



KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

PARLAMENT TA' MALTA

*L-iSpeaker*

*The Speaker*

*The Right to Good Administration: Myth, Aspiration or Reality?  
A View from the Speaker's Chair*

Address by The Onor. Angelo Farrugia  
Speaker of the House of Representatives

Tuesday, 31 October 2023

Your Honour, Judge Emeritus Joseph Zammit Mckeon,  
Distinguished Guests,  
Ladies and Gentlemen,

It is a pleasurable duty to speak at the opening of this conference on ‘The Right to Good Administration’. The relationship between the Ombudsman and the House of Representatives, especially the Speaker of the House, is one of reciprocal respect. As Speaker, I have consistently desired to enhance the relationship between our institutions, with a view to better integrating the issues raised by the Ombudsman’s reports into the parliamentary agenda. The respective missions of the two institutions are complementary and mutually reinforcing.

Article 65(1) of the Constitution of Malta empowers Parliament to  
make laws for the peace, order and good government of Malta, in conformity with full respect for human rights, generally accepted principles of international law and Malta’s international and regional obligations, in particular those assumed by the treaty of accession to the European Union signed in Athens on the 16<sup>th</sup> April 2003.

In my view, it can be stated confidently that successive legislatures have interpreted this injunction as a moral duty, and accordingly enacted legislation that seeks to promote the general welfare. Of course, a variety of factors associated with our State and society means that specific legislative proposals or enactments may attract robust criticism or generate public controversy: among these factors one can include democratic pluralism, the complexity of contemporary policy challenges, the country’s international obligations and limitations on governmental capacity. Nonetheless, regardless of party affiliation, Malta’s MPs hold their constitutional duty in high regard.

Since the quality of public administration is a fundamental component of good government, the House of Representatives has, over the course of six decades, enacted a substantial body of legislation with a view to securing good administration. The earliest legislation was necessarily concerned with bringing a measure of regularity and accountability to financial administration. From 1995, however, the emphasis shifted to enabling the House to scrutinise both administrative performance and financial administration. The Ombudsman Act was enacted in 1995 and the Auditor General and National Audit Office Act in 1997, in both instances by unanimous consent of the House, a consensus that has never faltered. Both officials are designated ‘Officer of Parliament’, which means that their functions are discharged in the name of Parliament and with its authority.

In 2009, the country’s first Public Administration Act was enacted; in 2019, a new, more elaborate Act replaced it. In the words of the full title, the Act was intended:

to affirm the values of public administration as an instrument for the common good, [and]  
to provide for the application of those values throughout the public sector ...

These measures established a sound legal framework for Maltese public administration as well as a legally enforceable code of conduct which embodies the core values of the European Code of Good Administrative Practice. Public procurement is similarly governed by legislation that promotes integrity and transparency. More recently, several constitutional amendments curtailed the discretion of the Executive Government in making appointments to high public office, or at least introduced mechanisms for parliamentary scrutiny of the candidates.

These remarks are not by any means intended to shower the House of Representatives with empty praise. Rather, my point is that state-building is an on-going concern and process, and that the

general welfare remains the ultimate goal. Moreover, both sides of the House have striven, generally successfully, to create and maintain a bi-partisan approach to good governance initiatives.

Having said that, I acknowledge that much remains to be done in the legislative field, to ensure that every person in Malta enjoys the benefits of good administration, whether the right to good administration is formally enshrined among our constitutionally-protected rights or not. I recall also what I said in 2015, when in Malta a round-table conference was held by the Maltese Parliamentary Ombudsman that included the Parliamentary Ombudsman of UK, that of the Republic of Ireland, that of North Ireland, that of Wales and of Gibraltar including the Scottish Public Service Ombudsman, the UK Housing Ombudsman, and also the UK Local Government Ombudsman and I quote: “ It is customary to speak about the citizens’ right to be informed as a pivotal element of the fundamental right to a good public administration. It goes without saying that one cannot competently and justly judge whether an act of the Executive, in a wide sense, is good or bad unless one is fully informed of the facts surrounding that act. The organisers of this Round Table significantly shifted the emphasis of the theme to highlight the duty of the State to inform the citizens. One could say that this was obviously the other side of the same coin but others could question whether the State had such a duty.

The shift in emphasis is not casual. It is material since it implies that the State is always bound to provide information and that non-disclosure has to be the exception to the rule. If that is the rule, what are the exceptions to it? What are the limits of the rights of the citizen to be informed and of the State not to disclose information” unquote.

For example, whenever organisational frameworks are incorporated into draft legislation, the legal draughtsmen and the experts ought to pay close attention to designing frameworks of authority that promote core administrative values, namely, responsiveness, efficiency, regularity, integrity, transparency and accountability, perhaps with reference to a template of ‘good organisational design’ that could be incorporated into the Public Administration Act. In a similar vein, the House of Representatives needs assurances concerning the capacity of administrative and regulatory bodies to deliver the services stipulated in enabling legislation, as well as sufficient capacity to take enforcement action against defaulters.

These needs could be met by means of a Parliamentary Standing Committee on Public Administration, on a pattern similar to the Select Committee on Public Administration and Constitutional Affairs of the UK House of Commons. In the same way that the Public Accounts Committee considers the reports of the Auditor General, a Standing Committee on Public Administration would deliberate the reports submitted both by the Ombudsman as well as the annual *Governance Action* reports compiled by the Office of the Principal Permanent Secretary. In this regard, I would like to emphasise the word ‘deliberate’: in other words, it is highly desirable that the Committee’s work should not be inquisitorial or confrontational, nor tainted by partisan sentiment. Parliament, the Ombudsman and the Principal Permanent Secretary share a single interest, namely, to promote good governance and excellence in public administration. That fact alone should suffice to promote a spirit of civility and cooperation among the three institutions.

This thought prompts me to compliment the Ombudsman for convening this conference. In so doing, you have created a forum for conversation and dispassionate deliberation about a subject that frequently arouses intense emotions, as well as touching the lives of every person resident in these islands. I am glad to see the wide range of expert opinion that you have marshalled here today. An inclusive, on-going conversation constitutes a fine basis for proceeding with the complex task of building our State and calibrating its relationship with the people it serves. The views, concerns and proposals of ordinary people must also be included in the conversation. Despite the

diversity of the experiences, perceptions and proposals concerning Maltese public administration, they converge on a common interest. I define it in these terms: to continue building our State, expanding its capacity for just, responsive and efficient administration, and thereby securing for every person the full measure of freedom, dignity and well-being that our laws confer on them.

I look forward to learning about the outcome of your meeting.