined the Council of Europe in 1965 and the European Union in 2004, the reality on the ground is that it is an archipelago which comprises 122 square miles (246 square kilometres) in all, making it thus the smallest EU member state. At the same time, the population density is nearly 1,300 persons per square kilometre, making it the most densely populated. On the main island of Malta, the density rises to more than 1,550. Consider, too, that Malta hosts some 1.3 million visitors annually (Falzon 2008).

Given the absence of mineral wealth, and acute water and energy scarcity, competition for scarce resources led tens of thousands to emigrate. The islands' central and strategic Mediterranean location have meant successive invasions and domination by every European or other imperial power in the region from the Phoenicians to the British. Even within such restricted frontiers, there has been a diverse society, most notably during the reign of the Order of St John (sixteenth to eighteenth centuries), which was multi-lingual, multi-ethnic, and multi-cultural with an ethos that was European, Catholic, and aristocratic. Governance, however, was inevitably centralized and exclusive, especially after the arrival of the Knights and the establishment of an administration based in the new capital city, Valletta, which displaced the more feudal but also more autonomous commune on the old hillside citadel. The surrounding seas were emancipating in their open horizons but enslaving in the recurring fears of invasion, hence the need for concerted collective watchfulness, generally under a supreme command. Being so bathed in history from the earliest times, localities came to have distinct identities, especially from the early Middle Ages, as can be seen from the many mediaeval chapels in the countryside. In spite of the absence of distances, an affinity to places as localities emerged centuries before any democratic norms could be institutionalized in their service. A lasting loyalty to locality was instilled primarily by terrain, religion, occupation, property, and class.

Some devolved administrative authority by area, district, or locality dates back to the last quarter of the eighteenth century towards the end of the Knights' rule. It saw various changes, revolutionary in principle but largely unfulfilled in practice, during French rule (1798–1800), which included the creation of 'cantons' or municipalities to distribute wheat and name streets. During the subsequent British occupation, especially from 1801 to 1896, various appointments of 'lieutenant' (*luogotenente*), later called 'mayor' (*sindaco*), were made.¹ Salaried nominees, sometimes assisted by a committee, their main duty was to act as watchdogs over the localities entrusted to them, curbing any over-pricing or abuse, presiding over a form of assize court, and attempting to conciliate would-be litigants. They reported to the civil commissioner, later the governor, on any unusual happening or need and generally about goings-on in the respective locality, including food distribution or alms-giving. They could be town or village notables enjoying some added status by virtue of their role as local government representatives. Actually they were little more than glorified employees reporting to Valletta and occasionally obliged to wear uniform (Zammit 1994).

More seminal was a short-lived regional experiment on the island of Gozo starting in 1961, when Malta was still under colonial rule. The 1950s and 1960s saw a wave of civic committees or councils motivated by local pride but none of these had any legal title or public budget (Busuttill 2000). The one in Victoria, Gozo, led by a popular doctor, was upgraded to a local administration over that island as the Gozo Civic Council, set up by an official ordinance published in the *Government Gazette* (1961), thus giving devolution in Malta a regional aspect based on the elective principle for the first time. In addition to the capital city of Victoria, whose president topped the poll and would twice preside over the Council, there was provision for the election of representatives from the thirteen Gozitan villages (Portelli 2006). So far as image-building went, its seat at the Banca Giuratale in the main square was akin to that of an 'hotel de ville', 'town hall', or 'commune'. Government funds would be made available subject to the submission of periodic plans but the council could raise revenue locally for recurrent expenditure, including the wages of its staff. It would assume degrees of responsibility for overseeing street construction, maintenance, and traffic, the upkeep of public gardens, the museum and library including any libraries in the villages (very misleadingly referred to as 'districts'), and liaise with government departments. In the first election in June as many as 72 per cent of eligible electors voted, but afterwards villagers started to lose interest, partly because full self-government was restored to Malta in 1962 and independence obtained in 1964, with the parliament now including four Gozitan MPs. Governance was centralized further when Dom Mintoff's Labour Party came to power in 1971: a government-sponsored

¹ The Maltese word for 'mayor' is 'sindku' (from the Italian 'sindaco').

referendum in 1973 as to whether voters wished such a set-up to continue to exist separately was largely boycotted. One consideration certainly seemed to be that for an island 67 square kilometres in area to have MPs as well as all these other councillors was an unnecessary duplication, one which to some extent also dented the power and status of central government in a new-found independence.

Seen in perspective, such an institution marked a departure from earlier attempts at local representation, contrasting sharply with the occasional recourse *in extremis* to unrest as the ultimate means of airing grievances against foreign rulers—anti-Aragonese in 1428; anti-French in 1798; anti-British in 1919. Maltese elites backed by popular feeling had sought to negotiate pacts that would guarantee them greater local autonomy and self-government. Eventually, however, the elected national government would be seen as being the legitimate administrator and legislator, with district MPs assuming the mantle of the real intermediaries and interlocutors, the more so in a client-driven mentality which was insular and parochial.

THE INSTITUTIONAL EXPRESSION OF DEMOCRACY

Comparing democratic institutions, Lijphart (1999) positions Malta firmly in the category of majoritarian 'Westminster' democracy. Since 1947 Malta has had a unicameral legislature (the earlier Senate having been abolished) based since 1921 on the single transferable vote (STV) system of proportional representation, which replaced the earlier list system. The number of electoral districts and MPs has progressively increased and today numbers thirteen and sixty-five respectively: five MPs per district. The island of Gozo remains a separate constituency.

A representative system of local government, based on the elective principle, only came into being in 1993. This is when direct citizen participation, as understood by the European Charter of Local Self-Government, started. This is different from the earlier mobilization of political movements nationally to oppose or to support measures ranging from the abolition of press censorship (1839), to the right to vote (1849), the move from representative to responsible government (1887, 1921), and independence (1964), when defence and foreign policy slowly but surely devolved to Maltese control. Given this scenario, citizenship was seen more in the context of a politico-constitutional struggle against the foreign overlord than in terms of an internalized home-grown devolution of powers predicated on subsidiarity with a proactive participation among the largely powerless citizenry. At least until the 1960s, and indeed later under Mintoff, the would-be state felt it had to be

and appear to be centralized and strong, as the colonial regime had been before it, if only to make an impact on much larger powers with which it now had to contend. Thus the very term 'self-government' had always been understood in a national rather than in a local sense.

As in other post-colonial contexts, moving away from 'top-down' to 'bottom-up' mentalities and structures has been difficult. Institutionally, the individual has not been so accustomed to inherent powers *qua* citizen, with guaranteed rights, other than the right to vote, to religious practice and litigation in court, or to education. A formation in civicness and individual rights was hardly encouraged by a divisive partisan system, accounting for the highest electoral voting percentages in the democratic world (around 90 per cent at national level since 1962, a little less and variably in the local sphere). Following EU membership in 2004, this may decrease somewhat although new issues, such as mass illegal immigration, have been arising.

An active member of the Council of Europe since 1965, and determined to join the EU, Malta ensured it would be part of the Council's Congress of Local and Regional Authorities (CLRAE) set up in 1993. A law on local government was drafted in 1993 to determine the number of local councils and what delegated powers they should have. Initially both the Archbishop and the Malta Labour Party were against partisan confrontations which might be extended now even to the small town and village councils. Such councils could be seen as a competitor to the entrenched parochial organization, and the mayor as a competitor to the parish priest, although that may not have been the primary motivation. The MLP in opposition was even sceptical about setting up such a 'fragmented' system at all. Once the law had passed and local elections started, both Church and Labour came to see this as encouraging citizens to stand and work in a rather non-partisan way for the best interest of their locality. The Nationalist Party in power had disagreed, arguing that political parties were the lifeblood of democracy: councillors could serve an apprenticeship which would help the country if they moved on to parliament, as a number have done. They argued that this was the European norm: the Council of Europe itself was structured in such a manner and, indeed, that was how its new Congress would turn out to be. The only two parties to contest the elections in 1993 were the Nationalist Party and the Green Party (*Alternattiva Demokratika*). A rush of 'independents', some from residents' associations, most others known for their Labour sympathies, also stood. After 1998, Labour claimed that a democratic deficit had been created so they came round to the idea of contesting with their own nominated candidates. Gradually, the number of independents declined, as happened in the last quarter of the nineteenth century after political parties emerged. Polarization at the local level, however, would hardly assume the same intensity as that at the national level; rivalries were sometimes personalized intra-party ones.

The Fenech Adami administration signed the Council of Europe's 1985 Charter of Local Government. With charts and addresses from the Lands Department, the search was on for premises and secretaries, and premises for the Association of Local Councils. The Local Councils Department in the prime minister's office managed to hold elections to the local councils association just in time: those elected could thus attend the first ever congress for local and regional authorities convened in Strasbourg in 1994. The CLRAF gave delegates an institutional and international platform, which they would not otherwise have had, except as MPs; some Maltese delegates were among those who assumed significant chairmanships. Malta, however, opted out of the local taxation requirement, which the Charter intends as a guarantee of political and operational autonomy. This is now being reconsidered and, if accepted, will lessen dependence on central government for funding and service delivery.

This notwithstanding, local government has, on the whole, been emancipating for local communities. Purely local concerns can be thrashed out, amenities delivered at source, easing the burden on MPs and government departments, and also often delivered with more care and commitment due to a sense of place. There has been a growing self-awareness and sense of responsibility even if, with some exceptions, devolution activity has been tilted in favour of service delivery rather than community leadership, partly because the 'parish pump' mentality remains strong and partly for want of human and financial resources as well as legal restrictions.

At grassroots level, Maltese local democracy has been in practice a representative system rather than one of direct citizen participation. Local council meetings of the sixty-eight local councils are announced and any member of the public may attend sittings. The mayor may also allow those present to speak if requested. If a burning issue involving residents comes before the council, more people than usual would turn up for the relevant sitting. Special meetings may be called on specific issues, even at the request of a residents' petition. The council is obliged by law to hold at least one meeting annually where its budgetary plan is presented for discussion.

Neighbourhood committees may exist informally—for example, as a 'neighbourhood watch' initiative—or as legal enclaves or hamlets which have a recognizable identity of their own within the municipality. The rights of such sub-locality 'special committees' include some budgetary allocation, and their representation within the council itself is being extended. Articles 47 and 47a of the 1993 Local Councils Act, as amended, required that such localities must have a population that is more than one-tenth and less than one-half of that of the whole municipality. They constitute an additional lobby and tier within the municipality itself, their members being so far selected by the council, provided these are registered as residents. They permit further democratization within the locality, guarding against the marginalization of separate or isolated communities.

In principle, the system of local authorities (there had been no regional authorities proper before 2010) is closer to the parliamentary model: elected members of

the council lay down policy and directives. Depending on the council's composition and the nature of its leadership, the mayor, who chairs it, can exercise considerable power. Together with the secretary (who has financial and administrative responsibilities, working closely with the mayor) he is the authorized signatory of all expenditure and generally speaks for and represents the locality's council in public functions. The council or assembly is, therefore, predominant. In practice, both the mayor and the secretary, or either of them (depending on human resources and personalities), can exercise a determining influence.

Secretaries, not previously entitled to permanent appointments, can now earn tenure after serving satisfactorily for a term, as it becomes more difficult for a council to terminate their employment. Through their association, and internationally, secretaries have been demanding that the definition of their office (section 52 of Act XV 1993) as 'the executive, administrative and financial head of the Council' be given greater consideration. As mayors until now have been part-time, only receiving a modest honorarium (whereas secretaries are comparatively well-paid), the secretary is always present in the council, whereas the mayor works elsewhere. There have been a few extreme cases where secretaries have taken the upper hand and rendered the mayor dependent on their whims. In cases of proven misbehaviour, however, the council can still have the secretary dismissed or transferred. This has been a rare occurrence. There could be scope for some further delineation of roles; the Local Councils Department may be looking to a stricter supervisory role here. The system has worked best where the mayor and the secretary established a pragmatic working rapport, interlacing the legislative with the executive.

An ongoing debate concerns both the improvement of efficiency, for example through the introduction of consumer-related e-government, and increasing the council's delegated powers in service and delivery, while retaining its autonomy. There is no suggestion that a post of 'city manager' be introduced. As we shall see below, some functions have been added but Maltese local self-government remains rather limited in scope. Some changes are in the offing resulting from the publication of a White Paper in 2008 and widespread consultations by a new minister, who himself has been a successful mayor. In 2010 these are just starting to come into operation.

THE INSTITUTIONAL EXPRESSION OF SUBNATIONAL DEMOCRACY

There are sixty-eight local councils in Malta, fifty-four on the main island and fourteen on the island of Gozo. The average population is 5,970 inhabitants, varying between 304 in Mdina and 22,000 in Birkirkara (Dexia 2008: 497). More

Table 18.1 Demographic distribution of Maltese municipalities

Population	Number of councils
Less than 5,000	37
5,000-10,000	16
10,000-50,000	15

than half the municipalities have fewer than 5,000 inhabitants, eleven are considered as towns (*città*), the others as villages. Table 18.1 illustrates the demographic distribution of the municipalities while Table 18.2 shows the number of councillors by party affiliation.

Referendums are technically possible and normally are organized through the Electoral Commission, subject to the Referendums Act. If there is communal disapproval of a by-law, residents could petition to have this abrogated or amended, provided that at least 10 per cent of residents in a locality wish to do so, although the referendum is not binding. So far, two municipalities, Valletta and Qala, have organized a referendum (about major public works projects, not a by-law). In Valletta's case, turnout was low and the outcome ineffective. In Qala (Gozo) there was an impressive response since politicians ignore local sentiment at their peril. If sustained, leadership strategies in small confines attracting popular turnout and media coverage could be no less effective than any referendum, although still not legally binding on the government. Citizens may object to a proposal but not themselves demand an initiative such as the implementation of a new project. This provision was about to be put to the test in 2007 when a controversy arose. Enough signatures were collected for a national referendum to be called as to whether the restrictions on Sunday trading should be abolished, modified, or retained. Small retailers and their association were largely opposed to Sunday trading and wanted Sunday free from shopping, but the general public's stand was favourable towards the measure. Before it progressed any further, agreement was reached between the shopping/leisure/hotel complex concerned and the authorities to the public's satisfaction.

One issue that residents complain about is the sometimes excessive and even mistaken implementation of the parking laws. In purportedly enforcing the observance of locality by-laws, fairly hefty fines may be imposed, even for first-time offenders. When first introduced in the 1990s, wardens were meant to prevent abuse by educating citizens to respect regulations on parking, emissions, littering, and safety at work. Thus the very need for wardens would supposedly decrease in time. Instead, the system's administration was tendered out to private companies, who are alleged to have fixed quotas of fines that need be collected for purposes of profit, only a percentage of which goes to the councils themselves. While this system has its advantages, it has often provoked bitter resentment and is now under

scrutiny. Fines could be appealed before district tribunals clustering a number of localities, which was innovative, but this entails much waste of time. Residents often just pay up rather than apply for a day's leave from work in order to go and plead against even a manifestly unjust or vexatious case, possibly one resulting from an ill-advised decision by a local council which wardens then enforce.

Councils are fully permitted and indeed encouraged by law to appoint sub-committees; they frequently do so as a matter of course. They also engage expertise as necessary, e.g. legal advisers, architects, etc. These sub-committees may if they wish consult with members of the public or advise the council to call an extraordinary meeting about a special topic. Sub-committees are normally appointed to vet tenders; these may include experts and need not consist of councillors, but the final arbiter so far has been the council.

There is a national office of Ombudsman. Anyone, including councils, may refer cases to it. If the case is a purely local one, it would probably figure in the council's newsletter if one exists. Such publications have been available to residents free of charge, usually distributed door-to-door, with differing standards of execution and regularity, providing a useful source of local information. Much depends on the effective public relations set-up or otherwise of the local council itself; the internet may also slowly be replacing printed forms of communication. In a few instances such communications have been abused on the eve of local council elections, for example through the publication of large colour photographs of the mayor himself or of his main supporters on the magazine's front page. On the whole, however, they have been seriously and soberly run.

Election of local councils or assemblies is by STV proportional representation, with voters indicating their choice by preference: first, second, third, etc. This system, similar to the Irish one, was first introduced in the 1921 constitution and then applied to the localities as well. Those who reach the quota (which is set in proportion to the number of voters and seats in the locality itself) are elected. The standard term of office for all councillors so far has been three years—it is now four—so that elections have been held annually, in three batches, on a continuing basis over each subsequent three-year span, splitting the country into three lots. In the beginning some councils thus had to serve four-year terms to slot into this routine. There is no upper tier, although there has been talk of creating 'regions', possibly in the belief that such an

Table 18.2: Political parties at the local level in Malta

Party	Number of councillors
Labour Party	236
Nationalist Party	200
AD-Green Party	4
Independent	2

Source: Data provided by Mr Natalino Attard (Office of the Prime Minister) 2009.

organization was what 'Europe' expected, or else to facilitate clustering especially in 'arterial' intra-locality projects: these have generally been the prerogative of central government so far (highways, hospitals, schools, etc).

Until now mayors have not been directly elected by the locality's residents, but selected from among the elected councillors. Formally by secret ballot, in practice this is by a show of hands. In the choice of a mayor, for Nationalist Party councillors the amount of votes polled by a particular candidate on their list has been in no way binding, whereas for Labour Party candidates, the degree of voter endorsement given to a candidate on their list became a prime consideration for some years. The Green Party (*Alternattiva Demokratika*), which had ceased standing candidates, started contesting again, in specific areas, after 2001, as it has been doing since, although on a scale smaller than that of the larger parties. However, in 2005, with good reason, a new law changed the method of election giving the right of first refusal for the mayorship to the candidate polling the highest number of votes on a winning list, without limiting how many terms of office he could serve. As noted in my report to the GIE and subsequently to CLRAE's Institutional Committee, following a 2003 general survey of practices and views in the member states, which was endorsed, the tendency was increasingly to prefer direct mayoral election rather than restricting this to a small caucus by secret ballot behind closed doors, where ulterior motives could more easily prevail (CPL/INST 2003; Frendo 2005). So it has not been possible to elect a mayor directly, as in Italy or Greece on the 'capo lista' model. That, however, would have to be a choice predetermined by the party apparatus itself.

The relevant provision lay in a 2005 Act which states that: 'the office of Mayor in any Local Council shall be occupied by such elected Councillor who at the last local election shall have obtained the highest number of votes in the first count amongst the candidates of the political party which at such elections obtained the absolute majority of Councillors in such Council'. Should he decline, the councillor with the second highest number of votes from that party would assume office. Otherwise (art. 25-2): the councillor obtaining the second highest number of first count votes from the winning party would be entitled to the deputy mayorship. Where no political party obtains an absolute majority of seats or if the above provisions do not hold (25-3), the council itself would elect the mayor and deputy mayor.

This is the most significant change in the new law, which has come into effect after a campaign for it had started in April 1998. In general, it has tended to reduce the often internecine wrangling which frequently accompanied mayoral selections, which is the advantage of the current enactment, in force since the March 2005 elections. One flaw which became obvious is that if a mayor were client-inclined, bartering favours for votes, given his position it would become practically impossible ever to oust him, unless either a highly respected personality contested him out of sheer community spirit, or mayoral terms of office were restricted to two or three at most, even if these were perhaps extended from three to four or just

possibly five years, which has been another measure under consideration. The mayorship risks becoming a life sinecure for a village-based operator obtaining as much as one vote more than the contestant next in line on his own list.

Other changes in the 2005 law (arts. 12-2 and 3) make motions of no confidence conditional on support (at least one-third of the councillors in office) and substance (specifying reasons for such a motion within a set number of days, etc). This is intended to ensure greater stability and seriousness in an area which has sometimes been abused. In view of Malta's membership of the EU since 2004, Article 19 provides that the Minister may, after consulting the Local Councils Association, make regulations providing for the representation of local councillors on the Committee of the Regions and any other international forum or institution requiring their representation, as has happened in the Committee of the Regions. Maltese representatives have since been active in this area as well, although proposals have been in hand somewhat to extend the two-year term of office for the Association's members.

The new Act also renders statutory some competences which had already been delegated, such as the administration of a local libraries scheme (about half of the sixty-eight municipalities now have these), and the installation and maintenance of bus shelters, as it does with regard to the definition of a political party (art. 20), wherein any independent candidate or a group of persons would be treated as a political party. Article 26 also imposes a small fine chargeable to persons who do not pay fines charged by the justice commissioners in the sphere of 'warden' enforcement of by-laws (litter, parking, emissions, etc.)

Various questions arise as to the functioning of the local assembly, the nature of the executive, and relations between the two, public access, and the role of the citizenry or civil society. While the mayor continues to chair the council, the law has been modified to ensure that every council, irrespective of size, also has a deputy mayor. As head of the executive, the secretary is not a member of the council but *ex officio* he attends all sittings, keeps and reads the minutes, and speaks if and as necessary. Under no circumstance would the council meeting be chaired by the secretary, who is its employee. Councils have to meet once a month, but they could meet more frequently if they deem fit. Assembly meetings should be announced so that any member of the public may attend. There is always room, in a separate sitting area, for members of the public to attend, but there are usually few or none. Members of the assembly are not and should not be appointed to posts in the executive. None of the councillors, apart from the mayor, has so far received an honorarium; they have served on a voluntary basis and may get reimbursed for expenses. The Local Councils Association had criticized this and plans have been in the pipeline to pay councillors an honorarium which would do away with reimbursement claims, while possibly making the mayorship a paid full-time post, whether voluntary or mandatory.

In some instances, pre-council meetings have started to be held (at party section level or otherwise) to mobilize party positions or strategy in the local sphere, which is tantamount to having a 'whip'. Much, however, depends on the integrity and independent-mindedness, or otherwise, of the councillors involved. All parties pledge to put the locality first.

Minutes and official correspondence may be vetted by all councillors, irrespective of party allegiance, normally unless something is strictly personal and confidential, in which case it may be restricted to the mayor and/or the secretary. They can visit any locality's offices as well as, *a fortiori*, their own, although not all members need have keys to doors for security or other reasons. Similarly, they may put questions to the executive, either during council meetings, or individually in the office. A joint request for a meeting by some members can have a meeting convened. Whether an item is placed on the agenda or not may be trickier; that will depend on the mayor and the secretary who together normally set the agenda. However, any councillor should be able to raise anything not specifically on the agenda during discussions 'arising from the minutes', or under 'other matters', in a council meeting. If a member makes his request in writing and gives a week's advance notice, it is usually the case that a matter would be put on the agenda for discussion during the next meeting. Again here, personalities and attitudes can sway or influence decisions. If a secretary insists that minutes should simply record decisions, without giving the reasons for them and/or the contexts in which these were reached, there could be disagreement. As a rule, minutes should be self-explanatory.

The executive body of Maltese local councils is composed neither of civil servants nor of persons elected to political office, with the exception of the mayor whose representative and executive roles tend to merge. Although initially several secretaries and administrative staff were seconded from the civil service, these reported primarily to the council. Increasingly, councils had been recruiting their own staff, quite independently of the civil service. Various former council employees who had been on secondment have left the councils and returned to their civil service employment. The executive is or ought to be independent of the assembly only in so far as there are specific financial and administrative rules, including budgetary commitments, which secretaries are meant to adhere to. While the executive is bound to implement the council's instructions, it is a prime responsibility of the secretary to draw the council's attention to any misapplication of the given norms and obligations. If a council disregards a secretary's advice in this domain, it would have to carry the blame for any mismanagement of funds and somehow justify itself with its electorate and/or the auditors. Members of the assembly, including the mayor, do not form part of the executive: they are its employers. The executive body does not 'belong' to the local authority in the sense that there is no recourse to higher authority unless an arbitration mechanism is consensually decided upon. There is, however, a Local Councils Department in the Ministry of Justice and Local Government, which should be able to exert authority

in any serious case of mismanagement; and there is the Association of Local Councils Executive Secretaries, which has made significant inroads, establishing its own presence comprising its own international links, and tends to be taken into account. There is, too, the Local Councils Association, which has now somewhat consolidated its HQ and staff, and other bodies, such as the Ombudsman or the Auditor's Office. The chief executive enjoys a degree of autonomy because he has legal and judicial representation of the council, together with the mayor, and has to ensure adherence to financial regulations, which may not be arbitrarily changed by a council to suit its purposes. Technically, the secretary requires the mayor's permission to participate in council proceedings, but it is not unknown that strong-willed secretaries have made a habit of speaking up and even taking issue with members of the council. It may be appropriate to entitle the secretary to speak, as of right, where financial/administrative aspects are concerned, while not involving himself in other aspects of the council's deliberations. The secretaries' association has also been requesting more operational powers for secretaries (such as hiring and firing, in consultation with the mayor), better guaranteed operational powers, and less dependence on the council (which, *inter alia*, decides on performance bonuses and, until recently, extensions of contract even after three years' service). As secretaries, so far unlike mayors and councillors, are full-time employees, *ipso facto* they wield considerable information-gathering power and have to expedite matters; they may determine the nature of public relations, even of routine decisions, on a day-to-day basis. As of 2010 the Local Council Department is offering a pool of suitably qualified civil servants from which local and the just-formed regional councils may select secretaries.

Staff do not vote on what they are asked to perform as an executive body. Secretaries have so far been appointed after a call for applications by the council, and selection interviews are held by it, normally through a specially appointed sub-committee, and after consulting with the Minister, who as a rule approves all such recommendations. Other staff appointments do not require any consultation with the Minister, but there would still be calls for applications and interviews. The final decision would rest with the council. No staff members are elected directly by the electorate; they often are not even from the locality where they are engaged to serve. More recently, secretaries and their union had demanded four- rather than three-year fixed appointments, with a view to obtaining tenure after their fourth year, but such were not the conditions under which they had been recruited in the first place (renewable fixed-term three-year contracts, possibly until retiring age). There has been some industrial unrest about this situation, which had been simmering, but the matter was resolved when the EU then laid down that after three years of satisfactory service an employee could not stay on fixed-term contracts indefinitely.

Secretaries prepare three-year business plans, in full consultation with the mayor, periodically reporting to and advising the council on financial and administrative operations, and personnel needs if appropriate. Effectiveness is based on

interactivity. The executive is thus subject to scrutiny by the assembly but it has specific responsibilities in ensuring financial management according to set rules. On the civil service principle, political tasks are not and should not be delegated to the executive by the elected assembly. The executive implements decisions and day-to-day operations in conformity with these, through accepted administrative practices.

Local finances

Unless some forms of local taxation or rates are introduced—a turn of the wheel which so far both the main political parties have opposed—councils will continue to clamour for more funds and for more ‘special funds’. Councils would have to be permitted at least the wherewithal to raise their own funds or income from other sources or initiatives, such as the best use made of land or property, if it were transferred or possibly long-leased out to them. They might even want to borrow money without prior authorization. From central government’s viewpoint, the principle that more funding should invariably accompany more delegation evidently cuts both ways. At present less than 3 per cent of government expenditure goes to the local councils (Local Councils Association 2008a). In budgetary terms, out of an overall capital of Lm10 million (€24 million) in 2005, 90 per cent of local council funds derived from central government and public coffers. Only 10 per cent derived from non-government sources, mainly fines and fees in accordance with by-laws, especially law enforcement through the warden service (see Table 18.3).

This has been earmarked to cover environmental protection, which could involve more specific recruitment (although such offences as littering and exhaust fumes are

Table 18.3 Local public sector expenditure, 2005

	€ (millions)	%
Current expenditure	23	77.0
(Of which, personnel costs)	(4)	(13.1)
Capital expenditure	7	23.0
Total	30	100.0

Source: Dexia 2008: 500.

Table 18.4 Local public revenues (excluding loans), 2005/6

	€ (millions)	%
Grants	24	79.9
Other revenues	6	20.1
Total	30	100.0

Source: Dexia 2008: 501.

already covered). However, income from fines risks plummeting (down from €5.8 million in 2001/2 to €2.3 million in 2004), as residents become more wary of the rules and risks. The revenue for councils may well have been sliding, if one takes into consideration inflation and an increase in VAT from 15 per cent to 18 per cent. On the other hand, some government-funded manpower has in the past been made available to many councils in transitional schemes involving redeployment and/or retraining. A few years ago 237 'government' workers had been detailed to help out in Malta's illegal immigration crisis, which has continued to escalate year by year. It is estimated that, in 2004, councils saved over €698,812 thanks to this (later curtailed) scheme, in addition to another €2,096,436 through the redeployment of ex-dockyard workers who opted for early retirement packages from that loss-making enterprise. Such savings of about €2.91 million have to be seen, however, in the context of a generally dwindling revenue for councils, either by direct grant, or because of increased costs, inflation, or VAT, or a decline in revenue from fining residents for contraventions. According to available statistics for 2002, local expenditure rose to €33 million in 2002, representing €80 *per capita*, 0.8 per cent of GDP and 1.7 per cent of general government expenditure (see Table 18.4). The main items of expenditure, in this order, were: upkeep and maintenance (roads, parks, household waste, street lighting, etc.); capital expenditure (projects, including public works, etc.); administrative costs (cleaning, petrol, recourse to experts, etc.); and staff salaries (see Table 18.5). Of a local revenue excluding borrowing in available statistics for 2001, out of a total €34.9 million, €27.9 million, that is 80 per cent, were grants; €7 million, or 20 per cent came from other sources (fines, use of local public services, interest on accounts), nil from tax revenue (see Table 18.6 and Frendo 2003).

Table 18.5: Local public expenditure by function, 2005

	€ (millions)	%
General services and public administration	16.5	55.4
Environmental protection	7.7	25.8
Economic affairs	2.8	9.4
Public order & security	1.6	5.4
Leisure, culture, & worship	1.2	4.0
Total	29.8	100.0

Source: Dexia 2008: 501.

Table 18.6: State grants to local councils, 2008/9–2009/10

	2008/2009 (€)	2009/2010 (€)	Increase (€)	Increase (%)
Total	23 969 000	27 010 000	3 041 000	11.86
2 supplementary schemes		1 000 000	1 000 000	4.17
Total		28 010 000	4 041 000	16.03

Source: Data provided by Mr Natalino Attard (Office of the Prime Minister) 2009.

CHALLENGES AND OPPORTUNITIES

Differences due to political opinion have not featured too prominently in the management of council affairs, although they always tend to be latent. Members of the executive should not involve themselves in personal or partisan activity and any tendencies to do so during election-time, as has sometimes been the case, should be heavily curtailed. No dismissals of staff may take place without the prior approval of the Ministry and subject to just and sufficient cause. The Conditions of Employment Act in any case protects employees against unfair dismissal so that a council acting arbitrarily would be subject to redress and possibly damages in court. Any deadlocks between the executive and the assembly would be resolved by the assembly, but if malpractice is involved there could be the involvement of the Local Councils Department or the Minister.

Maltese local government does not have a French-style '*cumul des mandats*', i.e. MPs cannot be mayors or councillors. Once elected to parliament, a mayor or councillor immediately resigns his or her other job. There is also a lingering British civil service tradition in the performance of administrative duties, which deserves protection. A no-confidence motion could lead to the dismissal of a local government official, just as it could lead to the resignation of a mayor. Performance is rewarded, but only if merited. Many secretaries, however, expect performance annual bonuses as a matter of course, so in practice a case would have to be made for not awarding such a bonus. There have been a few cases where adequate procedural norms were not respected in tendering, or in the allocation of funds, and disciplinary steps were taken accordingly. On the whole, however, such a predominance of the executive over the assembly has not been a topic of debate. There have been a few isolated cases where the behaviour of local councils offended against environmental norms or has been at variance with public works funded by central government.

So far as structures and methods are concerned, much of the rest has stayed the same. In spite of the limitations to which the CLRAE monitoring report on Malta had referred, partly resulting from opt-outs to the Charter (most notably, local taxation), a critical overview with regard to increased competencies or prospects from 1993 to the present, and in view of the current brainstorming under way, some points may be made as follows in conclusion with a view to the future of devolution in Malta.

If the so far limited roles and responsibilities of local government are not revamped, possibly even at the regional level, electoral turnout may decline. Voting continues to be optional, but parties barrack and lobby by every means to get out the vote. Voter turnout is not less than 70 per cent on average, but it could be much lower (just over 50 per cent) or much higher (around 90 per cent) depending on the area and the issues. In urban areas, it would tend to be lower, whereas in rural

village areas, for example on the island of Gozo, it would tend to be higher (Lane 1999). Once the MLP started fielding its own candidates in local elections after the 1998 general election, there was an upsurge in the turnout, as party rivalry became more direct, but it is much too soon to say whether this trend will continue. The high abstention rate in a (traditionally pro-Nationalist district) in March 2000 (and earlier in a traditionally pro-Labour one) suggests that it could fluctuate or go down.

The electoral base will broaden and widen with the participation of non-Maltese residents. Only foreigners from countries where Maltese residents may vote in local council elections, most notably the UK, have been entitled to vote until now. In one locality (St Paul's Bay), which has a comparatively high percentage of non-Maltese residents, a British resident was elected to the council some years ago. However, it will now also be possible for residents from EU member states who are registered electors in their respective country (of whom there are hundreds) to vote. This right will include voting for Maltese candidates standing for the European Parliament. Interest in local and possibly regional government in Malta could thus have a wider and more varied base. Moreover Malta has been permitting dual citizenship since January 2000, which means that dual nationals may also vote depending on residency qualifications.

In all probability in the near future elections both to the local councils and to the executive of the local councils association will be held less frequently. The terms of office may increase from three to four or possibly five years in the case of the former, and from two to three or possibly four in the case of the latter. This should relieve the over-politicized island state of the seemingly non-stop electoral contests which quickly assume 'national' proportions every time they are held. Until March 2008 it was commonly believed that the success of a party at the local level would be translated into its return to office, as in 1996 Nationalist losses locally saw the return of Labour to office; but in 2008 in spite of a string of local Labour victories, in the general election the Nationalist Party was returned for the third consecutive time.

RESPONDING TO THE CHALLENGES AND OPPORTUNITIES

After a 17-year-old experiment, there is scope for greater confidence, reliance, and openness. More powers will be delegated to local councils by central government, although most probably not as much as the local councils association is demanding or expecting. The demand clearly is in the sense of pro-active direction rather than

maintenance or upkeep, and mandatory rather than voluntary. In this extension of responsibilities, as happened in 1993, it is likely that central government will proceed cautiously before divesting itself of control over such vital elements as energy, water, or lands. On the other hand, greater involvement of local councils in decision-making bodies and in actual decisions in all of these areas would provide a healthy input and could reduce bureaucratic delays.

Greater involvement in environment permits and planning is another area. Whether councils will be permitted to be final arbiters or required to consult, and whether the final decisions would be taken by them or central government even after consultation, remains an open question. In certain spheres—such as the appointment rather than the recommendation of a primary school head—it will be easier to give way; local council recommendations have usually been endorsed. Interesting too are the expectations on the part of councils of responsibility for road maintenance not only within the locality but also in arterial or inter-locality projects, for which at present they have neither the responsibility nor the financial clout. In a climate of privatization, it becomes possible to conceive of greater delegation and autonomy in matters of investment and commercial activity, which so far has been invariably subject to central government permission and control. This is all the more likely given the fact that, as elsewhere, councils may now benefit from various EU funds for projects and activities they wish to undertake. The November 2008 budget increased local council funds by €4.2 million, these to include incentives for enterprise and commerce. Public-private partnerships have been on the cards for some time: in a few cases (such as the Pieta' car park adjoining the then general hospital) councils created income for themselves.

Other spheres for delegation would include (as noted by the LCA) the social and cultural dimension: social security, housing, education, health, employment, and social issues ranging from domestic violence to playing truant, drug addiction, and elderly care, hence the need for social workers. So far, such delegation of powers as there has been to local authorities has comprised: powers of enforcement through the warden system since 1996; administration of public property in certain instances; more direct involvement in service delivery with a view to improving competences vis-à-vis parastatal authorities, and generally with a view to permitting better customer service (e-government, once in place, would enhance that).

Further delegations in recent years have included the following: transfers of duties formerly performed by the police corps; the payment and renewal of police licences; street asphaltting; motor vehicle contraventions; traffic signs; outdoor waste management; school absenteeism; the wearing of safety belts in cars; walking dogs; skips; bus shelters; controlled parking schemes; permits regarding children's ride machines; the deposit of building waste materials; uses of cranes and machinery; open air café or tavern facilities, including kiosks; occasional public entertainment stands or commercial outlets; billboards; trenching or any digging up of streets for maintenance or otherwise; competencies on a voluntary basis for mutual

arrangements with para-statal bodies for contracts relating to public works (e.g. with the Transport Authority) or the uses of public land (e.g. with the Lands Department), in line with a devolution policy started in 1999, under which so far agreements have been entered into by more than half of the sixty-eight councils. The already mentioned 2005 law rendered statutory the already envisaged administrative possibilities relating to regional and local libraries, for which resources had to be allocated. By-laws have comprised anything from street and internet advertising to training courses, skips and bins-on-wheels, notice-boards, lease of property, glass containers, or the control of pigeons and their droppings in public places.

On the positive side, some councils are increasingly beginning to tap EU funding mainly on environmental or educational issues, new openings which seem set to be better utilized in the near future. These include bolstering town twinnings, of which scores have been entered into since 1994, with a locality sometimes twinning with more than one other. The local councils' association's annual pre-budget document for 2009 lists pro-active possibilities citing joint experiences with other countries—such as Italy and Cyprus. Among these, we find the desired establishment of operating agencies based on the regionality principle; joint inter-municipal projects on the lines of the Italian PIT model (*Progetto Integrale Regionale*); and the LDA (Local Development Agency) in Cyprus, offering the possibility of cooperation with the private sector and NGOs (Local Councils Association 2008b).

Some of these expectations also presume a need for structured regional frameworks. The 1993 foundation-law permitted inter-municipal cooperation, and there were some such instances, e.g. in preventing flooding in a valley area comprising a number of localities; more recently, through regional libraries, area civic centres, area health clinics, inter-municipal road resurfacing, and street lighting, and particularly through the joint district tribunals which adjudicate on contraventions of by-laws, comprising 'justice commissioners' nominated by the central government. These district courts service a cluster of localities but are based in one of them. Enforcement without infrastructure remains handicapped, as where no facilities exist for parking, including parking for residents or visible road markings.

So far, the seats on the Local Councils Association allotted to 'regional' representatives have been a *factio juris*. The names of regions were indicated—North, South, and Gozo, which is the closest to being socio-geographically a region—but in fact they have been bare-bone *pro forma* provisions intended to satisfy CLARE's requirement to have members in its Chamber of Regions. For the Chamber of Local Authorities, the representatives exist (even if without much authority); for the regions they really had not existed. The Gozo Civil Council died in 1972 and was replaced until 2010 by a Ministry for Gozo. No local public corporations

established as intra-municipal bodies may be said to exist in Malta as yet. This is a question of delegation as much as one of organization (Balducci 1997). Regionalization, which could permit these, has been on the government's agenda, but up to now a cautious approach has been taken, given the islands' dimensions, the pressure on human and physical resources, and the relative novelty and uncertainty of devolution itself.

CONCLUSIONS

Although most delegated powers may seem trivial, they add up to a considerable service delivery agenda, especially as councils have been entrusted with the 'enacting' as well as with the enforcement of their own by-laws. In spite of limitations and deficiencies circumscribed by the lack of a critical mass, local government in Malta has worked reasonably well and plodded along at a steady pace. It has crystallized local identities in a more secular sense and hurried the pace of basic infrastructural works, such as streets, pavements, gardens, refuse collection, etc., as well as catered more efficiently for ongoing needs, such as a street light or a water culvert. It has also dented the notion and practice of over-centralized government inherited from a colonial and neo-colonial past. For the legitimacy of devolution not to wane, it is vitally important to continue winning citizens' support and to defuse any inordinate partisanship or one-upmanship. The general operations review and consultations being undertaken, with a view to remedying anomalies and increasing competencies, points to further adjustments rendered imperative by the changing times and new responsibilities being assumed by Malta as an EU member state.

The parliamentary secretary (in 2008) in the prime minister's office, fresh from his rounds of consultation, has written encouragingly and enthusiastically of his vision for reform: more consultation in decision-making processes; a revamp of the local enforcement system; extending and buttressing terms of office; training courses and a code of ethics; greater synergy between local councils and public departments, entities, and agencies; social and educational initiatives:

It is only natural that these responsibilities will entail more financial constraints but we have to find a way how to help local councils adopt and cope with the responsibilities that make them closer to the people. Involving the residents has always been my credo and taking over social and educational responsibilities will go a long way towards achieving this goal. Together we have to come up with a strategy that will see us reach our aspirations of solidarity, subsidiarity and sustainability. (Said 2008)

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