

**Interview with Mr. Justice Professor  
Wallace PH. Gulia, B.A., B.SC., Ph.C., D.P.A., M.A. (Admin.), LL.D.**

**by Christopher Spiteri**

***Your honour, what can you tell us about your childhood experiences.***

My childhood was concurrent with the years leading up to the second world war. I was not the adventurous type and so there was nothing really outstanding except a voyage abroad with my family.

***Your teenage years coincided with the second world war. Have you got any particular recollections of those momentuous days?***

I had to live through those days like everybody else. There were days when one enjoyed seeing the flares which the German bombers used to let loose to light up the Island, so as to see which part of the country they were going to bomb. My father decided to go over to Zebbug, immediately before the hostilities broke out and this was timely since our house was razed to the ground on the very first day of the war. I sat for my Malta matriculation in the cloisture of St. Dominic's priory at Rabat, instead of in Valletta. Like everybody else, I had to study by candlelight in the shelter.

***Did any of these events effectively change your outlook towards life?***

One gets one's outlook from one's day to day experiences and there was nothing which was so significant that it forced me to take one course of action instead of another, I studied like everybody else and then I took my chances in life as and how they come along.

***You happen to be one of the very few members of the legal profession who have followed advanced studies in the sciences. How do you account for this unusual albeit fascinating combination of two such diverse fields of studies, and, what prompted you to undertake your legal studies?***

Within my family, we were two boys and since childhood, one of us was destined for law and the other for medicine. I was destined for medicine, I started my studies in the faculty of medicine, but in my third year, I decided to change over to Law, since I thought it was better to waste three years in my life in order to be able to change over to an area which I had started to consider as far more interesting. When I ultimately discussed the issue with my father, he was most understanding but he laid down one condition. He wanted me to finish my third year and get my degree in Pharmacy and Science. Originally, I concentrated on my science subjects since I had decided to give up my pharmacy subjects, but ultimately, I decided to attempt my pharmacy examinations too. I did some cramming in the very last days and managed to pass those examinations. However, I never worked as a pharmacist, even though it would have been a useful and rather lucrative part-time employment, particularly during my time as a law student.

***You spent 27 years of your career working at the Attorney General's office. What attracted you most to the work of Crown Counsel; and retrospectively, do you feel that you have fulfilled your aspirations in that post?***

Certainly, one thing which did not attract me in the legal profession was that one had to deal with one's clients in order to get paid. Thus, I considered that if I had a regular employment, I would not have to issue bills to my clients, who might not want to pay. So, I decided that if I was selected, I would take a job in that office. Then, in my studies, I had also specialized in the law of the Administration, and I thought that working in the administration and facing the day to day problems of the government would be very much climbing up the tree I had climbed in my research work. The problems which one had to solve were very much the problems for which I had prepared myself in my administrative studies.

***You have furthered your legal studies in the United Kingdom and in Italy. What kind of research work had you undertaken in these countries?***

In Manchester, I took a Master's Degree in Administration. Possibly, a matter of interest is how I came to choose that degree. When I changed over from science to arts, I managed to obtain an exemption in English, Maltese and Philosophy, and so I remained with just two subjects in my first year, Latin and History. Consequently, my father suggested I should try to obtain the Diploma in Public Administration of the University of London. Later I managed to obtain a travelling scholarship from the University of Malta. When I joined the University, the Statute of the University provided that the student who came first in his B.A. with honours, would be awarded a sum of money. However, within three years, a new university statute provided for a travelling scholarship for the student who was first with honours. Further, the new statute also provided for a free diploma to the students who were second and third in the course of laws. The students who were second and third in the course of laws, took the university to court for not giving them a free diploma and won the case. Consequently, I applied to the university, claiming that I should have been given a travelling scholarship, instead of a prize of money. The university granted me this scholarship, which was concurrent with my last year in the law course. The Senate granted me permission to sit for my exams in the September session, without having to attend a single lecture. When I came to choose a British University, where to further my studies, I decided to build up on my diploma in public administration. Therefore, I chose Manchester, since this university was one of the two which awarded an M.A. (Admin.). During my first year, I read Administrative Law, Local Government Law, Current Political Theory, Government I (Public Administration) and Government III (Public Corporations). During my second year, I carried out research in Administrative Law proper, especially in the field of administrative justice. My dissertation dealt with rent tribunals in Britain, Malta and Northern Ireland. Rent tribunals in Britain had just been established and professional attitude was against them since they were not considered as proper courts of law but as administrative tribunals. I arrived at the conclusion that these rent

tribunals were not in any way inferior to a court of law. My research work in Italy was the result of a scholarship obtained through the Italo-Maltese Cultural Agreement which followed Independence in 1964. In my research work in Britain, I had already shown an interest in the Conseil d'Etat. So, when I applied for the Italian Scholarship, I proposed to carry out research regarding the Consiglio di Stato, which is the Italian counterpart to the French Conseil d'Etat. I obtained this bursary, and I concentrated on the doctrine of Governmental Liability. I found out that the Italian situation was not as we had always imagined, identical to our position. The Italians distinguished between actions *jure imperii* and *jure gestionis* to find out which court had jurisdiction and not to deny jurisdiction, as had happened in Malta.

***As a lecturer in Administrative Law, and a prolific writer on this subject, do you think that our law deals equitably with a citizen who sues the government?***

It depends very much on the convictions of the judge who happens to be deciding the case. If you have a judge who still believes in the dual personality of the state and who will immediately rule something against the citizen just because it is carried out in terms of the political authority of the state, then the citizen would be at a disadvantage. However, if the case comes up in front of a judge who feels that there should be no distinction between the government and the citizen in terms of law, then of course, the citizen is on an equal footing with the state. We have had some judges who turned a blind eye to the notion of the dual personality of the state, especially Judge Pullicino at the turn of the century and Judge Magri in the middle of the century. They both agreed that in a case of damages, civil law applies independently of the notion of the dual personality of the state. Later, other judges, in particular Judge Caruana Curran stated that the dual personality of the state simply does not exist any more. I hope you will pardon me, if I say, that in some of my judgments I have followed these predecessors.

***To what extent should the judiciary be allowed to review administrative action?***

The law had said hardly anything on this subject, and thus it was left to the judiciary to debate this subject. However, our law was amended by Act VIII of 1981, which tended to avoid judicial review. However, our courts in recent years, through some outstanding judgements, have not exactly accepted the position created by Act VIII. Thus, we should be optimistic since our courts have managed to go round Act VIII, in proper cases and there should not be any reasons why future courts should not be able to do so certainly to the same extent.

***You have lectured at our university for a long number of years, which aspects of this experience do you consider as the most positive?***

From the point of view of the lecturer himself, I would say it is the mental contact with young people, because since he is dealing with young minds, his mental outlook would have to remain young. This is a very positive feature

because we are always getting older and one should not lose one's mental flexibility. Objectively speaking, a positive aspect of university lecturing is research work itself. In fact, when you have to lecture over a full subject, you have to look at the corners which usually one tends to shut out of one's consideration in the course of one's work. Thus, frequently, a lecturer would have to carry out research in order to adjourn his knowledge and to keep up with progress which has been made in a particular area.

***Over the years, university life has changed considerably. Indeed, do you see any similarities between the students and the university life of today and those of your student days?***

Similarities there are, but there are also dissimilarities. The attitude towards reading and studying has remained very much the same. The student has to work at his subjects and try to master them. What has been unfortunately lost in the process over the years, is the chance for the student to be able to broaden his outlook to other points of view, instead of merely limiting his attitude to the subjects which he is studying. When I was a student, the university was full of movements, literary societies, dramatic societies, and other societies which tended to broaden one's personality and not limit one's outlook to one's studies. Since there has been too much insistence on examinations, the student no longer has enough time to devote to these organisations, which during my student days forged out the personality much more than anything else. In my time, I was president of the Students Representative Council, Vice-President of the Għaqda tal-Malti, Editor of the 'Sundial', the journal of the English Literary Society, a member of the Medical Students Association and later a member of the Law Students Society. Of course, in my time we did not have any university campus. We merely had the old building in St. Paul's Street, Valletta, with the students' union in front of it, which served for all sort of things. Today, the students have much more convenient accommodation at University house, yet I doubt whether they are making full use of these facilities. Unfortunately, today students have lost the Newman mentality of the University being the place where one met with one's confreres and thus evolved a personality which had a universal point of view and not limited to one's profession.

***You were elevated to the Bench in 1982. Which do you think are the most difficult aspects of a judge's work? Which are the right personal attributes and dispositions that enable a judge to overcome such difficulties?***

A limitation which immediately comes to mind is the fact that one does not find one's law very easily. Unless the judge had maintained his personal copy of the laws up to date as amended by Parliament, one does not find a copy of the law which is suitably amended. So, the judge does not merely have to decide the dispute but must ensure that his copy of the law is suitably updated.

The personal attribute which is necessary in my work is the ability to listen to both sides, because when a judge listens to both sides, he tends to get the feel of the situation much better than by trying to exhaust his mental energies thinking for himself. The solution is very frequently to be found in the middle of the way.

***To what extent, if at all, should judges give weight to public opinion and criticism in their judgement?***

The judge is there to apply the law and not what the people say in the street. The judge is there to interpret the law and if he disagrees with the law he has no right to say so. The law is superior to the judge and not the other way round. The judiciary has got to apply the law whether it likes it or not. The law is there and has to be applied in the manner in which Parliament intended. Thus, the judge should disregard public opinion and all criticism which is being levied against him.

***Do you think that religious beliefs and moral values are an asset or a drawback for the legal practitioner?***

I believe they are an asset for the simple reason that moral values very often tend to run parallel with the law and the principles of justice. This century, we have come to insist on the Fundamental Human Rights which historically evolved as idealistic concepts and originally as moral issues. Then religious beliefs cannot be ignored for the simple reason that a judge is tied down, in his dealings, by the oath of office in terms of which he swears to do his work properly and justly. If a person has no sound religious convictions, this oath is of no value whatsoever.

***What are your views on the quality of the services given by the clerical staff of the law courts?***

As everywhere else, it depends on the personality of the person in question; there are some men and women who are outstanding in their work and there are others who leave much to be desired. In fact, however, a judge does not really depend much on the clerical staff, because his decisions are decisions which he must reach himself and no one can really help him or guide him there. However, if a judge makes use of the people who are available, as he should make use of them, he is bound to find that they are helpful. I have already mentioned the difficulty of obtaining an amended version of the law. That is something which I have found my staff may do very easily for me, far more easily sometimes than had I done it myself. Furthermore, if you have men who are experienced at their work, one is bound to find them very useful. At the moment, I am very much involved in Criminal Law and I am glad to say that the Deputy Registrars I have had, have been men of experience, who can quickly come up with a precedent which can throw light on the problem at issue which one is dealing with at the moment.

***Do you agree with the suggestion that the clerical staff at the Law Courts should be given special training and that the Law Courts should become a closed department?***

My answer to both these questions is in the affirmative. The law is very much based on the details of the law itself and proceedings tend to be repetitive. These repetitive issues can be very easily dealt with by trained personnel.

Furthermore, the possibility that the Courts would become a closed department

is also a desirable option because once a person has become used to court work, it is not desirable that his expertise be lost by his transfer to another department. However, a consideration which would be averse to all this is the fact that people who join the civil service join with the idea of promotions which tend to come their way over the years. If the law courts are turned into a closed department, one would have to forgo the job opportunities which a civil servant has. Thus, while the idea of a closed department seems to be a good thing, one should also try to do something in order to ensure that the people who have remained in the department are not going to lose their opportunities in life just because they have remained in a closed department. At the same time it is clear that experience in Court work, does not really help the Civil Servant to become accustomed to the evolution of policy work, which is and should be the proper task of the higher echelons of the Civil Service.

***In our recent legal history, we have witnessed a large number of acquittals in trials by jury. Do you believe that the jury system gives an undue advantage to the accused? Should the jury system be abolished?***

I believe in the jury system. I believe that one should be tried by one's peers for the offences which one has allegedly committed. If one's peers agree that one has committed a wrong, then one should be punished for it, but if one's peers agree that one has not committed any fault, then one should be set free. It may be that there have been a number of acquittals, but this only shows that the jury has been persuaded that the man should be acquitted. If that is the case, that is the 'raison d'être' of the jury system, that the decisions as to guilt or innocence is to be reached by one's peers. If the evidence has been such as to convince the jury that a person should be acquitted, no one should assert that one should have not been acquitted. Nine men, deliberating among themselves, excogitating the pros and cons, should between them be able to see the truth much better than just one individual, whether judge, prosecutor or ordinary citizen; when one is faced with a decision of fact one cannot pretend that one is placed in any superior position than nine ordinary men discussing among themselves as to the innocence or guilt of the accused provided they carry out their work to the best of their abilities and in terms of their oath of office, as observed acquittals there may have been, but no one has ever alleged that any jury failed to carry out its duties in terms of Law. Trial by jury is not trial by the opinion of the man in the street, it is the opinion of nine loyal men who are going to look into the facts of the case and reach an opinion in terms of law.

***You have been for some time the chairman of the Malta society for the blind. What did your contribution to this organisation consist of?***

I was chairman of this society for a period of about twenty years. I was one of the founder members of that organisation. In fact, the Government of the day, in the fifties had evolved a number of services for blind people and there was a time where the various departments felt that it was desirable to evolve something which would act as a focal and coordinating point for the various services which were being provided. The Government had obtained the services of the chairman of the Royal Society of the Blind of Great Britain and Northern

Ireland and he had been invited to come to Malta and to propose the setting up of a society which would look after the interests of blind people. The government had appointed a committee to draft a statute for this organisation. I was appointed chairman of this committee. The recommendations were drafted in a short time and immediately after the proposed organisation came into being and I was appointed its first chairman. In fact, between the drafting of the recommendations and the appointment of the committee, I had suffered a stroke and I thought that this committee would not come my way because I was now a handicapped person myself. Nevertheless, the people concerned waited for me to come back and appointed me chairman of the organisation when I had returned to government service and was recuperating and hoping to come out of the ordeal I had suffered. My task was to see that this organisation functioned properly. We set up the administrative organisation for the society and we provided a number of services which were needed and had not yet been provided. We tried to find suitable employment for blind persons and as time went on, the conviction grew that we had more or less found suitable employment for all the blind people who needed employment. One of the major issues we tackled was that in the course of time, we had managed to build up funds for the society and there was a strong insistence made on the committee that it should spend all the funds which had been earned in the course of a particular year. However, the committee decided to make only the necessary expenses and to keep the remaining funds for any future needs which at that moment could not be identified. Finally, in the year dedicated to the Handicapped, we took all the blind people of Malta for a trip to Sicily free of any charge. This was the biggest treat which many of these people had had in their lives especially because we had enough funds to allow every blind person to get with him his usual guide free of any costs. Indeed, serving suffering humanity is a very satisfying work and one should aim at doing it independently of one's job.

***A field in which you have had constant success is that of poetry. Could you tell us something about your works?***

How successful I was I cannot really say since this depends on the reader himself. However, I have published a number of works from time to time. The first work was a 1947 booklet entitled "*L-ewwel Għana*", which were the first verses written by a very young man. Over the years, I kept writing my verses and these have always tended to be the reactions of an emotionally charged person. I have always been struck by Wordsworth's definition of poetry "emotion recollected in tranquillity", and I believe that many of my poems have been exactly that. In 1974, I made a collection of all the poems I had published between 1947 and 1974, and this was my major work. In 1984 there was a collection of my poems written about the Blessed Virgin, published under the title of *Marjana*. This year I published what I consider my 'magnum opus'. It is a poem made up of a of 119 sonnets all about one theme, that God manifested himself to man. This is a collection of those incidents in which I believe that one can see not the hand of man or the hand of accident, but the hand of the supernatural, like Moses striking water out of the desert and many other experiences from the Old and the New Testament, the Acts of the Apostles

and what seemed to be other features in later days as well. This work I dedicated personally to Pope John Paul II and this year I was lucky enough, during a visit to the Vatican, to have the privilege of presenting it to him personally in his hands.

A poem in which I believe I had some success is “*Il-ballata ta’ Taj Mahal*”. The circumstances in which it was written are of some interest. In 1967, I was invited to a conference on Public Administration in New Delhi. The organisers of the conference had reserved a day to take us to see the temple of the Taj Mahal which is one of the seven wonders of the world. In the morning we visited the Red Fort, which was the residence of their counterpart to the Prince of Wales, who had lived an idyllic life with his wife. Before passing away, his wife had made him promise that should she die he would build a monument which would make her always remembered by all humanity. On her death, he decided to build her an incomparable monument. This memorial is the Taj Mahal. At a later stage, the prince’s thirteen children waged war against each other until only one remained alive. This survivor imprisoned his father in the Red Fort and allowed him a daily exercise to a balcony from where he could look at the Taj Mahal.

When I left India, I decided to write this story because it is a lovely story which is relatively unknown in the west. In this way, this poem came about and I was all the time feeling that I was writing something beautiful, not because I was writing it, but because the story in itself is beautiful and it is worthwhile knowing.

***Soon, you will be retiring from the bench. What are your plans for the future?***

On the 4th of March, of this year, I shall be 65, and the Constitution says that at 65, the term of office of a judge comes to an end. I have not decided what I shall be doing once my retiring age has overcome me. I intend to leave all the avenues open and I would have to look at things as and how they may evolve independently of what I want to do now. Obviously, I know that my interests in life have been so varied that I am bound to keep myself occupied, one way or another, through reading, listening to music and especially through finalizing the various plans one has made over one’s life and which one has not had time enough to lead to a proper conclusion. Again one may never know, something new may come my way and if I have sufficient energies, as I believe I have up to now, I may be able to look into it. I am leaving all my avenues open, whatever comes my way, I will look at, and I will try to enjoy it to the full whenever and however I find myself. “Tomorrow, to fresh woods and pastures new”. I intend to try to follow this maxim. Whatever comes my way, I will look at, whatever does not come, I do not intend to run after. I intend to live the little or long time which the good Lord allows me as and how it comes.