Chapter 7

‘Not our problem’

Why the detention of irregular migrants is not considered a human rights issue in Malta

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Malta has been severely reproached on the international scene for violating the human rights of irregular migrants. The criticism of Malta's detention policy has been both forceful and widespread. It has come from a variety of sources: intergovernmental organisations such as the different UN bodies and the Council of Europe, the European Commission, different agencies of the European Union and in particular the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament (LIBE); as well as international organisations like Amnesty International, Human Rights Watch, Médecins du Monde and Médecins Sans Frontières, amongst others. In January 2009, the UN Working Group on Arbitrary Detention criticised Maltese treatment of irregular migrants and openly stated that 'the detention regime [that] immigrants in an irregular situation are subjected to falls far short of international human rights law'. This widespread criticism stands in contrast to the usual relatively good record of the Maltese Government in relation to international human rights obligations.

The sheer amount of international criticism concerning the treatment of irregular migrants might have led the Maltese Government to rectify the situation. However, it responded consistently with a highly defensive attitude. This resistance implicitly carried the message that the Maltese Government did not recognise its obligations to align its policies and practices to internationally recognised human rights standards in this particular field, as they are, it was claimed, beyond Malta's competence and responsibility.

The question being posed in this chapter is: Given the Maltese Government's usual positive responses to international human rights claims, why has it refused to take steps to protect the human rights of irregular migrants? The central argument of this chapter is that Maltese policy makers perceive the issue of irregular migration as 'not our problem', and responsibility for the human rights situation is felt to lie outside Malta. The government's response to criticism from international human rights mechanisms, and the broad acceptance of these responses by much of Maltese society, demonstrates the lack of any sense of obligation towards this particular outsider. Put bluntly, it is the international community, and in particular the European Union, which is expected to do something about it. Maltese policy makers use the discourse of European integration to put forward a case for greater assistance from other EU countries and the international community.

However, pointing out the instrumental use of the language of international co-operation as a way of denying responsibility, does not tell us why such arguments have purchase in the Maltese context. To understand why such arguments have resonance in Malta, we must turn to internal Maltese social and cultural processes, and it is on this issue that the second part of the chapter focuses. In particular, by understanding the 'logic of the family' and the role it plays in the reproduction of Maltese society, we can better understand the nature of the resistance towards protecting irregular migrants. Conventional explanations for the problematic human rights situations of irregular migrants focus on geopolitical issues, such as the securitisation of State borders, and global economic inequality. However, in doing so, they tend to ignore cultural and social processes. Responses to social and cultural rights are often phrased in terms of social and cultural issues; in contrast, responses to civil, political and economic rights, such as those involved in the treatment of irregular migrants, are usually seen as being found in the civil, political and economic realm. However, this chapter shows that social and cultural processes are also of immense importance in improving the human rights situation of irregular migrants.

This chapter is based on an analysis of interviews with policy makers and other people working in the field, conducted in 2008 to 2009 as part of my doctoral research. My research motivation was: first, the appalling conditions in detention; and second, the hatred and indifference to a group of people in need, which seemed out of joint with my observations of the treatment in Malta of other groups of disadvantaged people. I am therefore best seen as a protest scholar in Dembour's scheme as outlined in the introduction to this book.²

7.1 Treatment of immigrants attracts international criticism of Malta

In 2002, there was a sudden increase in the number of irregular migrants arriving in Malta. Although originating from countries across Africa, Asia and the Middle East, the last stage of their journey sees these migrants leaving Libya with the intention of reaching the European mainland. The vast majority of irregular migrants reach Malta by small boats, or are intercepted and rescued while in

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Upon release, immigrants, irrespective of their status or pending application, are housed in 'open accommodation centres'. Some of these centres are run directly by the governmental Agency for the Welfare of Asylum Seekers (AWAS); others are run by the Church or Church-related organisations, on behalf of the government. A few homes have been set up for women and children, and for unaccompanied minors. Up until December 2008, the Organisation for the Integration and Welfare of Asylum Seekers (later re-named AWAS) registered 1,625 migrants living in open centres. One hundred and eleven of these residents were minors, whereas a further 270 migrants were living in other institutionalised households.

There have been some positive developments with regard to the length of detention and the release of immigrants. However, these have not found their way into written law. They remain, to date, only government practice and therefore can be changed easily or, although unlikely, even completely overturned. The 2005 government policy on irregular migrants stated that vulnerable immigrants would no longer be detained. However, the European Parliament’s LIBE group reported in 2005 that no written procedure for the identification of vulnerable individuals was made available. The situation was still the same in 2009. The UN Working Group on Arbitrary Detention picked up on this and condemned the practice of detention for vulnerable individuals: ‘according to the Government it may take up to three months to free them into open centres and those who are considered a health risk for the community must stay in detention.’

Apart from the issues of arbitrary detention and deprivation of liberty, another separate set of complaints regards conditions of detention. The UN Working Group on Arbitrary Detention expressed shock at the abysmal conditions in detention centres. The conditions of detention are:

- appalling to the extent that the health, including the mental health, of the detainees is affected. This situation, in turn, affects their ability to properly understand their rights and to follow the legal proceedings related to them.
- The sub-standard closed centres of Safi and Lyster Barracks are overcrowded. At Lyster Barracks, families are not separated from men, women, including pregnant and nursing mothers, and children, including unaccompanied minors. Although the Government applies a fast track procedure for the release of vulnerable groups in administrative detention, the procedures may take several months and be in vain for those who are considered a health
risk. Many dwell in tents and the Working Group notes with serious concern that 59 inmates do not even find a place to sleep in these tents at present.8

The conditions inside the migrant detention centres have been criticised at length for:

(a) the (almost) permanent overcrowding;
(b) an almost complete lack of privacy (both in sleeping/living areas and in showers etc);
(c) no separation of female from male immigrants;
(d) no protection from abuse by staff or other immigrants, especially for female immigrants;
(e) unhygienic conditions;9
(f) difficulties accessing basic health care;10
(g) mental health considerations;11 and
(h) the denial of information about rights as potential asylum seekers.12

These criticisms were reflected in a UNHCR-funded research project run by the Jesuit Refugee Service (JRS) Malta on the experience of migrant women.13 This report deserves to be singled out because it is the first of its kind focusing specifically on a vulnerable group in detention. With the overall situation being so poor, little attention has been given to minority or weaker groups like migrant women. In addition, this research directly involved immigrant women, in contrast with other reports which were compiled through analysing government practice, mainly from an institutional and legal perspective.

In the next section, I will proceed to outline the official reaction of the Maltese Government to international and domestic criticisms concerning the treatment of irregular migrants and detention policies in particular.

7.2 The position taken by the Maltese Government

The Maltese Government has been consistent in its stance and calls for assistance from the international community in dealing with irregular migrants who reach its shores. The government has defended its policies locally as necessary for safeguarding the broader national interest, including security issues, lack of jobs for all and the retention of Maltese cultural values. The argument as proposed to the international community is perhaps best captured by the current Prime Minister’s address to the United Nations:

... the small size of Malta, our financial and human resources make it extremely difficult to cope with such a large number of these unfortunate people to be accommodated in Malta ... Notwithstanding the severe difficulties faced by Malta, we continue to honour our international obligations vis-à-vis genuine refugees and persons qualifying for humanitarian protection. Malta has featured as one of the countries, in proportion to its size and population, with the highest number of awards to asylum-seekers ... For years we have insisted on measures of international solidarity, beginning with effective action at European Union level ... Malta has always dealt with these situations with great responsibility, humanity and benevolence paying due respect to every human being without exception and will continue to do so. At the same time, the problem of illegal immigration is an international phenomenon driven by external factors which cannot always be prevented or even mitigated by the countries affected by this problem ... My Government hopes that other countries would come forward to assist in alleviating the burden which Malta carries – a burden so acutely disproportionate to Malta’s population, land size and population density.14

The extent of the perceived problem, for the third most densely populated country in the world (after Monaco and Singapore), is also made clearer in a remark published by the European Parliament’s LIBE group:

The Minister Tonio Borg focused on how difficult it is for a country such as Malta, with a surface area of 316 km² and a population of 400,000 people, to cope with the influx of migrants and asylum seekers arriving on the island

10 Idem.
11 Idem.
13 D Vella, Try to Understand: Outcomes of a Project on Sexual and Gender-Based Violence against Immigrants, 2008, Birkerkara, Jesuit Refugee Service Malta.
The average annual number of arrivals is equivalent to 45% of Malta's annual birth-rate. One person arriving illegally in Malta is equivalent, in terms of population, to 140 in Italy, 150 in France or 205 in Germany. On the basis of the country's size, the numbers are even larger: one immigrant would be equivalent to 933 in Italy and 1129 in Germany.15

The Maltese Government has taken some steps to address the current situation, but these developments appear to be rather slow-paced and unco-ordinated. In a 2010 report produced by the United Nations, out of a list of 66 points which criticise Malta's treatment of immigrants, only the last point notes very limited progress:

The Working Group expressly notes the progress that the Government has made in endeavouring to bring the immigration detention regime into conformity with international human rights standards; for example, through the decriminalisation in 2002 of illegal entry into the country and the adoption of measures aimed at reducing the time required for the processing of asylum applications.16

These developments, such as the setting up of various open accommodation centres and residential units for unaccompanied minors and families, seem to suggest that the overall response has been triggered by a sense of emergency rather than a sense of responsibility. The Maltese Government's attitude was influenced by a number of international, political factors, foremost among which the country's accession into the European Union. The discourse employed by the government shifted between complete insensitivity to immigrants, to one of managerial bureaucracy. Although this may have originally been aimed at EU and UN circles, the same attitude and rhetoric is used when presenting the migration-related issues within the domestic setting.

The Maltese Government has therefore attempted to pitch the policy debate at a local-global nexus, which has helped to fuel anti-immigrant sentiment within Malta. The debate quickly became characterised as an issue of 'us-versus-them', with 'them' including both the irregular migrants and the international community, all of whom are made to appear as acting against Malta's interests. This led to a heightened sense of siege (supposedly by irregular migrants) and betrayal (by Malta's partners in the European and international spheres, and by the few local dissidents). It also brought about a situation where the international community regularly lambasted Malta, whilst the two main political parties and popular sentiment in Malta fully supported the detention policy and the measures undertaken by government.17 Notwithstanding a long history of animosity and discord, the two political parties found a common cause with the advent of 'mass' immigration in 2002. Both were equally vocal and supportive of a restrictive immigration policy and a detention policy for all migrants. The years 2004 and 2005 saw images, previously unthinkable, of television discussion programmes with the then Minister for Justice, Dr Tonio Borg, and the then Shadow Minister, Dr Gavin Gulia, in total agreement on the need for a strict detention policy. Typically they would have been joined by Police Commissioner John Rizzo and the Commander of the Armed Forces of Malta, Brigadier Carmel Vassallo, both of whom took pains to highlight the security aspects of immigration and the difficulties created by the immigrants inside the detention centres. Such a rare image of national unity was symbolically powerful.

7.3 The European Union and shifting of responsibility for the human rights of outsiders

Malta's accession to the European Union in May 2004 brought about a significant change in governance and the conduct of local politics. To meet the demands of the Union, Ministries were restructured and new institutions set up. This process of Europeanisation brought about a significant change in policies regarding internal social needs, now largely influenced by EU policy either directly or indirectly. As a result of EU membership, Malta started being scrutinised for its adherence to both EU law and policy, and international human rights standards. At one level, the European Union's political rhetoric of human rights, freedom and democracy appealed to Maltese society, not least because it resonated well with the political principles underpinning the Maltese Constitution.

However, the rhetoric of support for human rights reached its limits when it came to the treatment of irregular migrants. The structures within which the Maltese Government attempts to deal with irregular migrants include the Dublin Regulation, adopted in 2003 just prior to the enlargement of the European Union in 2004.18 The aim of the Dublin Regulation is to determine rapidly the Member State responsible for the asylum claim, and prevent applicants from submitting applications in multiple Member States. However, by putting the responsibility on the country of first arrival, an arguably unfair and excessive burden was put on border countries. Malta, at the Union's southern-most border and the smallest and most densely populated Member State, was particularly disadvantaged. In

15 Committee on Civil Liberties, Justice and Home Affairs, Report by the LIBE Committee Delegation, p 3.
17 For further comments on this, see D Latterbeck, 'Small Frontier Island: Malta and the Challenge of Irregular Migration', Mediterranean Quarterly, 2009, Vol 20, 119.
18 Council Regulation 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, [2003] OJ L150/1.
addition, not being part of mainland Europe meant that immigrants had no easy way of moving on from the island and relieving the ‘burden’, even if on a temporary basis. Malta, like most of the other new Member States, felt that it was being treated unfairly in this area. This reinforced its belief that irregular migration was not a ‘Maltese’ problem, but one brought about by international circumstances and the Dublin Regulation.

The Maltese Government made public the difficulties they felt the country was facing and made sure that their concerns reached EU circles. The government’s message was unambiguous: Malta did not have the resources to manage this crisis or carry the burden in the long term. From 2004, Malta focused its efforts within the European Union on lobbying for greater support and a fairer system of burden-sharing. It was also implied that Malta would not have been in such a dire situation were it not for EU membership. Apart from the Dublin Regulation, which restricted the ways in which Malta could manage the issue, EU accession was also the catalyst for the passing of the Maltese Refugee Act, which included the setting up of the Office of the Commissioner for Refugees in 2000. Prior to that, asylum applications were handled by UNHCR’s office in Rome. When the Refugee Commissioner’s Office was established, asylum applications were very few, and the Refugee Commissioner did not need a large budget to operate (even the Commissioner himself was initially only employed on a part-time basis), a situation which changed radically in 2004. Therefore, the Maltese Government felt that not only were Malta’s hands tied in dealing with this situation by the Dublin Regulation, but the additional responsibility of processing of asylum claims had also been brought about indirectly by EU membership.

The European Union was sending out very mixed messages. Under the premise of human rights and global justice, EU accession had forced Malta to take on additional responsibilities for outsiders, by taking a role in the asylum process and more crucially being made to take on full responsibility for irregular immigrants under the Dublin Regulation. Yet, the Regulation was seen as putting an unfair burden on Malta, whilst its adoption just a few months before the 2004 EU enlargement appeared orchestrated to avoid the risk of veto by any new Member States. Whereas initially EU membership appeared a hopeful beacon for irregular migrants’ rights, the effect was the opposite. It only served to reinforce the view that irregular migrants were ‘not our problem’ and the responsibility for the safeguarding of human rights lay outside of Malta.

During one interview I conducted, upon being challenged on the relatively poor treatment of irregular migrants in relation to prisoners, a government policy maker replied:

I don’t agree that in prison you have a cell shared between two people and in detention there are 500 people. If I could, I would have different detention centres, but do we have the actual space we can have these kinds of detention centres? Would the EU ever fund a detention centre? Because that’s one of the problems we have – the EU funds an open centre but doesn’t fund a detention centre. You’re not meant to put people in detention. So the money always has to come from us.

This attitude can be found across government circles, acknowledging that human rights are not being safeguarded, but using the argument of an apparent lack of resources to justify it. As a Church Agency employee put it: ‘As a people we acknowledge human rights, however I’m afraid that we are not adequately resourced to implement certain human rights in particular sectors.’

The argument is that human rights ‘cost money’ to uphold and if faced with a choice, one will prioritise one’s own people, or as generally referred to, one’s own ‘family’. As the same Church Agency employee put it, the general attitude is that: ‘I already have lots of problems of a social nature in the country which I cannot keep up with . . . and now you come to my country and I have to cater for you too?’

However, many NGOs question the discourse of an objective lack of resources. They identify different instances where services are being duplicated and resources have been mismanaged. Notwithstanding this, the argument is understandable: resources, however much they are, will always be finite. So the question at this stage is: How are social priorities set in Malta? The following comment by a Church Agency employee goes some way to address the question, and reveals again how immigrants are perceived as someone else’s responsibility:

So you do not give me first priority, but excuse me, if you’re not going to give me first priority, where are you going to put me on your scale of priorities? . . . Are you going to put me at the very bottom, after the roads? . . . It’s a question of setting social priorities. . . . I think there’s a reason behind the fact that we don’t give enough support to these foreigners coming to our country. It could be a lack of will, or that we don’t recognise their rights – and equally the reason for this could be that our resources are limited and we are not able to manage them well. But at the end of the day, it’s a question of values also, scale of values.

The result is that irregular migrants receive limited social benefits compared to other vulnerable groups. In a recent parliamentary question, the figures quoted for the expenses per capita of irregular migrants in detention and the expenses per capita spent on prisoners were eye opening. Whereas Lm7 (approximately €16.30) a day is spent on immigrants in detention, around Lm21 (approximately €48.92)

19 Personal Interview C - Government official, 29 October 2008: 12-13. (All personal interviews used in this chapter have been conducted in Maltese, English or a mix of both. They were taped, transcribed and translated. Translations are literal, except in a few cases where minor amendments were needed for the written format.)
20 Personal Interview Q - Church agency employee, 23 January 2009: 1.
is spent on prisoners. One of the government employees I interviewed exclaimed: ‘Still, if you compare what we spend in detention centres and what is spent in prison—it’s much much much less, you cannot even compare.’ The interviewee, a policy maker in the field of irregular migration, proceeded with an attempt to give a revealing crude explanation for this:

The reason behind this? The reason is that an immigrant is not meant to be here in the first place, the reason is that prison is a place where you learn from your mistakes and things like that, the reason is that in prison most people are Maltese, and the reason is that the number of people in prison is different to that in detention centres.\(^\text{24}\)

The discourse of resource management is based on the responsibilities accepted by one as one’s own. Resources are shared according to a prioritisation of needs, and therefore the argument of a ‘lack of resources’ can only be understood within the wider sense that responsibility for immigrants is seen as lying with the European Union. The focus of this argument is therefore not ‘resources’, but the European Union. Resources should come from the Union because it has resources and it brought about the problem of irregular migration. Therefore, anything that Malta does with irregular migrants is of a benevolent nature, and not because Malta owes them anything.

The upholding of the human rights of irregular migrants is perceived in Malta as an act of charity. The preference towards a charity-based approach (as opposed to a rights-based approach) is not limited to the irregular migrants’ field. In fact, several interviewees mentioned this lack of appreciation of the underlying principles of human rights and lack of will to implement rights-based approaches. Rights-talk, in general, is widely felt to ‘put peoples’ backs up’, and many Maltese feel much more comfortable employing a charitable approach to vulnerable groups. As one Maltese employee of an international NGO put it:

Yes, we are very happy to be charitable because it makes us feel good as human beings, but if we recognise ourselves as superior, we do not recognise their right to work. ‘Jahasa’ [poor thing]. It still remains an issue of power. It is one thing if I willingly give you something, because it’s nice to do this kind of thing, but as soon as you start demanding rights that’s a totally different matter. A lot of people have this kind of attitude... ‘I’ll help you, of course, I’ll surely help you. But don’t come speaking about rights.’ Rights then are a different issue altogether. It puts peoples’ backs up.\(^\text{25}\)

\(^{23}\) Personal Interview C - Government official, 29 October 2008: 12.
\(^{24}\) Ibid.

From this perspective, helping, being charitable and benevolent sustains the power imbalance which keeps outsiders firmly out. Power is retained by the Malteses and talk about the human rights of foreign outsiders is perceived as tantamount to a threat to the national interest. This is particularly clear in fundraising events, often through televised marathons, in which the Maltese show all their ‘generosity’. As one government employee put it:

You will never in Malta have a successful fundraising campaign for a human rights issue if you frame it as a human rights issue. If you frame it as ‘you need to help so and so’ and suggest, for example, that he needs a house, people will help. But if you frame it in terms of human rights, then that’s an academic and elite language which in Malta is not yet the dominant discourse.\(^\text{26}\)

Other interviewees go a step further and speak of a ‘selective digestion’ of human rights. As another government employee put it: ‘It’s as though the absorption of the discourse of human rights, has been selectively digested. Human rights exist but for the Maltese and those who are like them.’\(^\text{27}\) Or as an NGO worker said:

...at the end of the day so much would depend on the particular group, on the particular issue. Migrants are not perceived in the same way as people with disability. Gays and lesbians are not perceived in the same way as people with disability, they are perceived totally differently and that does affect the approach towards their rights, so, ergo, we are not talking about rights at the end of the day.\(^\text{28}\)

Any hope by human rights activists that the European Union would encourage Malta to extend human rights protections to irregular migrants was not fulfilled. EU membership did not encourage an inclusive approach towards irregular migrants. Rather, events surrounding the Dublin Regulation only served to create a situation where States could avoid assuming responsibility towards immigrants.

7.4 The Maltese family: a social mechanism of containment and care, hierarchy-setting and exclusion

There is a general sense of a lack of obligation towards irregular migrants in Malta. The explanation for this can be found, in large measure, in the dominance of what I shall call the particular Maltese ‘logic of the family’.

The institution of the family is very strong in Maltese society, acting both as a means of social cohesion and as a mechanism of inclusion and exclusion for
vulnerable groups. Vulnerable groups have typically been well looked after, and often able to carve a space for themselves in Maltese society and the public sphere. An example is the disability rights movement, which successfully lobbied for a law safeguarding the human rights of disabled persons. This law set up an independent human rights institution to ensure that disabled persons were not discriminated against, to educate society and to act as a watchdog on government and society. These developments were well ahead of those in most other European countries.

The case of irregular migrants is all the more particular because it does not follow the pattern of other disadvantaged groups in Malta. At a social level, it is clear that whereas feelings of guilt and shame, for better or for worse (as will be seen in the ensuing discussion), accompany relationships with other disadvantaged groups, no such feelings are manifested with regard to irregular migrants. Irregular migrants do not trigger a sense of guilt followed by charity and compassion because they are considered as 'undeserving', while they do not even cause shame because they are not 'part of the family'.

What makes the Maltese family such a strong institution? When the researcher Joe Gristi asked Vincent, a Maltese young person, what he understood by 'being Maltese' or 'traditional', Vincent replied:

For me a typical Maltese attitude would be... like you've got the American dream, you've got the Maltese dream, which would be: live with your family, get a job, find someone nice, settle down, get married, have your own kids, and the process starts all over again. The European lifestyle is more flowing, in my opinion, like, you don't have to go and live where you were brought up in. Yes, it's nice to have family values, but they're not what's most important, you know, even partner-wise. Yes, if you meet someone you love all good and fine. Divorce, personally I'm up for it. It's just the whole quality of life, you know... I mean, this is one package we get, and I want to make the most of it.

The Maltese family ideal, or 'the Maltese dream', encapsulates the symbolic power occupied by the family in Maltese culture, and the roles attributed to it in political and social life. This 'dream' also reflects the strong Roman Catholic heritage in Maltese identity and culture. The Church in Malta has always been a very strong agent in promoting and safeguarding the 'traditional' role of the family. The Maltese family is of course not static and there have been clear changes in family patterns, including a significant increase in marriage separations in the 1990s and 2000s. However, the image of the 'traditional' Maltese family remains very strong, and it is the social unit through which social life and cultural norms are continually reproduced. Two characteristics recently highlighted in Eurostat reports shed some light on the tight-knit nature of the Maltese family. Single people in Malta leave the parental residence at a much later age (31 for men and 29 for women) than most of their European counterparts. In fact, most Maltese young people only leave the parental home upon marriage. Malta also has the lowest percentage of women in the labour market in the EU, in spite of a government drive to encourage women to work. Government policy still promotes the 'traditional' family as the ideal towards which the Maltese should aspire for the overall well-being of society. In addition, government policy, rather than being based on individual rights, is based on the family unit, as the following quote from the family section on the website of the Ministry for Social Policy states:

The role of the family as the cornerstone of society inspires the Government to continually maintain its efforts in this area by means of a policy which sustains the family and by providing services which help and support the family. This is done in order to ensure that Maltese families can provide a healthy environment which will counterbalance any daily problems and in which its members can develop themselves both for their own personal satisfaction and for the advancement of society.

The 'logic of the family' has important implications for how vulnerable people are treated, creating hierarchies of deserveness. Most vulnerable people are treated as a 'family issue' and it is from here that responsibilities and obligations are seen gradually hybridised with global culture, although they retain idiosyncratic characteristics which make them uniquely Maltese. The paper is partly based on interviews carried out by the researcher himself with young people in Malta.

References to the Roman Catholic Church are exclusively about the Archdiocese of Malta and the Diocese of Gozo. The two dioceses follow Vatican policy on the institution of the family very closely. However, on the issue of migrants' rights, whereas the Vatican has been highly vocal in favour of migrants' rights from as early as the 1980s, the Church in Malta has been less vocal.


29 Laws of Malta, Equal Opportunities (Persons with Disability) Act, Chapter 413, 2000.
32 The 'Maltese dream' is a phrase borrowed from sociologist Joe Gristi. In 'Symbiotic transformations', Gristi explores the relationship between global media, local tradition and cultural demographics. Using Malta as a case study, Gristi argues that Maltese youth have become
as stemming. Within this, one could divide vulnerable people in Malta into two tiers: on the one hand are those whose vulnerabilities are perceived as being the result of a misfortune which is not their own doing, such as disabled people and children in care. On the other hand, there are those who are seen as having brought the situation they find themselves in upon themselves, such as homeless people and prison inmates. Either way, the family is seen as the key unit in providing support and care. Referring to homeless people and substance abusers, one of my interviewees, a social worker who worked closely with homeless people, commented on the strategies they use in attempting to build bridges between homeless people and their families:

...there's a difference between total rejection and communication. You cannot have the person living with you, but you can still like them and love them and have them live somewhere else and support them from a distance, where there's a safe area between the two entities, rather than have complete rejection which is damaging to all parties. That is what happens. So the family was living with a degree of shame because they would have rejected one of their own and wouldn't talk about him, her... And it would be the family bones in the closet stuff and what we were aiming for was, 'ok we have this problem, we can't live with this person in our house, but we still love him, her, it', and it's ok we don't care who knows. No sense of shame, no sense of hiding.37

The social worker's comments imply that without addressing the rejection of homeless people by their families, the homeless person will remain excluded, notwithstanding any other efforts for their reintegration.

Shame plays a much smaller part with disabled people, women and the elderly. Another interviewee, active in various social fields for a good number of years, describes these groups as a 'neglected part of the family' and as such not actively excluded: '...look at Malta from the point of view of a very small inbred community. In other words, disabled people were one of the family, they were a neglected part of the family, the elderly are one of the family, women are one of the family – outsiders are not'.38

In sharp contrast, irregular migrants are not seen as part of the family, and therefore do not produce the same responses of guilt and shame. By not coming from within, immigrants do not even feature any wider sense of mutual obligation. If need be, they can be repelled. Irregular migrants are seen as a 'burden', as unwanted guests. An activist and a priest, who has both pastoral experiences with communities and direct contact with irregular migrants, highlighted the 'us-versus-them factor' and shows how irregular migrants are seen as an extra: 'There is a

them and us factor – an us-versus-them. On this count, people with disability are generally perceived as Maltese whereas the others would not be Maltese, and therefore that they are really a burden on the taxpayer.39

Human rights, in principle, are supposed to apply to all people. Yet, in Malta, the dominant discourse appears to be that human rights are there for the Maltese, or at most for the Maltese who 'deserve' them. This is further reinforced by a very clear impression that disability rights, children’s rights or women’s rights cannot be put side by side with the rights of irregular migrants. An observation made by a human rights activist I interviewed is particularly revealing on this point. Talking about a demonstration organised by minority NGOs in the spirit of the EU Discrimination Directive a few years ago, he brings this distinction to light: 'There was "disability", there was "women" – we got all of them together anyway and we had a representative from PN, Labour and AD [political parties] speak. We were criticised for lumping disability with race... People told us you can't compare the two at all.'40 Race here was thought of as an issue of irregular migration, and was therefore placed outside the frame of mutual obligation within which most Maltese think about human rights.

Hostile attitudes to irregular migrants are widespread in Malta. On being asked what the difference is between people who complain about the policy of inclusion for disabled children in mainstream schools, and those who complain against irregular migrants, a human rights activist working directly with immigrants identified the public support that exists for people who speak openly against irregular migrants:

One thing is that they know there's more support from people, people are going to support them so they're not scared to say it about blacks. I think that's one of the issues. You will never see the same kind of comments on the Times of Malta about disability, but people are openly writing things in the Times of Malta, and at the butcher and the grocer because they know they're not in the minority. Their feelings are expressed in the majority – what they're saying is normal, not abnormal; it's acceptable, not unacceptable.41

The logic of the family in Malta, with the ta' gweca' approach (a commonly used phrase meaning that you are either one of the family, or considered/treated as such) to including or excluding people, is one of the foundations for the 'siege mentality' that is adopted at a national level in relation to irregular migrants. Several of my interviewees commented on this: 'now we're clubbing up together to fight a common enemy – the Africans. We are not able to see them as the positive part of this situation.'42 This is not some secret, hidden belief, but one

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40 Personal Interview K: 7.
41 Ibid: 8.
42 Personal Interview A - NGO worker, 24 October 2008: 5.
which is clearly out in the open. One of the refugees interviewed articulated this further:

What the Maltese population has in mind is, as if, these people [the immigrants] are warriors. Warriors for the island, warriors for the religion, warriors for the economy, for everything. This is how the Maltese mentality is set up, and I think this is because there isn’t much information from the authorities who are supposed to brief the people about the situation. So it is always kept as a big threat to the State. The fear is always there.  

The ‘logic of the family’ works as a mechanism of containment and inclusion in Maltese society. Maltese society, operating on this logic, broadly manages to achieve a remarkable degree of care and inclusion for Maltese vulnerable groups. The ‘logic of the family’ has, however, proven to be an impassable barrier for irregular migrants.

7.5 Concluding remarks

Malta’s international human rights record has, generally speaking, been seen as relatively good. However, in stark contrast to the general picture, the deplorable treatment of irregular migrants raises questions about the strength of human rights principles in Maltese society. The processes of European integration have meant that the Maltese Government has argued that the treatment of irregular migrants is ‘not a Maltese problem’ and that responsibility lies elsewhere. Within Malta, migrants are made particularly vulnerable by a set of interrelated social and cultural factors. The dominant approach in Malta to vulnerable people is based on the principle of charity rather than rights. Furthermore, the family remains the central unit around which senses of obligation and responsibility are organised. The result is that irregular migrants, not deemed to be part of the ‘Maltese family’, are not thought of as having entitlements, but also not included in any sense of charitable obligation. The result is the deplorable situation on detention centres with which this chapter started.

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