

ELSA MALTA UNION DEBATE REPORT

Under the Auspices of Dr Stefano Filletti



Compiled and designed by Saskia Cassingena

THE MOTION

“

THE MALTESE
ELECTORAL
SYSTEM IS FAIR,
REPRESENTATIVE
AND
PROPORTIONATE.

”

“

IS-SISTEMA
ELETTORALI TA'
MALTA HIJA WAHDA
ĠUSTA,
RAPPREŻENTATTIVA
U PROPORZJONATA.

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FOREWORD BY MINISTER FOR JUSTICE AND REFORM OF THE CONSTRUCTION SECTOR

Hon. Jonathan Attard MP



It is a pleasure that as a Ministry we participated and hosted this very first edition of this debate. It has been a long time coming. Indeed I remember many a conversation with members of ELSA and fellow colleagues of the bar revolving around the need for such debates on pertinent subjects.

The matter discussed today happens to be one that the general public loves to discuss and indeed so do we as policymakers and lawyers involved with public policy.

On a personal level I must say that it also holds a particular relevance due to the fact that I had the opportunity to give my contribution to policies related to the electoral process – namely the gender corrective mechanism and the vote sixteen – therefore I was even more intrigued to hear some of the arguments made by the students in this regard. I have to admit that I could not help myself juxtaposing such viewpoints with those of my colleagues that shaped those particular policy-making processes just some years ago. I believe that as a government we need to debate and highlight the discussion on the electoral system. This will not necessarily lead to change – but will always help us better understand the developments on both sides of the coin.

The country's electoral system may not be perfect. However recent advancements were meant to continue perfecting it. One of the latest improvement relates to technological advances, including when it comes to the vote counting process itself. I am of the opinion that further technological developments can help to facilitate the electoral experience of our country's voters.

Beyond the issue of our country's electoral system, the biggest challenge facing every politician is to ensure that ultimately through our work we are reflecting in the best possible way the aspirations, thoughts and necessities of the electorate.

This with an aim to continue ensuring the maintaining of an electoral system that attracts the largest levels of participation in our electoral appointments and therefore our democratic process.

I augur, and am convinced, that in the near future activities of this kind shall continue. Our door will always be open to organise these discussions which can lead to the necessary and required changes from time to time. Well done to the team at ELSA and all involved in making this an inspiring first.



FOREWORD BY SHADOW² MINISTER FOR JUSTICE

Hon. Karol Aquilina Shadow MP



ELSA Malta's Union Debate provided a unique platform for students and lawyers to engage in a meaningful discussion on one of Malta's most pressing issues: our electoral system. Many view our electoral system as a relic of our colonial past. However, others rightly argue that the Maltese have adapted the imposed single transferable vote system to establish a vibrant democratic framework. Over the past 30 years, changes such as electronic counting, early voting possibilities, voting in old people's homes, the design of a more user-friendly ballot paper and the lowering of the voting age, have been introduced to our electoral laws.

Regrettably, most of these changes have been implemented at the eleventh hour, just before impending elections. Often, they were enacted without public consultation and, in some cases, rushed through parliament at unprecedented speed. The predominant involvement of the two major political parties has exacerbated the public's perception that these modifications were intended to preserve the status quo.

Regardless of the positions taken by the speakers, the outcome of the debate provided a clear and critical assessment of our electoral system. It highlighted the pressing need for change to ensure that our electoral system is truly proportional and representative, and that its outcomes genuinely reflect the interests and aspirations of all Maltese citizens.

It is in this context that one must recognize the positive outcome of the first edition of ELSA Malta's Union Debate. ELSA Malta deserves immense praise for organizing such a debate and for having the courage to select such a complex and contentious subject. They also deserve our praise and appreciation for compiling the contributions to the debate in this publication, ensuring they are preserved for posterity and future assessment. I truly look forward to the next edition of ELSA Malta's Union Debate and I hope that this event becomes a mainstay on our calendar.

FOREWORD BY THE DEAN OF FACULTY OF LAWS

As Dean of the Faculty of Laws, I get to attend countless events; invitations pour in from all directions! I do my best to accept as many of the invites as possible, despite this proving to be rather time-consuming. I never regret it though, especially where activities organised by our students are concerned. This particular occasion was no exception: what ELSA Malta needed was more seating, to be able to accept more students (I heard that the event was fully booked within minutes from opening); the event also needed more input from the Academics.



The absence of some of the Faculty of Laws' Academics was particularly conspicuous and if (as I have reason to believe) it was because they expected a place on the panel, my response is that nobody has a monopoly as panellists and indeed it was refreshing to see different faces on the panels from the ones we are used to seeing at these events; these Academics should have cast their bruised egos aside and turned up to support our students' excellent event and to challenge the arguments brought forward and proposals put on the table for discussion not least mine on the need for a new corrective mechanism which would prevent any one political party from obtaining two-thirds of the seats in Parliament, by giving enough seats to the Opposition parties to bring down the number of seats held by the Government to no more than sixty percent. The reason behind my proposal is that with a two-thirds majority the governing party can singlehandedly amend the Constitution of Malta, remove members of the Judiciary if it so suites, and more besides. Unfortunately, I have no doubt that my proposal will never materialise, because it will never be brought up for serious discussion and consideration by the members of our legislative organ, the reason being that if the governing party had to suggest it, they would be criticised for even daring to imply that they were capable of winning more than two-thirds of the seats; the Opposition would never suggest it either, because it would likely be mocked for considering itself so defeated that all it is expecting in future elections is a walkover the likes of which it has never experienced before and is seeking protection in advance from such a situation.

Hence nobody will take the initiative to usher in such a corrective mechanism, despite the fact that the scenario I propose to avert has actually occurred in other countries such as Hungary and therefore there would be no harm in pre-empting and preventing such a scenario from ever happening in Malta. On my part, I keep on repeating my suggestion for such a corrective mechanism at any and every opportunity which may present itself, hoping that it will leave its mark on one of our many young, bright students who might one day find themselves in a position where they can introduce this corrective mechanism aimed at nothing other than guaranteeing that the Constitution of Malta will always be safe from any political party which might be too successful than the National Good requires.

Coming back to ELSA Malta's union debate, the evening of 17th April 2024 has etched a special place in my memory, as one of the nicest, most interesting and richest university- related occasions which I have ever had the privilege to attend. Auberge d'Aragon is a national treasure and holding the event there undoubtedly added sparkle; yet the true wealth lay in the people, in all those who contributed in one way or another, many of whom invested countless hours into the organisation, preparation and participation, and whose hard work paid dividends. The evening progressed seamlessly, the debate was expertly filmed and, if this was not enough, these same bright, energetic young people actually compiled this beautiful publication which I am honoured to add a few words to, which publication will serve as a written record and as a well-deserved memento of the first from what I hope will become an annual event that many people will look forward to with earnest.

FOREWARD BY HON. PRESIDENT DR STEFANO FILLETTI



In the realm of academia, few endeavors are as intellectually invigorating and pedagogically enriching as the art of debate. It is within the crucible of contention and discourse that ideas are forged, arguments refined, and understanding deepened. With this in mind, it came natural to suggest the holding of a student legal debate, reminiscent of the Oxford Union debates, which after all, is a testament to the power of reasoned dialogue and critical analysis.

I accepted with great pleasure to act as patron and preside over the first ever ELSA Union Debate, which turned out to be a resounding success. Through research, impassioned rhetoric, and keen legal acumen, law students have illuminated the nuances and complexities of electoral law and practice in Malta, bringing to bear a range of perspectives and insights that challenge conventional wisdom and engender fresh thinking.

This debate was an opportunity allowing students, lawyers and professionals to debate and question established legal principles.

As readers peruse the following pages, they will bear witness to the intellectual and scholarly prowess of our law students, as they dissect electoral mechanisms, scrutinize constitutional principles, and interrogate the very foundations of representative democracy. The echoes of their arguments reverberate with clarity and conviction, resonating with the spirit of academic inquiry.

It is my fervent hope that this volume serves not only as a record of intellectual achievement but also as a catalyst for further discourse and reflection. I sincerely hope that the Elsa Union Debate remains a fixture for students in years to come, and I am pleased that my idea, coupled with the enthusiasm of Thomas Sciberras Herrera and the Elsa Organising Committee, will root in a student tradition within the Faculty of Laws.

Finally, I commend this publication to all who seek to appreciate the intellectual vibrancy of the student legal debate tradition as well as the contribution law students may offer to the development of law and democracy in Malta.

Dr Stefano Filletti
B.A., LL.D. (Melit), LL.M. (IMLI), M.Jur (Oxon), Ph.D. (Melit)
Head of Department of Criminal Law
Faculty of Laws, University of Malta

ELSA Malta's Union Debate - Statute Book

1. The official title of this debate shall comprise of two parts.
 - a. The first component of this title shall be “*ELSA Malta's Union Debate*”.
 - b. The second component of the title, shall be “*under the auspices of (Academic Member)*”.
 - c. For the avoidance of any doubt, if an *Academic Member* does not endorse this debate, this debate shall not be held.
2. The debate shall be conducted in the Maltese language.
3. The objects of this debate shall be to promote legal discourse between students and to bridge the gap between the academic and professional realms.
4. The founding members of this Union Debate are *David Camilleri, Kyle Cassar Cardona, Jake Navarro, and Thomas Sciberras Herrera*.
5. The Union Debate shall have an Honorary President whose function shall be to promote the Union Debate amongst the legal realm. The Honorary President shall be appointed by the Organising Committee and shall serve in an advisory capacity to support the objects of the debate.
 - a. The term of the Honorary President shall be indefinite.
 - b. The holder of this office must be a warranted lawyer, widely respected within the legal realm.
 - c. The inaugural holder of this office shall be Dr. Stefano Filletti.
6. The Union Debate shall have an Organising Committee (hereinafter referred to as “OC”) whose function shall be to plan, coordinate, and execute the Union Debate.
7. The OC shall comprise of those ELSA Malta Board Members appointed exclusively by the Vice President for Competitions.
 - a. The OC shall comprise of at least three ELSA Malta Board Members, including the Vice President for Competitions.
8. The OC prior to the organisation of this event shall consult with the Dean of the Faculty of Laws of Malta and must acquire prior approval in order to host said debate.
9. The debate shall be hosted under the auspices of an academic member of the Faculty of Laws of Malta.

10. The location of the Union Debate shall be at the discretion of the OC. It is encouraged that the ideal location includes but is not limited to Auberge d’Aragon, the San Anton Presidential Palace, the Valletta Campus of the University of Malta, Fort St Elmo and locations of similar esteem.
11. The time of this debate shall be at the discretion of the Board on condition that it is held in the evening.
12. The dress code of this debate shall be the same attire required for Court.
13. The topic/motion of the debate shall not include topics of a partisan nature. For the purposes of clarity, “partisan” shall mean any mention of political parties at large, or any manifestation thereto.
14. When in doubt as to whether a topic is partisan or not, there shall be an obligation vested in the OC to confer with the Academic Member and the Dean, cumulatively.
15. The topic/motion must be selected by the OC and must be approved by the Academic Member and the Dean of the Faculty of Laws.
16. The topic/motion shall be a motion which must be divided into those in favour and those against.
17. The Presiding Officer in this debate shall be the Academic Member or any person entrusted by him/her.
18. There shall be a Board of Speakers. The Board of Speakers shall debate the topic of the Union Debate. The Board of Speakers shall be divided into two, those in favour and those against.
 - a. There shall be a minimum of two professionals on each side of the motion, these professionals shall be deemed experts in the debated motion. The professionals cannot be sitting members of the Maltese Parliament, the European Parliament or any Local Council. The members can neither be enlisted candidates to the respective offices aforesaid.
 - b. There shall be a minimum of two law students on each side of the motion. It is encouraged that no sitting ELSA Board Member forms part of the Board of Speakers.
19. The consideration for the chosen students forming part of the Board of Speakers shall be at the discretion of the OC, which shall take into account factors such as but not limited to: participation in law competitions, public speaking skills, command of the Maltese language and active participation in the law course.
20. The time allocated in its entirety is to be split up in an equal manner with respect to both sides of the motion.

21. The participants forming the Board of Speakers shall be introduced by the OC prior to the commencement of the debate.
22. Each alternating speaker must be from the different sides of the motion. The final speaker shall be from the side/team opposing the motion.
23. The total time allotted to this event is not constrained and is dependant on the varying factors which may change with every edition.
24. After the intervention of the last speaker opposing the motion, the Presiding Officer shall open the debating floor to members of the audience, who can in turn participate in the debate by raising a 'Point of Information', in Maltese 'Punt ta' Informazzjoni'. The Point of Information can take two forms: it can either be a statement in favour or against the motion, or it can take the form of a question addressed to the Presiding Officer. Once said question is accepted by the Presiding Officer, the Presiding Officer shall then direct the question to a member of the Board of Speakers, who then has the obligation to answer.
 - a. The time taken for the interjection shall be limited to two minutes.
25. After the closure of the debate by the Presiding Officer, all members of the audience including the speakers shall be handed out a ballot paper, providing two boxes, wherein each member of the audience shall cast their vote, being either in favour or against the motion in question.
26. An Electoral Commission shall be appointed by the OC, comprising of ELSA Malta Members.
 - a. The Electoral Commission shall comprise of three members.
 - b. The members of the Electoral Commission shall be distinct from the members of the OC without prejudice to the rights conferred in Article 27(b).
27. The Electoral Commission shall be responsible for the collection and counting of the votes.
 - a. The Electoral Commission shall count the votes in a separate room from that in which the debate is held.
 - b. One member of the OC shall accompany and assist the Electoral Commission.
28. The Electoral Commission shall forward in a sealed envelope the result to the Presiding Officer, who in turn shall pronounce the result indicating the total amount of votes in favour of the motion and the total amount of votes against the motion.
 - a. Following the pronouncement of the winning motion, the floor shall be closed by the Presiding Officer.
29. Any provision of this Statute, save for Article 13, shall be amendable by a two-thirds majority of the ELSA Malta National Board (inclusive of President, Secretary General, Treasurer, Vice-Presidents and Directors).

30. For the avoidance of any doubt, Article 13 shall not be subject to any amendment by any majority.
 31. Any amendments made to this Statute must be recorded, including the date of the amendment and a statement indicating what was removed or amended, providing context for future ELSA National Boards. The format of the first vote by the Board shall serve as an example of how it should be recorded; such records can never be removed. The format includes listing each member of the ELSA Malta National Board and their vote, with those absent also noted.
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On the 28th of March 2024, the ELSA Malta National Board for the term 2023/24 approves this Statute with the following votes:

David Camilleri - in favour

Alec Carter - in favour

Beppe Micallef Moreno - in favour

Jack Vassallo Cesareo - in favour

Francesca Mallia - in favour

Gabrielle Bezzina - in favour

Saskia Cassingena - in favour

Rachel Grixti - in favour

Francesca Bianchi - in favour

Kat Bonello - in favour

Jake Navarro - in favour

Kyle Cassar Cardona - in favour

Thomas Sciberras Herrera - in favour

Ella Bonello Ghio - absent

Julian Shaw - absent

ORGANISING COMMITTEE



Thomas Sciberras Herrera

- Head of Organising Committee
- Vice-President for Competitions

Kyle Cassar Cardona

- Vice-Head of Organising Committee
- Coordinator of Board of Speakers opposing the motion
- Vice-President for Academic Activities



Jake Navarro

- Vice-Head of Organising Committee
- Coordinator of Board of Speakers in favour of the motion
- Director for Legal Publications



David Camilleri

- Vice-Head of Organising Committee
- Electoral Commission Supervisor
- Director for Competitions



SPEAKERS IN FAVOUR



Dr Malcolm Mifsud

Co-Founding Partner of Mifsud & Mifsud Advocates

Dr Malcolm Mifsud is the Co-Founding Partner of Mifsud & Mifsud Advocates. He is also a Director of Aegis Corporate Services Limited, a Licensed Corporate Services Company, and sits on a number of company boards. Specialising in Civil Law and Commercial Law litigation, he graduated from the University of Malta in 1995 after reading law and obtained a master's degree in law from the International Maritime Law Institute. Regarding the topic of the debate, Dr. Mifsud has held a number of roles within the Nationalist Party. He was elected Mayor of Pieta and served for 16 years. He was Vice President of the Association of Local Councils, a President of the Central Region, and for 9 years a member of the EU Committee of Regions in Brussels. He was also one of the leaders of ELCOM, PN's election organisation committee for a number of general and local elections.



Dr Veronique Dalli

Founder and Managing Partner of Dalli Advocates

Dr Veronique Dalli is the founder and managing partner of Dalli Advocates, a mid-sized firm offering legal services to individuals and corporate clients. Admitted to the Maltese bar in 2006, she has successfully defended clients before the Constitutional Court, Superior Courts in Malta, and the European Court of Human Rights in Strasbourg. Her expertise extends internationally, including assisting clients in the United States and London. Dr. Dalli is renowned for her insights into company law and regulatory matters, often speaking at international conferences on these topics. She is deeply passionate about human rights issues. Dr. Dalli earned her first degree from the University of Malta in 2002, followed by a Diploma as Notary Public in 2003 and a Doctor of Laws in 2005. Currently, she serves as a Tutor and Examiner at the University of Malta's Faculty of Law.



Giuseppe Gatt

Fourth-Year Law Student

Giuseppe Gatt, a fourth-year law student, has been a prominent figure in student life since his freshman year. Serving as a class representative and holding roles such as International Officer and Secretary-General within the Ghaqda Studenti Tal-Ligi Board, Giuseppe has contributed significantly to the law student community. His legal acumen has been showcased through victories in competitions like the GhSL's Criminal Law moot court and ELSA Malta's "Crime 101 Edition X" and "Closing the Deal" competitions. Notably, his triumph in Crime 101 earned him a spot in COMMOOT, ELSA UK's National Commercial Law Moot Court, where his team achieved a commendable 3rd place among over 20 other ELSA UK and international teams.



Nirvana Thewma

First-Year Law Student

Nirvana Thewma is an 18-year-old student and first-year law student. Her passion for the legal field was apparent early on in her academic journey. Through prattika, Nirvana immersed herself in the realms of criminal and immigration law, where she obtained knowledge fuelled by her genuine interest in the field. As she progresses through her academic journey, she eagerly anticipates the opportunity to contribute to the legal discourse, awaiting her chance to take part in such a thought-provoking debate panel where she can contribute and showcase her legal knowledge. Nirvana is confident that through the union debate, she will be able to immerse much more credible knowledge on the topic.

SPEAKERS AGAINST



Dr Chris Cilia

Litigation Lawyer

Dr Chris Cilia has been a litigation lawyer since 1993, specialising particularly in civil, administrative, and constitutional law. Dr. Cilia, who has held various roles on the boards of both public and private organisations, also serves as a Commissioner for Justice on local tribunals. Regarding political debate, Dr. Cilia is regularly invited as a political analyst on local television and radio programs, making him no stranger to political discussions. Furthermore, Dr. Cilia, who has also been a part of the Rabat Local Council, holds strong opinions on various issues of interest, particularly on a European and international level.



Dr Nickie Vella De Fremeaux

Family Lawyer

Dr Nickie Vella De Fremeaux is the proud mother of 5 who graduated just over 25 years ago. Initially working in the field of criminal law, her passion to defend the weak and vulnerable led her to become a family lawyer focusing on representing victims of domestic violence and cases of child abuse. Her success in this field led her to be appointed as the lawyer of Appogg and eventually the chairperson on the board of appeals (adoptions). While almost retired as a litigator, she remains a vociferous and outspoken litigator who fights what she perceives to be an injustice or shortcoming of the authorities. She also prides herself as being a leading force in the battle to fight the stigma associated with a condition from which she also suffers - depression.



Kevin Cassar

Third-Year Law Student

Kevin Cassar, a third-year law student, embarked on his legal journey after earning a BA in Criminology in 2022. His dissertation, "Racial hate crime in Malta: A Routine Activities Perspective," reflects his academic prowess. Kevin's passion for law and politics is evident through his active participation in various academic activities. His prior engagement in the GhSL moot court on Administrative Law underscores his commitment to legal discourse. He eagerly anticipates the forthcoming union debate, believing it aligns perfectly with his interests. Kevin firmly believes in the importance of engaging in academic endeavours to bolster one's legal career, which is why he enthusiastically accepted the opportunity to participate in the upcoming ELSA Malta event—an unprecedented opportunity in the local context.



Jeremy Perez

Second-Year Law Student

Jeremy Perez, a second-year law student, has shown dynamism and passion towards the legal profession from an early age by being actively engaged in various legal competitions, including Moot Courts organised by ELSA Malta, JCA, and Fenech & Fenech Advocates, as well as the ELSA Malta Legal Debates and Negotiating Competitions. Currently, Jeremy is gaining valuable experience in civil litigation practice with DF Advocates. Additionally, he is poised to take on the role of Vice President for Marketing at ELSA Malta, where his innovative approach to the position promises to leave a lasting impact.

OVERVIEW

Thomas Sciberras Herrera

The ELSA Malta's Union Debate, which was held under the Auspices of Dr Stefano Filletti, filled a great lacuna in the Maltese legal sphere. This debate was greatly inspired by the English Oxford Union. The Oxford Union meets weekly to discuss many different motions, witty ones such as 'Size Doesn't Matter' to 'We Should Fight for King and Country' to 'The EU is a Threat to Democracy'. Naturally our aim as a law student organisation, was to purely focus on a legal motion, which could be clinically dissected by the Board of Speakers.

The chosen motion was 'Is-Sistema Elettorali ta' Malta hija waħda Ġusta, Rappreżentattiva u Proporzjonata' - 'The electoral system in Malta fair, representative and proportional'. This motion was chosen in agreement by ELSA Malta, the Ministry for Justice and the Reform of the Construction Sector, the Honorary President of the Union Debate Dr Stefano Filletti and the Dean of the Faculty of Laws Dr Ivan Mifsud. It was unanimously agreed upon that this motion was perfect due to the election period our country is currently in and due to the fact that such system was amended several times by both major parties, thus avoiding the possibility of a partisan motion.

The aim of the ELSA Malta's Union Debate as per Art. 3 of the statute is to promote legal discourse between students and to bridge the gap between the academic and professional realms. Inspired by the same Oxford Union our intention from the start was to have professionals and students debating on the same platform - which is a first for our islands.

The Board of Speakers was set up, and lawyers and students were handpicked. The lawyers chosen are ones who are very well versed in the topic and all leading lawyers in their respective fields. The lawyers present were: Dr Malcom Mifsud, Dr Chris Cilia, Dr Veronique Dalli, and Dr Nickie Vella de Fremeaux. Conversely, the students were chosen in light of the statute's criteria, such as participation in law competitions, public speaking skills, command of the Maltese language and active participation in the law course. Moreover to assure total representation one student was selected from every year of the course, Nirvana Thewma (first year), Jeremy Perez (second year), Kevin Cassar (third year) and Giuseppe Gatt (fourth year).

The Board of Speakers was split into two, those in favour and those against, with two lawyers and two students on each side of the motion.

Following several meetings with concerned parties, the debate was hosted at Auberge d'Aragon, a very well suited place for such an event. Following an intense online campaign - over 130 students applied to attend this event.

Of importance is the fact that every single member of the audience was able to take part in the debate by facility of the 'point of information' - a two minute intervention which could take the form of a question or an argument in favour or against.

The time allotted to each member of the Board of Speakers was a 6 minute speech at the centre of the grand hall. The speeches were initiated by the team in favour and alternated one by one. Following all eight interventions, the Honorary President Dr Stefano Filletti opened the floor to the audience who posited 14 points of information.

After all these points of information were posited, an election took place. Each member of the audience received a ballot paper, and had the opportunity to vote in favour or against the motion. As the votes were being counted. Speeches were delivered by Hon Dr Karol Aquilina and the Minister Hon Dr Jonathan Attard.

Following his speech, the Minister presented Honorary President Dr Stefano Filletti with a trophy. In fact, each member of the Board of Speakers was awarded a commemorative trophy for their contribution towards this legacy event.

The debate officially ended by the Electoral Commission handing over a sealed enveloped with the results, which read: The motion did NOT pass. This was furnished with the following results:

Total votes cast: 138

In favour: 39

Against: 98

Abstentions: 1.

ARGUMENTS IN FAVOUR

Jake Navarro

The team in favour of the motion comprised of two lawyers and two students. The rationale of such a division was to ensure an admixture of professionals and students, having the opportunity to work and prepare together. Dr. Malcolm Mifsud and Dr. Veronique Dalli constituted the legal expertise, while the student representatives were Nirvana Thewma and Giuseppe Gatt.

The team met and discussed prior to the debate, wherein the main arguments in favour of the Motion were dissected and discussed. Each member chose an area of personal interest and expertise, which he/she then tackled in the debate itself.

Mirroring the procedure followed in the Oxford Union, the Motion in favour opened the debate, after Dr. Filletti opened the floor. To this effect, Dr. Malcolm Mifsud set the stage by elucidating the technical intricacies of Malta's PRSTV system, in tandem with a comparative analysis of the Maltese system with the British First-Past-the-Post system. Dr. Mifsud delineated how voters select individual candidates within electoral districts, crystallising the essence of our electoral process and the trajectory of the vote-counting process and the way in which preferences in the voting ballot are attributed to the respective candidates.

Building upon this foundation, Nirvana Thewma traced the evolution of Malta's electoral mechanisms, commencing from the 1981 elections and culminating in the contemporary legal framework. She elucidated the *raison d'être* behind the Constitutional Amendments of 1987, 1996, and 2007, respectively which collectively prevent the situation of a hung parliament or another perverse result, whilst highlighting their role in rectifying past electoral anomalies. In turn, this fosters a more equitable and representative system, which ultimately captures the essence of the Motion.

Dr. Veronique Dalli then explored the recent Gender Mechanism, acknowledging its conceptual challenges while underscoring its imperative nature for systemic rejuvenation. Dr. Dalli spotlighted the gender disparity between university graduates and Parliamentary representation, advocating for a cultural shift towards gender equality. Dr. Dalli explained how opting for a gender mechanism solution is not novel, in that a number of other jurisdictions have also embraced the same approach. Dr Dalli also alluded to the sunset clause of the mechanism, further attesting to how the Gender mechanisms ultimately holds an educative rationale.

Closing our argument, Giuseppe Gatt refuted the critique of the mechanisms as protecting and guaranteeing a two-party system. He emphasised the mechanisms' role in rectifying electoral faults while respecting the majority's will. Giuseppe Gatt made reference to recent judicial pronouncements of the constitutionality of the electoral system and of the gender mechanism in particular. He further alluded to how the "two-party" criticism to the mechanisms is misplaced. On first account, one must always respect the will of the majority, and the Maltese people clearly have always preferred the two parties. This notwithstanding, Giuseppe Gatt also explained how in the eventuality that the electorate elects a multi-party parliament, the PRSTV is well-equipped to reflect and respect it. Conclusively, it was argued that the words "just" "proportionate" and "representative" ultimately boil down to respecting the will of the sovereign people, and this is precisely what our electoral system secures.

In conclusion, despite our motion's defeat, the debate fostered vigorous engagement and critical discourse. The diverse perspectives presented underscored the complexity of Malta's electoral landscape and the imperative for ongoing reform. The great turnout and genuine enthusiasm fills us with a great sense of pride and satisfaction. We look forward to this inaugural edition being the start of a legacy for ELSA Malta, the University of Malta, and the public at large.

ARGUMENTS AGAINST

Kyle Cassar Cardona

The team against the motion was composed of two notable lawyers namely, Dr Chris Cilia and Dr Nickie Vella De Fremeaux, together with two law students namely, Kevin Cassar and Jeremy Perez. Prior to the Union Debate, the team opposing the motion held a number of meetings aimed at discussing the main arguments each team member would focus upon. The meetings ensured that all the speeches combined together demonstrate a clear flow of argument, which opposes the motion. The board of speakers worked hand in hand in preparation to the event, with the aim of conveying a comprehensive argument which delve into both the academic and social realms.

The First speaker who opposed the motion was Kevin Cassar, a third year law student. He holds a degree in Criminology and has passion towards the socio- legal field. As a point of departure in his speech, Kevin, explained to the audience that in no way or form is the team opposing the motion, implying or suggesting that the PRSTV system should be scrapped and thrown out of the window. However, he accentuated that certain aspects of Malta's electoral system, are far from perfect and thus, could be improved. Kevin's argument revolved around the ballot paper and the transferable vote system. He delved into the problems posed by the fact that the names of the candidates on the ballot paper are in chronological order and extenuated that as a matter of fact it is more likely for people with their surname starting with a letter in the beginning of the alphabet to be elected. This is mainly the result of the phenomena of 'Donkey Voting'. The latter, is a cast ballot where the voter ranks the candidates based on the order they appear on the ballot sheet. The phenomena could either be linear, from top to bottom, or circular which is the case when the voter votes for a specific person on the ballot sheet and then votes downwards and back from the top for the respective party. Correspondingly, Kevin underscored that the issues within the ballot sheet bring into play other difficulties in regards to the transferable vote.

The second speaker who opposed the motion was Dr Chris Cilia. He is an experienced litigation lawyer specialising particularly in the fields of civil, administrative and constitutional law. He serves as a Commissioner for Justice on local tribunals. Dr Cilia started off his speech by elaborating on Kevin's argument in regards to the transferable vote.

He discussed that the current transferable vote system prejudices third party candidates as the votes transferred from one candidate to the other go to the candidate in the same party. As a result it was argued that this system is not just, representative and proportionate due to the fact that if a voter gives first preference to a candidate from Party X and second preference to a candidate from Party Y, the votes transferred from the candidate from Party X if elected will go to another candidate from the same party.

Furthermore, Dr Cilia underlined the pitfalls of having a number of districts, and accentuated a number of reasons why Malta should adopt a one district system. In the proposed system the voters would have the opportunity to vote for whoever candidates they want and not only for the candidates running in their district. He delineated that the current system does not encompass the representative, just and proportionate principles as voters are restricted to whom they can vote for. Moreover, Dr Cilia focused on the fact that such proposed system would mitigate nepotism, and would also facilitate third party members getting elected to parliament.

The third speaker opposing the motion was Dr Nickie Vella De Fremeaux. She is an experienced lawyer in the field of family law focusing on representing victims of domestic violence and cases of child abuse. She was the lawyer of Appogg and the chairperson on the adoption board of appeal. Dr Vella De Fremeaux's speech pertained the gender quota mechanism. As a point of departure, she accentuated on the fact that women are more than capable of forming part of parliament, and it is evident that the general public are willing to vote for women who are capable and well-esteemed. However, she opposed the idea of electing women with the quota, for the sake of having a proportionate amount of men and women in parliament. She conveyed prominence on the significance of the electorate's vote, and that it should be respected and argued that this system does not respect and value the electorate's desire. Dr Vella De Fremeaux depicted such mechanism as going against and violating the representative, proportionate and just principles for a number of reasons. Firstly, due to the fact that through the gender quota women who get less votes than particular men can get elected instead of them. She considered such practice as going against the electorate and thus, renders Malta's electoral system unjust and not representative. Lastly, she highlighted that the respective corrective mechanism disregards the electorate's vote vis-à-vis third party candidates as only women part of the elected parties can be elected with such mechanism.

Thus, it may be the case that women part of a third party get more votes than women forming part of the two major parties, but still won't get elected with the quote. This, renders the gender quota mechanism unjust and goes against the electorates' votes.

The last speaker opposing the motion was Jeremy Perez, a second year law student. He has actively engaged in various legal competitions including moot courts, and is currently gaining valuable experience in civil litigation. Jeremy built on the foundation set by the arguments posed by the previous speakers. In doing so he made reference to the PRSTV system in Malta. He further alluded a number of pitfalls within Malta's electoral system, which go against the unjust, proportionate and representative principles. Moreover, he also made remarks about the Constitutional amendments which were enacted throughout the years in regards to the electoral system and acknowledged that the current electoral system promotes the two-party system. Lastly, Jeremy suggested that more should be done in order to move away from the two-party system and thus, foster a system which is more proportionate, representative and ultimately just.

In conclusion, I believe that the event was an overall success which got the members of the audience composed of, students, lawyers and members of parliament, thinking critically in regards to Malta's electoral system. Correspondingly, the final vote against the motion is an indication that a number of students and lawyers do not believe that Malta's electoral system is the embodiment of a proportionate, representative and just system. Consequently, I hold the opinion that this vote should not be taken lightly. Discussion and discourse in regards to the improvement of Malta's electoral system should commence.



POINTS OF INFORMATION

David Camilleri

The audience members were vested two pivotal rights which shaped the development of ELSA Malta's Union Debate, the first of which was the right to vote on the side of the motion which was the most compelling in its arguments, and the second was the right to posit a point of information.

Following the conclusion of the speakers' speeches, Dr Stefano Filletti opened the floor for audience members to make their points of information. This could take the form of a question or a point directed towards any one of the speakers, or else an argument made which may be rebutted, supported, or replied to by any speaker freely.

From the various points of information raised, several points were reiterated and introduced. For instance, one particular audience member noted that none of the speakers, during their deliberations, made reference to the Co-Option procedure Parliament initiates in order to fill vacancies in the House of Representatives. Furthermore, the gender-corrective mechanism was criticised by a number of audience members, with replies from both sides of the motion, making reference even to past MEP elections. Additionally, a challenge was made, by Beppe Micallef Moreno, towards the minimum voting age as being too low to secure an informed vote. The Dean of the Faculty of Laws, in his point of information, contemplated a point which was not brought up during the speeches, namely whether the corrective mechanisms are to be capped with respect to the number of additional seats which may be allocated. Another argument made by the audience was that with the same reasoning underlying the gender-corrective mechanism, there should also be a Homosexual-Corrective mechanism, or a Muslim-Corrective mechanism.

During the debate, various speakers commented on the voter turnout during recent elections. To this, a third year law student, Bettina Cauchi, made a point of information stating that the corrective mechanisms signified a contribution towards voter apathy, in that the mechanisms discouraged eligible voters from voting in the general elections.

Another point of information was raised by Adrian Sciberras, who stated that the corrective mechanisms represented the legislator's imposition on elected candidates, in turn representing a lack of faith in the voters who contributed towards the members of parliament. This also tied into the question on representation surrounding the co-option procedure. This was rebutted not only by the Speakers in favour of the motion, but also by Member of Parliament Eve Borg Bonello, whose point of information pertained to the Maltese voter turnout, which is significantly higher than the average voter turnout in other European Jurisdictions.

Further, during the Debate, there were several comparisons between the PRSTV in Malta and the First Past the Post system adopted by the United Kingdom. To this extent, a point of information was raised by Alec Carter to question which system produces the best fruit, in particular which system is the most efficient, proportionate, and fair.

The discussion was also shaped by discussion surrounding third party or independent candidates, and whether such candidates are affected or disadvantaged when contextualised by the corrective mechanisms. A third year student, Jake Navarro, put forward a point of information which was founded on this notion, making explicit reference to recent Constitutional Court judgements which declared that the Maltese electoral system was in fact just, fair, and representative, and whether this judgement warranted correction or whether its logic was in line with the position held by the Speakers against the motion.

In total there were 14 points of interest raised. Most of these points of information were posited by students within the law course, with 2 being made by Members of Parliament, 1 from the Dean of the Faculty of Laws, and another from an audience member who is not a law student.

Following the conclusion of the discussion, Honourable Shadow Minister for Justice Karol Aquilina delivered his speech, congratulating all participants, speakers, and audience members who posited points of information, declaring the importance of discussion and the need to change and amend the electoral system in Malta. The Justice Shadow minister further elaborated on the importance of electing a Parliament which best represents the faith of the population.

Honourable Minister for Justice and the reform of the Construction Sector Jonathan Attard then delivered his speech, describing the formation and development of the event, as well as the importance of holding discussions on the electoral system of Malta. The Justice Minister further congratulated the Board of Speakers and the Audience Members for the interesting views and perspectives which shaped the discussion of the Union Debate, emphasising the importance of the right to voice opinion. He elaborated on the scope of the PRSTV electoral system, which keeps at its heart the notion of multi representation, a concept which has been unfortunately abandoned by the Maltese Population. He concludes by encouraging events such as ELSA Malta's Union Debate in order to facilitate and promote discussion, development, and the battle against voter apathy, highlighting the importance of the growth of an electoral system which produces a parliament which best fits the vote of the Maltese people.

These points of information were all respectively contested or agreed with by the Board of Speakers, who were allotted time to comment on the many points heard. Following the Board of Speakers' responses, the Debate entered into its voting stage, wherein each audience member was provided ballot sheets to indicate the most compelling side of the motion.



ELECTORAL COMMISSION

Luca Camilleri, Michela Formosa, Timmy Mifsud

The Electoral Commission, headed by the Electoral Commissioner and assisted by two Members, was tasked with the organisation, supervision, and vote-counting of the electoral process, as well as with the official timekeeping of the debate. The Commission was composed of three total members, all of which were chosen for their experience, honesty, integrity, and trustworthiness. Given that this debate was organised in the union style, based on the historic Oxford Union, audience members were allowed to raise points of information and contribute to the debate. Irrespective of whether they chose to vocally address the Chairman or not, audience members were given the opportunity to demonstrate their opinion through the casting of a vote.

The Commission Members were tasked with keeping time to ensure that the debate progressed steadily and punctually, and that all speakers were given an equal opportunity to present their respective arguments. To carry out this function, a paper-based system was used where papers displaying the remaining time were rotated to allow speakers to pace their arguments accordingly.

The vote was carried out using an anonymous paper ballot, certified and distributed to audience members and the speakers by the Electoral Commission. At the appropriate moment, voting was declared open by the Chairman and audience members and speakers were invited to deposit their ballot paper in the ballot box at the centre of the room. In order to ensure fairness and accuracy of the results, an official ballot box was used, and the Electoral Commission supervised the entire voting process from beginning to its conclusion.

After all votes were cast, the ballot box was secured and taken to a separate room, where the ballots were verified and counted. This process was conducted entirely by the Electoral Commission, with no undue influence from anyone involved with the debating teams. The vote-counting process was, however, conducted in the presence of a member of the Organising Committee, who acted as an impartial observer. All ballot papers were checked for authenticity and their adherence to the rules of voting as laid out by the debate statute. The votes were then counted a second time to ensure the accuracy of the results.

An official tally was reached, and this result was duly certified by the Electoral Commissioner and signed by the Electoral Commission members. This certificate was placed into a sealed envelope which, at the appropriate moment, was given to the Chairman by the Electoral Commissioner so that the results can be announced.

The results of the vote, as officially certified by the Electoral Commission, were as follows:

Total votes cast: 138
In favour: 39
Against: 98
Invalid: 1

The motion did not pass.

GALLERY

PHOTOGRAPHY BY CLODAGH O'NEILL



KOKKA INNOVATTIVA 2024

ELSA Malta would also like to thank Kunsill Studenti Universitarji for awarding the ELSA Malta Union Debate the award for “Kokka Innovattiva” at this year’s kokka night.





The ELSA Malta Union Debate, which was held under the auspices of revered litigation lawyer Dr Stefano Filletti, marks the start of something big. This legacy event shadows the Oxford Union Debates held in the United Kingdom, which are well-known for tackling contentious topics.

The subject matter debated upon in this first edition of the ELSA Malta Union Debate revolves around the electoral system in Malta, furnished with the million-dollar question: is it fair, just, and proportional?

Two teams comprising of two students and two lawyers each battled this query out at the Ministry of Justice in Auberge d'Aragon in Valletta, all whilst being meticulously assessed by the vast amount of attendees present. The audience comprised of lawyers, Members of Parliament, the Minister for Justice, the Dean for the Faculty of Laws, and a multitude of students hailing from all backgrounds of studies.

After a gruelling session of fiery debating, Honorary President Dr Stefano Filletti opened the floor for voting to commence. Thus, each person sitting in the audience stood up and deposited their ballot paper handed to them prior by the ELSA Malta team. And after an intense interim period in which votes were counted by the Electoral Commissioner, the motion did NOT pass. Thus, the team arguing against the notion that the Maltese electoral system is fair, just, and proportional were crowned victors of the first edition of the legacy ELSA Malta Union Debate.

Hands were shaken and congratulations were exchanged. What followed after was a networking experience in the historic internal courtyard of Auberge d'Aragon. There, both participants and students akin were offered the opportunity of mingling with one another, as well as with all notable persons present.

Needless to say, the first edition of this prestigious event was a gargantuan accomplishment for those involved – mainly Thomas Sciberras Herrera, Jake Navarro, and Kyle Cassar Cardona; alongside the indispensable assistance of Dr Stefano Filletti.

The ELSA Malta Union Debate is a legacy event, and the first edition served as a landmark for what may be in the future. Thus, upcoming ELSA Malta National Boards are burdened with the duty of ensuring that such an event persists, continually doing so perennially throughout the ages.

The ELSA Malta Union Debate will be back.

Alec Carter
ELSA Malta President Elect 24/25