‘A DISEMPOWERING SYSTEM’:
DEMOCRATIC PRACTICES MILITATING AGAINST THE
REALISATION OF THE HUMAN RIGHTS OF
IRREGULAR MIGRANTS IN MALTA

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Drawing on ethnographic fieldwork and in-depth interviews with irregular migrants and policy-makers in Malta, this paper shows how a democratic system, in practice, can work against the realisation of the human rights of irregular migrants. The article focuses on two aspects considered critical to democracy: firstly, the vertical tension between elected politicians in government and the electorate; and, secondly, the dynamics of bureaucratic institutions. Overall, by revealing the tensions between formal democracy and substantive democracy, or democracy in practice, I argue that a cultural approach to democracy is necessary to understand the political system as a ‘field of practices’ where human rights are not automatically upheld but, just like other values, continually negotiated and compromised. The outcome for irregular migrants in Malta is disempowerment and difficulties in accessing the most basic human rights, ironically by means of a political system originally designed to empower people.

Introduction

Identification of key aspects of democracy—a political system ‘favoured’ by human rights—as problematic for irregular migrants’ access to human rights was an unforeseen twist of my fieldwork in Malta. The following quote by an international NGO worker typifies some of the comments made about issues related to the democratic political system, like the relationship between the government and the public, the lack of an informed public, the externalisation of hatred on public sites, and the election of political representatives. Change is unlikely, according to this interviewee, because the political system does not leave space for the recognition of irregular immigrants’ human rights:

I think the situation will remain as it is, because the government is led by public opinion. In such a case the need for an informed public is paramount: a public that takes stands, knows how to campaign, that protests, and is active and alive and believes in the fundamentals of democracy, and under-
stands that detaining people is against their human rights. When I read those nasty and racist comments in the online newspapers I get very angry. I mean, there aren’t only a couple or two extremists—that I could handle—but it’s the average, overall sentiment. If you see the comments left by people on The Times of Malta website—it’s sad, it’s very sad, shocking. And if I am the minister, why would I dare do otherwise, if I risk losing my position in the next election? (O, interviewed 19 January 2009).

Another common concern voiced by immigrants and people working with immigrants in Malta is that the system ‘disempowers’ immigrants. Disempowerment hits at the very soul of democracy and cuts through democratic principles and human rights. Disempowerment of irregular immigrants in Malta happens through certain bureaucratic practices, including institutionalised indifference, which constrain the participatory, deliberative and liberal democratic principles in the field of irregular migration. One of the immigrants I interviewed described the situation thus:

The problem in Malta is that there is very institutionalised discrimination which is very structured. Here you can’t, for example, in education or in the labour market, it is difficult to gain access. There are no equal opportunities for the Maltese and the immigrants, even if you have refugee status, there are no equal opportunities. [...] And when there is this kind of institutionalised discrimination, you cannot expect people to treat you equal. For example there must be a law for people in order for there to be equal treatment and even though here [in Malta] there is a law against discrimination and things like that, but in practice nothing is happening. So this is structured you know. Even if there is a law against this, in practice there is nothing you know (S, interviewed 27 January 2009).

One of the NGO workers I interviewed spoke at length about these issues and how disempowering they are for migrants. This quote captures a mention of detention but my interviewee is referring to the totality of the structures and services that cater for irregular immigrants:

One of the biggest obstacles that we face, even in persuading people to take action when their rights are violated and take their case to court for example, [is] that the people we work for are totally disempowered and the system disempowers them. Part of the reason, it’s not the only reason, is that the system disempowers. The whole message of detention is that you are the outsider and we are locking you up. Yes, I choose to believe it’s not too much to ask because I think it’s essential and as long as it’s only us talking it’s not half as effective, and we can’t—even if we are speaking on behalf of, or if I’m speaking as a Maltese national to my government saying that I want my government to respect my rights and migrants’ rights, OK I can, but there’s a limit to how far I can go. As a lawyer I can only go to court if I have a victim who’s ready to complain, and I can’t give up on it, but it does remain one of our biggest stumbling blocks. But the tragedy is that there’s a limit to how far we can go (L, interviewed 11 January 2009).

Democracy has been presented by the modern human rights movement as the political system the best suited to the accommodation of human rights principles. In 2005, the United Nations (UN) declared that ‘democracy, development and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing’ and that ‘while democracies share common features, there is no single model of democracy’ (United Nations General Assembly 2005: 135). The former of these two statements asserts the relationship between human rights and democracy, whilst the latter shows an interestingly liberal and nuanced view of democracy. The human rights movement concerns itself with both formal aspects of democracy, like the rule of law, and substantive aspects which show that the state is functioning as a democracy.

The notion of democracy, across the centuries, has served to raise hopes that oppression by the rulers, or those in political office, would be eradicated. The democratic philosophy of political freedom entails a conviction that, by giving people a say in government, societies would be more fair and just, and the risk of oppression and exploitation by a privileged few would be minimised. The sociologist Craig Calhoun says:

It was democracy, and more generally the rise of a way of thinking that said governments get their legitimacy from the people and not from divine right, ancient inheritance or sheer power, that transformed relations among the different groups of citizens. Democratic thinking depended on notions such as ‘the will of the people’, which in turn depended on constituting or discovering some such common will (Calhoun 1994: 2).

Far from achieving greater freedom, irregular immigrants in Malta, a Southern European island state which boasts a well-established democratic system, are often denied access to their basic human rights, as has been well documented by various human rights organisations such as the Council of Europe’s Human Rights Commissioner and the Committee for the Prevention of Torture, as well as by recent academic work (DeBono 2011, 2012). The result is that, as one of the immigrants emphatically stated, ‘I have never met an immigrant who wants to stay in Malta [...] because the reception is
very bad, and there is little opportunity from the government’ (G, interviewed 17 December 2008). This paper sets out to explore why and how aspects of democracy and democratic practice have been identified as ‘disempowering’ irregular immigrants and hindering the realisation of their human rights.

The Setting: Malta, the Research Question and Methods

Malta, the smallest and most densely populated member state of the European Union with a population of around 400,000 on an area of just 36 square kilometres, has received more than its fair share of irregular immigrants, generally arriving by boat from Libya. The novelty of the phenomenon, which only started in 2002, and the unpreparedness, lack of experience and/or mismanagement by the authorities, have led subsequent governments to declare that Malta is in crisis (Mainwaring 2012). A blanket detention policy for all irregular migrant arrivals, including asylum seekers, has seen the creation of a ‘less than human’ space where the value of human dignity is trampled upon on a daily basis (DeBono 2013). Other studies have shown that migrants are both contained and punished by border control, even when they are legally accepted and released, by remaining in a ‘state of arrival’ (Gerard and Pickering 2012). There has also been a backlash within Maltese society, with increasing levels of racism and racist incidents, as reports published annually by the European Network Against Racism demonstrate, and the rise of several extreme-right-wing groups (Falzon and Micallef 2008). Locally, the words ‘klandestin’ or ‘immigrant illegali’, used in a derogatory way, are the most often-used terms to refer to any (usually) sub-Saharan or Asian immigrant who has entered the country in an irregular manner, generally by boat. This group of migrants may include migrants without any status, migrants accommodated in detention centres, migrants accommodated in open centres, migrants living independently, asylum seekers, migrants with protection, and refugees. The term ‘irregular migrant’ will be used in this paper as a less derogatory label, and one which, although at times criticised for its lack of precision, is often acknowledged by academics as the best possible option when referring to a diverse group of migrants having different and/or changing legal statuses.

The data presented in this paper are the result of a nine-month period of participant observation, plus preliminary and follow-up visits with migrants and with people and organisations working with migrants (both government and NGOs). In addition, recorded in-depth interviews were conducted with key individuals. Fieldwork was conducted between 2008 and 2009 as part of a larger study looking into the cultural and political explanations for the difficulties faced by irregular migrants in accessing their basic human rights in Malta. This paper uses a ‘cultural approach to human rights’ (Nash 2009) as a theoretical framework within which to approach and analyse the irregular migration situation in Malta. This entails a primary focus on practices rather than institutions and legal structures. In tandem with this approach, democracy will be similarly looked at as a ‘field’ of practices. Nicolas Guilhot describes this approach well:

... the approach that I have found most useful was certainly to think of human rights and democracy as constituting a ‘field’, in the sense of sociologist Pierre Bourdieu. This means considering that democracy and human rights do not exist outside a dense network of activists, practitioners, institutions, bureaucrats, documents, monitoring technologies, normative practices, legal documents, styles of activism and learned credentials, and that the task of the research is not only to describe these various elements, but also to analyze their mutual relationships to the extent that they form a distinct, coherent and relatively autonomous sphere of social activity, a ‘field’ of practices (Guilhot 2005: 23).

The overall question being pursued in this paper is the following: What aspects of substantive democracy (or democracy in practice) are hindering the improvement of the situation of irregular immigrants in Malta? The first section will focus on how democracy is presented by the modern human rights movement to ensure minimum standards of respect for all people. This will be followed with a presentation and analysis of the empirical findings whereby two core aspects of democratic practice in Malta were identified as problematic for the upholding of the human rights of irregular migrants. Since formal democratic structures are largely in place in Malta, these two areas consist of gaps in the practice of democracy. These gaps are: a) the tensions between the ‘political elite’ and the ‘masses’ in a country where politics pervades every aspect of everyday life; b) practices within the bureaucratic structures upholding the political system, where actions run independently, and at times counter to policies adopted, resulting in less access to human rights. Parallels will be drawn and discussions intertwined with theoretical reflections on the subject matter, which will enable conclusions to be drawn on the potential pitfalls to the realisation of human rights that exist within a liberal democratic setting. The paper concludes with a confirmation that the forces of democracy need to be moulded in a way that ensures that a human rights culture can take root.
Conceptual Dilemmas: The Challenge of Democracy for the Human Rights Movement

The need of a democratic culture and the rule of law for the implementation of the human rights vision is evident in the first international human rights treaties. In these early documents, the continuous mention of the ‘will of the people’ clearly refers to democracy even though the term ‘democracy’ itself is not used. No other political system is ever mentioned. Democracy is accepted as the best available system because the maintenance of human rights would be inconceivable in any other political system which constrains the participation of individuals—‘the will of the people’—in governance. In fact, the direct contribution of citizens to governance is stated as a human right, as the following two examples from the UDHR and the ICCPR illustrate:

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. 2. Everyone has the right to equal access to public service in his country. 3. The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held in secret vote or by equivalent free voting procedures (Universal Declaration of Human Rights 1948, Article 21).

Every citizen shall have the right and opportunity... (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country (International Covenant on Civil and Political Rights 1966, Article 25).

In the last decade, the global human rights movement has shifted away from an exclusive focus on two processes tied to global democratisation—the promotion of the right to democracy and the consolidation of democracy—and towards an attempt to identify the constitutive elements of democracy and democracy in practice. The dominant policy now views the concepts of democracy and human rights as interdependent in unequivocal terms. This can be seen in a resolution passed by the UN Commission on Human Rights in 2003 entitled ‘Interdependence between democracy and human rights’ which calls upon the Office of the United Nations High Commissioner for Human Rights to take action by engaging further with the topic. Article 2 of the Resolution states that the UN Commission:

Reaffirms its conviction that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing.

This document lays out a clear vision of democracy as an all-encompassing system of governance which is not restricted to official state structures. Human rights are presented as a fundamental constitutive element of democracy. This is seen in Articles 4 and 7, where the UNHCHR:

[r]ecognizes the comprehensive nature of democracy as a system of governance that encompasses procedures and substance, formal institutions and informal processes, majorities and minorities, mechanisms and mentalities, laws and enforcement, government and civil society (Article 4).

[n]otes that international human rights instruments enshrine many of the principles, norms, standards and values of democracy and may guide the development of domestic democratic traditions and institutions (Article 7).

However, these declarations should not be taken to mean that the theoretical and moral foundations of democracy and human rights are similar, or that the relationship is self-evident. This impression has probably come about as a result of the historical convergence of the rise in popularity of democracy as a political system and the idea of individual rights in the nineteenth and twentieth centuries. The contemporary association might very well be due more to the product of historical coincidence, and less to theoretical similarities. Indeed, the philosopher Hans Köchler has argued that representative democracy in particular, by allowing a delegation of the exercise of power, creates an ‘empirical political will’ which strips the individual of the right of sovereignty, in the political sense, and is therefore not compatible with human rights (Köchler 1990: 20). Only a system of direct democracy, Köchler asserts, could theoretically concur with human rights, since it does not allow a ‘delegation’ of the political will (1990: 21). Direct democracy is, however, impossible to implement in practice in complex societies. For this reason, modern societies have opted for representative democracy, making it currently the most popular system. The human rights scholar Jack Donnelly alludes to this when he writes: ‘Democracy and human rights have very different, and often competing, theoretical and moral foundations’ (Donnelly 1998: 154). There are therefore innumerable perils that come with the assumption that democracy is ‘naturally’ the best political system for human rights to flourish.
Democratic Practices and Structures in Malta

Malta is a democratic republic founded on work and on respect for the fundamental rights and freedoms of the individual (Constitution of Malta, Article 1).

The opening article of the Constitution of Malta introduces democracy as the political system of the state. The major democratic institutions are regulated by the Constitution. Executive authority is vested in a President who is appointed by the House of Representatives every five years. The President in turn generally appoints as Prime Minister the leader of the party that wins a majority of seats in a general election for the unicameral House of Representatives. The President also nominally appoints, upon the recommendation of the Prime Minister, the individual ministers to head each of the government departments. The cabinet is selected from among the members of Parliament, the number of which may vary between 65 and 69 members elected on the basis of proportional representation. The Constitution provides for general elections to be held at least every five years. Candidates are elected by the Single Transferable Vote (STV) system, where the surplus votes of an elected candidate are transferred to the candidate receiving the second preference votes. Malta’s judiciary is independent. It is appointed by the President upon recommendation by the Prime Minister, who is required to take a decision based on consultation with the leader of the Opposition. The highest court, which is the Constitutional Court, hears appeals in cases involving violations of human rights, interpretation of the Constitution and invalidity of laws.

The Local Councils Act, enacted in 1993, was drafted in line with the European Charter of Local Self-Government and divides Malta and Gozo into 68 localities. Councillors are elected every three years by inhabitants who are registered as voters on the Electoral Register. Provisions in the law allow for the establishment of ‘communities’ (hamlets), with elected representatives, within localities and for an elected chairperson to sit in on Council meetings. Local Council elections are held by means of the system of proportional representation using the STV. The Mayor is the head of the Local Council and the representative of the Council for all effects under the Act. The Executive Secretary, who is appointed by the Council, is the executive, administrative and financial head of the Council. All decisions are taken collectively with the other members of the Council. Local Councils are responsible for the general upkeep and embellishment of the locality, local wardens, and refuse collection; they carry out general administrative duties for the central government, such as the collection of government rents and funds and answering government-related public inquiries.

Malta passes the tests of formal democracy successfully (Warrington 2008). In addition the Maltese people participate enthusiastically in elections, with general elections consistently having a near-universal turnout. This is complemented with participation in political debates and activities. Most of the merit of this is attributed to the two major political parties who ‘set the tone of political life in Malta’ (Warrington 2008). Paradoxically, Warrington argues, it is not the formal democratic structures that pose a threat to the political order in Malta, but the political parties who are not ‘even mentioned in the Constitutional document’. He describes this in the following quote:

... the two major political parties [are], equipped with pervasive grassroots organisations, data bases, newspapers, radio stations and television channels, and [are] increasingly networked with powerful business interests. Every one of these political resources is utterly opaque to independent external scrutiny. It is these powerful interests, fronted by and also manipulated by, the political parties, which set the tone and agenda of political life in Malta. It is here that threats to the constitutional order are most likely to be generated—threats to the values of multi-party democracy; to human rights and freedoms; to parliamentary, judicial and independent scrutiny of the Executive; threats to the integrity of elections; threats to the peace, order and good government of Malta (Warrington 2008).

The omnipresence, polarisation and totalising discourse of politics brought about by the two political parties characterises Maltese politics and largely conditions the practice of democracy in Malta (Baldacchino 2002: 197–198). Both parties have treated irregular migration as a security and foreign relations matter, positing the issue in political discourse as a burden on the nation. In addition, the two parties when in government have, on the whole, presented a united front on irregular migration. This is not a typical situation since they generally take different approaches and disagree on almost all other major issues. The following sections will analyse some predominant democratic practices in Malta which hinder irregular immigrants’ access to human rights in Malta.

The Effect of a Strong and Numerous Electorate on Irregular Migrants’ Access to Human Rights

The power of the masses is most clearly seen in how the right to vote is exercised. In fact, decreasing levels of voting worldwide have created huge
debates and controversies on the effectiveness and legitimacy of democratic systems. Not so in Malta, where voting in general elections, although not compulsory, is consistently very high. Malta’s voter turnout in the last five general elections was as follows: 93% in 2013 (McCarthy 2013), 98% in 2008, 95% in 2003, 95% in 1998 and 98% in 1996 (International Institute for Democracy and Electoral Assistance 2010). Indeed Malta has the highest turnout of all democratic nations, including those countries, like Australia, where voting is compulsory. Echoing the aforementioned observations made by Warrington, the political scholar Wolfgang Hirczy, writing on political engagement in Malta, puts this down to ‘intense two-party competition for highly centralized governmental power, grounded in strong and pervasive partisanship in the population at large’ (Hirczy 1995: 268).

The competition is not only between parties, but is present at a local level between candidates of the same party. Taking into consideration that the electoral system runs on a Single Transferable Vote system, which allows voters to choose their preferred candidates directly, the resulting situation is anomalous when compared to other countries which use STV. Although the STV electoral system allows voters to cut across party lines, this rarely happens in Malta. In addition, each of the two main political parties fields a relatively big number of candidates per district in order to appeal to as many voters as possible. However, the high voter turnout is probably exacerbated by what Hirczy identifies as two types of competition which happen simultaneously and mutually support each other. He says:

Two types of competition are relevant to turnout, competition between and within parties. Candidates mobilizing voters to boost their own chances of winning in turn make the parties more competitive. Where in a single election voters exercise choice among candidates of the same party, the candidates will have an additional incentive to see to it that their constituents cast their ballots because they face a more competitive environment. Hence turnout will be higher. Malta’s electoral system makes the candidates the direct beneficiaries of their own electioneering efforts. The participation-enhancing effect of dual competition is likely to be affected by the desirability of the offices at stake in the election (Hirczy 1995: 268).

This explains why ministry officials in Malta often told me that they ‘ultimately work for the electorate’ and why they claim that they are almost held to ransom by the electorate. Ministry officials’ concern was that the electorate would turn against their minister, and many examples were described of ministerial plans being scrapped in the field of irregular migration, either due to a public outcry or to resistance by a significant group of people. The officials stopped short of using the word ‘blackmail’, although the examples they gave me were akin to that. In addition, the language used and the widespread concern expressed reinforce this initial comment that the perception is one of blackmail. The following is an example from an interview I had with a ministry official:

The Government doesn’t have a problem with purchasing and investing in a centre for migrants. The problem is that you need to find a property where the people living around will not create problems. Because first you have to start with the Maltese: are you ready to have an immigrant living next to you? I mean, it’s one thing having them in a Balzan with the nuns, at least there are the nuns. The people say, ‘It’s okay, I live next to the nuns’. But if one fine day you throw a few immigrants in a house right next to your house, how would you as a Maltese feel about it? And this is something the Maltese don’t want to answer, because the reality is that they do not want them next door. And they start telling us ‘It’s because they stink... because they don’t wash... because they steal’. Is it true? At the end of the day it doesn’t matter, nobody wants them (C, interviewed 29 October 2008).

This attitude could also be interpreted as shunning responsibility and hiding behind ‘the wishes of the electorate’. Indeed, this kind of concern was hardly acknowledged and generally treated dismissively within the NGO sector, where the lack of leadership for social change was attributed to politicians and ministerial officials. No sympathy was extended in this regard. People working in the NGO sector often mentioned that the ‘political will’ was missing. No ‘political mileage’ could be gained out of immigrants, they explained to me over and over again. By this they meant that immigrants did not hold votes and, in addition, that any pro-immigrant activity might entail a loss of votes. People working in NGOs repeatedly came back to the point that politicians’ primary focus is to ‘appease their electorate’, as shown below:

I think that essentially politicians have—let’s put it this way, the human rights aspects of their policies are only one consideration, and they would probably at least, officially, they would pay lip service to human rights and the importance of human rights. But at the end of the day it’s not necessarily even the top priority. It’s fair to say that there are a lot of competing interests, including how they are perceived by their electorate...(L, interviewed 11 January 2009).

The dominant view amongst NGO workers is that politicians carry a higher moral responsibility in ‘educating’ the public in this field by virtue of the
privileged position they occupy in Maltese society. Indeed, as the anthropologists Jeremy Boissevain (1974, 1977) and Jon Mitchell (2002), amongst others, show in their respective studies on patron–client relations and nationalism in Malta, politicians have great importance in Maltese society. This explains why Maltese NGOs have very high expectations of politicians to live up to their responsibility of addressing widespread populist concerns—like the fear of an immigrant invasion, fear of contracting untreatable tropical diseases, and so on—which foment deep insecurities amongst various sectors of society. This theme of political irresponsibility was an issue that created deep anguish amongst my informants, since they believed that fears were intentionally fuelled, if not at times constructed, by politicians and high-level officials with the intention to gain political mileage. The NGO workers often recalled the frequent presence in the media of the then Minister for Justice and Home Affairs, the then Shadow Minister and the then Police Commissioner during the peak of international criticism by human rights organisations, defending detention as necessary for security purposes, public health reasons and as a deterrent to other immigrants. This lack of action could also be interpreted as a manifestation of conservative politics which typically demonstrates an aversion to risk and social change. The following quote depicts this sentiment of prioritising preservation. It also demonstrates the previous point which is seen when the interviewee blames the politicians and mentions the complacency of the ‘people’. He says:

...they [politicians] already have an idea of what the people want. It’s a huge vicious circle. The Government is happy with keeping things as they are because it doesn’t want a more informed public, therefore it is not going to get involved in any public awareness; the people are therefore fine with the situation as it is, and they’re never going to change, they are going remain as they are. Nothing is going to make it change: not the crappy situation, not an NGO, because no one takes it seriously any more, and no one really cares (O, international NGO employee, interviewed 19 January 2009).

The high voter turnout, usually considered one of the democratic virtues of Malta, was often mentioned by my informants as a counterproductive measure for the respect of the human rights of irregular immigrants. The criticism was that this encouraged more populist policies and less space for lobby groups, since the voter turnout is intimately linked with the political culture. This appears to be a well-founded criticism, but apparently one which is contradictory to democracy, for which voting is always presented as one of the essential mechanisms that safeguard the principle of popular governance.

Moreover, the finger-pointing between the government/politicians and NGOs is unhelpful when trying to make sense of the situation. This is deeply reminiscent of ‘the fear of the masses’ concept explained by Étienne Balibar:

‘The fear of the masses’ should be understood in the double sense of the genitive, objective and subjective. It is the fear that the masses feel. But it is also the fear that the masses inspire in whoever is placed in the position of governing or acting politically, hence in the State as such. So that, arising in the context of the power (puissance) of the masses and their movements, the problem of the constitution or reform of the State is first posed in the context of fear—which may be as extreme as panic or may remain reasonably moderated, but which never purely and simply disappears (Balibar 1994: 5, emphasis in the original).

This vertical tension arising out of a shift of power from the rulers to the masses is, according to Balibar’s (1994) interpretation of Spinoza, what makes democracies different to any other political system. Seen within this framework, one can better understand that what is going on is a ‘tug of war’ between the two equally legitimate foci of political power within a democracy. The argument goes beyond both one-sided ‘blackmailing by the electorate’ and the irresponsibility of the politicians who ‘should know better”; however, as a little bit of both, it is part of the democratic process.

The Other Side of the Elected Government:
A Governmental Bureaucracy Unconvinced of the Legitimacy of Serving Irregular Immigrants

Ministries are composed mainly of public officers, with each minister having at their disposal a personal fund to employ their own staff. One can visibly see within each ministry a complex power game between the bureaucrats and the politicians (and their personal staff). Ministers clearly have the lead, since they retain the power to choose public officers appointed to represent the government in leading agencies or on boards. A much-cited, by now infamous, pre-election promise by the previous government, made in response to calls for greater transparency in governance, states that: ‘Appointments on government boards will be made following a public call’ (Partit Nazzjonalista 2008: 62). One would have thought this would, in essence, be a straightforward electoral promise to implement, a rather courageous step in a political setting in which politicians rarely put themselves or their actions up for public scrutiny. Notwithstanding this, it was never
implemented. When brought up in parliament by the party in opposition, the then Parliament Secretary, Chris Said, speaking on behalf of the government, tried to avoid the question altogether but finally relented. The following is an excerpt from his reply:

... this is not a straightforward issue that one can just take a decision from one day to the next. It is a complicated issue that needs time to be implemented. Electoral promise 258 is clear, that appointments on government boards will only be done after a public call. The government has a legislature of five years ahead and in this period will implement a number of promises made in the electoral programme (Malta’s House of Representatives Debates 2008).

This quote is particularly revealing of the typical reluctance of any Maltese government to let go of any privileges intrinsically tied to a political culture still heavily reliant on clientelism and patron–client relations. In recent years, particularly with EU accession, the reluctant reliance of politicians on bureaucrats and experts has been evident, even in areas of governance which are traditionally the stronghold of politicians. Notwithstanding this shift in power, however, the overall balance still tips in favour of the politicians.

Although Maltese society is overwhelmed by a ‘crisis of trust’ akin to an observation made by the philosopher Onora O’Neill about modern societies, bureaucrats appear to fare better in this regard than politics. O’Neill (2002) argues that the ‘crisis of trust’, whether real or perceived, has a debilitating impact on society and democracy. Public services, institutions and the people who run them, and professionals, are all treated with suspicion. O’Neill questions whether trust can be restored by making people and institutions more accountable, or whether these same systems of accountability and control themselves damage trust. This is undoubtedly true of Maltese society.

However, popular rhetoric suggests that there is greater trust in bureaucracy than in politicians, or at least in the motivations of bureaucrats than of politicians. This is because the dominant perception is informed by the Weberian concept of a bureaucrat being nothing more than a helpless cog in the administrative machine at the whim of the politician. This perception works in bureaucrats’ favour, because politicians are generally seen as scheming, dishonest and generally ready to do anything for a few votes. The notion that bureaucrats might also be non-partisan political agents in their own right is largely missing. Even if the bureaucrat is active in partisan politics outside of work, this is not seen as a matter of choice; he is still perceived as ‘a helpless cog’ in the party machinery.

Many of my interviewees aired their frustration at how not only the basic services, but even services geared specifically towards irregular immigrants, were not delivering. Many of the people I spoke to had first-hand experience of the difficulties that irregular immigrants faced when trying to access services. Migrants consistently mentioned the health centres. They recounted stories of how they were turned away at health centres or made to wait till the very end of the queue after all the Maltese were served, irrespective of the urgency of their ailment or situation. The stories of lethargic responses by public servants, complete inactivity and techniques like foot-dragging, or the shifting of responsibility, were common themes. More worrying are the clear reasons behind the inefficiency. One of the NGO workers explained it in this way:

The problem in this field is that the whole concept of people, the mentality of people towards this client group is quite widespread, so you find even people working within the field—so social workers working for asylum seekers for example—having the wrong idea, and having the mentality of the government and the mentality of the other people... Even them thinking that these people should not be here: ‘What are these people doing here?’. ‘Detention? Just fine, leave them in there’. And agreeing with certain policies that are being taken that are detrimental to the clients ... we’re going wrong somewhere (F, interviewed 15 December 2008).

One of my informants, working with an NGO providing a service, in collaboration with a government department, for irregular immigrants, recounted an incident when applications of a serious nature were not being processed. The way it happened demonstrates how bureaucracy is used to make immigrants’ lives difficult. The incident, which stretched over weeks, started by a phone call which my informant received from the government department asking him to slow down the processing of applications. The reason given was that, since immigrants needed to go in person to collect the document, too many were showing up at the department and they ‘stank’ (bad smell). It was a period of time when there was quite a high demand for the service. My informant told them that there was nothing he could do to stop the flow of applications. A few days later, on being told by the immigrants that they were not being given their documents, he called again and was told that the special paper on which the documents had to be printed was out of stock. This excuse was, to say the least, highly suspicious. The situation stretched on, reaching a crisis point where immigrants were at risk of losing their right to the document as well as a lot of money they had invested in the application procedure. Immigrants were spending long hours waiting outside the government department. Although highly visible, this occurrence appeared to be left unquestioned and ignored, and put down
to immigrants’ arrogance and their uncivilised ways. My informant, a front-office volunteer, decided to take the matter in hand and informed his superiors who, in turn, contacted the director. Paper was miraculously back in stock less than an hour after the director held a meeting with the minister responsible. The meaning of this incident is rich on a number of levels, but it is particularly interesting to see what appears to be a bureaucracy working independently of politicians. The minister only acted when a crisis point was reached, which is typical in the field, leading many workers to come to the conclusion that the reason behind ‘inefficiency’ is:

That the political drive behind it isn’t clear, and if it’s disorganised, it just brings more disorganisation (O, international NGO employee, interviewed 19 January 2009).

Whether brought about by a breakdown of trust, an intense power game between politicians and bureaucrats, or inefficiency, the overall question remains: To what extent is the bureaucratic machine working towards upholding democracy and human rights? In other words, which bureaucratic practices are hindering democracy and the safeguarding of human rights principles? Eva Etzioni-Halevy’s work is particularly insightful in this regard. She manages to combine two distinct approaches to bureaucracy. In line with Max Weber, she points out that the growing power of bureaucracy has actually ‘favoured democracy’ or is at least ‘indispensable for it’ (Etzioni-Halevy 1985: 2). At the same time, drawing on political scientist Harold Laski’s approach she says that, although bureaucracies have not become more powerful than politicians, bureaucrats in most modern states have become sufficiently powerful that they pose a threat to democracy. This is due to the ability that bureaucracies have to allocate resources, to influence outcomes (through administrative decision-making) and to control positions of power (Etzioni-Halevy 1985: 33). Bureaucracy, seen as an internal threat to the practice of popular governance, is a worrying trend for the human rights movement.

Another study of bureaucracy exposes an additional threat to human rights from bureaucratic practices. This study, by the anthropologist Michael Herzfeld (1992), on the cultural and social processes of public bureaucracy in Greece, demonstrates that bureaucracy is, in fact, far fromapolitical, objective and fair. This undermines Weber’s reading of bureaucracy in which bureaucrats are reduced to impersonal ‘cogs in the wheel’. Herzfeld finds that indifference within bureaucratic structures is not an automatic result of the system, but a process whereby insiders decide who the outsiders are. One can clearly draw parallels to this from the incident recounted above, whereby the bureaucrats, independently of the minister or the policy structure they were working within, decided to exclude irregular immigrants from their service. Herzfeld shows how societies with proud traditions of hospitality may paradoxically produce, at the official level, some of the most calculated indifference.

Clearly, in my fieldwork, I also came across ‘bureaucrats’ who were more humane and sympathetic to immigrants but, even then, the struggle to escape the pressures of the system are usually easily identified in the contradictory statements they come up with. One of the ministry officials shared with me how difficult he found it at times to be in his position:

I am not the one to blame but, at the same time, you feel bad because these are people our age and it’s like you’re denying them a future, and you feel bad you know. Sometimes it is not easy and I think that’s why, maybe egoistically, I spent some time volunteering in open centres because I wanted to feel that I’m doing something for them, because in here I used to feel ‘What good am I doing to them?’. I might have done it for purely for myself. I don’t know. I felt I had to do it and I felt I had to hear the other side of the story (C, interviewed 29 October 2008).

This same person, right after sharing this, went on to describe a totally fabricated story, one of many that circulate in ministries, depicting immigrants as uncivilised, ungrateful and dangerous. This contradictory behaviour suggests that sympathy is just a facade to make one look good, used to achieve a footing in some moral high ground in order to be able to talk down to, and about, immigrants.

Conclusion

It is not surprising that irregular immigrants have been visibly absent from debates about irregular migration itself. The media expert Carmen Sammut comments on this:

Up to now some immigrants were heard in relation to human-interest media stories that focus on the drama of their personal accounts. However, they still remained absent and voiceless in broader debates that affect their fate. On many occasions they fell into a spiral of silence or else were analysed as voiceless ‘others’ (2010).

Indeed, save for small contributions by a new NGO called ‘Migrants Network for Equality’, set up in 2010 (Times of Malta 2010), irregular immigrants are visibly and audibly absent from debates about irregular migration itself.
Irregular migrants in Malta are disempowered not only by social reactions like racism, but also by the political system itself. This is a critical juncture since the mere access to and practical implementation of human rights is dependent on political decisions and the provision of services. This paper has shown how the basic tenets of democracy—voting, elected government, citizenship—are, in practice, juxtaposed against the safeguarding of the human rights of irregular immigrants, thereby revealing tensions between substantive aspects of democracy and human rights. This must be taken into consideration in endeavours to ascertain access to human rights for irregular immigrants.

The power of the electorate, a characteristic of liberal democracy which is valiantly upheld in Malta, works against the interest of minorities or disadvantaged groups which are numerically small. Irregular migrants, disenfranchised by the electoral system, are disadvantaged in a more extreme way. In addition, some bureaucratic practices exacerbate the politics of exclusion and produce a ‘disempowering system’ which negates immigrants’ access to basic services. Although such practices are less visible, they constitute an important part of the human rights praxis and ought to be identified and discussed more.

The upholding of the basic human rights of irregular migrants in Malta needs to be framed in the broader democratic rationale of warding off the negative forces of oppression and tyranny. This should include the realisation that the empowerment of irregular migrants is crucial to establishing a human rights culture within a democratic setting.

Notes

1. For international reports documenting Malta’s shortcomings in ensuring access to human rights for irregular immigrants, see: Hammarberg (2011); Committee on Civil Liberties, Justice and Home Affairs (2006); Médecins sans Frontières (2009); and CPT (2011).
2. Annual shadow reports published by the European Network Against Racism can be found at http://www.enar-eu.org/Page_Generale.asp?DocID=15294&la=1&language=EN.
3. Mitchell suggestively entitles one of the chapters in his 2002 book *Ambivalent Europeans*: ‘All politicians are bastards’.
4. Details changed to ensure anonymity.
5. I do not want to imply that this reading of Weber is the correct one. For example, Paul Du Gay (2000) rightly points out that Weber’s description of the profession and vocation of the bureaucrat shows that Weber never had in mind an inhuman or impersonal system.

References


This volume tackles the multiple dimensions and meanings of female immigrants' integration in the European context. Based on a research project that was conducted in eleven European countries between 2006 and 2008, the volume has a dual aim. First, to exemplify that whereas current policy agendas are devised to encourage female immigrants' integration, they may aggravate their disadvantaged position. The second aim is to substantiate in detail how these women perceive, experience and strategically respond to national policies and discriminative ideas in daily life. Driven by the ongoing 'feminization' of population movements, the contributors interpret concrete research findings vis a vis the specifics of the social, political and cultural environments that embrace and direct women's life trajectories. With a comparative and critical lens, they verify that inclusion and exclusion processes present both differences and similarities within and between diverse parts of Europe (North/South, urban/rural). They moreover highlight the multifaceted ways in which gender, class, race, migrant status and sexuality interplay with power relations, legal provisions, and ideological and social constraints to direct the process of integration.

The ambiguous and fragmented nature of this process is duly deciphered through a biographical perspective. Interviewed women do not just describe themselves as victims who come across unsurpassable obstacles or feel unable to fight stereotypes and adapt to core social domains. They also, and more significantly, reflect on their representation as deficient, their dynamic choices and routes, the highly diversified modes with which they resist political impediments or strive to mobilize resources and take advantage of opportunities.

Integration, therefore, is in this volume tacitly defined as an ongoing two-way process. A process that is closely intersected with "utilitarian" measures of exclusion and inclusion, along with immigrants' backgrounds, plans, skills, social and cultural traits. Special attention is attached to the forms and significations that integration takes on in time and place. As the three editors promptly underline, it must be considered with regard to all members of society and not solely immigrants. That is, integration needs to be explored in terms of how both categories of the population participate in vital realms of existence, and visualise diversity, inequality and solidarity. It thus becomes obvious that even when societies hosting immigrants set up institutions aiming to accommodate them, immigrants themselves may aspire to the highest possible degree of autonomy, adjust selectively to local values or lifestyles, and counterbalance feelings of rejection via ethnic and transnational networking.

In addition to the editors' introductory note, the volume comprises nine chapters which focus on distinct, albeit complementary, aspects of female immigrants' integration. Looking at the heightened marginalization that Third-World women