ACCESS TO THE COUNTRYSIDE
THE RIGHT TO RAMBLE
July 2016

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This report was compiled following a series of meetings with representatives from The Ramblers’ Association of Malta.

The scope of these meetings was to discuss their problems in accessing the countryside in order to practice their hobby and the need to establish a series of Rambling Trails which would define the pathways available.
BACKGROUND
Background

Rambling – or hiking as it is also commonly known – is defined in the Cambridge English Dictionary as “the activity of going for long walks in the countryside”. The activity usually lasts for one day though it can be carried out over a number of days which is normally referred to as trekking.

In Malta, though several groups organise rambling events, it appears that the most active and structured group representing the activity is The Ramblers’ Association of Malta which was set up in 2005 and promotes rambling both as a healthy outdoor pastime as well as a means of appreciating the countryside and scenic views around the Maltese Islands.

In addition, the Association promotes rambling in a wider sphere by acting as a reference point for visitors and foreign rambling organisations, and assists by providing guidance on routes as well as in organising walking programmes for them. It thus acts as a promoter of rambling as a niche form of tourism in Malta.

Rambling has grown from a ‘spontaneous’ weekend activity practiced by a few hardy health-conscious individuals to a well-organised and popular niche tourism attraction in many countries. In the UK for instance, the Ramblers UK has been in existence for over seventy years.

Most countries in Europe boast of a network of walking or hiking trails, backed by a logistics service industry and supported by local government, tourism and environmental authorities.

A study by Scottish Natural Heritage states that “The value to the economy of walking tourism is £533 million per year.” The economic benefits generated by this niche tourism market are, without doubt, quite attractive.

The National Geographic runs a website specifically dedicated to hiking giving information on new trails developed and other useful data in support of the worldwide practice of this activity.

In Malta, rambling began being practiced more than one hundred and thirty years ago in an attempt organised for the British troops stationed in Malta by the Methodist Church, in what appeared to be “… a counteractive to the wine shops and low houses of entertainment in which the neighbourhood abounds” – the ‘neighbourhood’ being the areas of Cottonera and Floriana where there was a large concentration of servicemen.

Figures provided by the Malta Tourism Authority indicate that a total of 20,200 tourists visited Malta in 2015 specifically for hiking. This amounts to 10.63% of the total number of tourists visiting specifically for sports events and over 1% of the total number of tourist arrivals for the year.

Given the proximity of the open countryside to the urban centres where tourist accommodation is located, it would not be wrong to assume that a sizeable number of tourists arriving for other purposes do venture out for an occasional ramble in the countryside or along the coast.

When one considers that little or no promotion for this activity is carried out by the Tourism Authorities, the statistics show an encouraging support for what could very well turn out to be a lucrative niche tourism market, similar to the development of diving tourism experienced over the past few years.

There definitely is a case for setting up and organising the infrastructure to support this activity on a broader scale.

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2 Information obtained from The Ramblers’ Association of Malta website.
THE LOCAL SCENARIO
The Local Scenario

Rambling is regulated in a way that one can choose from a selection of trails varying in terrain, difficulty and visual and environmental scenarios ranging from open countryside to historical and architectural landscapes.

In addition, rambling events may be organised with the aim of visiting specific sites of ecological, archaeological or historical significance giving added value to such events. These are normally run in collaboration with an NGO or authority responsible for the sites.

However there is a serious obstacle often encountered by ramblers, namely the access to areas which are privately owned or which, though public land, have been given over to the private sector. More often than not, while access over large tracts of land - both public as well as privately-owned - is obtainable, users of small parcels of land provide a deterrent to rambling activities by preventing ramblers from passing through.

There is a need for a proper identification of these tenements in order to establish whether they are legitimate or not. Abusive squatting on public land, is an issue which is regularly brought up in the media and public fora.

Because of this, rambling trails are forced to divert and lose their scenic value or end abruptly, with the ramblers losing out on further enjoyment of the attractions provided by the particular area.

In addition, there are no official trails laid down on public land which can regulate this activity and help to preserve vulnerable areas of ecological or environmental importance which are at risk of being damaged by uncontrolled rambling or sporting events. It appears that Malta is the only EU state without a proper delineation between public and private land.

The scope of this report is to suggest a possible method of providing a legislative framework within which rambling can be carried out
without prejudicing landowners’ rights to the peaceful enjoyment of their property.

During the consultation period with the Ramblers’ Association, an exercise was carried out for the mapping out of a rambling trail. This was achieved by interposing a Rambler’s Association trail onto the corresponding Government tenements survey sheet. The resulting composite map showed the basic information necessary to build up the trail by the addition of trail signs and other useful information in line with current trail delineation in use in other countries.

An essential part of the next stage of this exercise should also include the input of environmental experts in order to identify areas which are at risk and which should be skirted in order to preserve them.

At this point I must gratefully record the assistance of the Government Property Division for the work in patiently tracing out the boundaries of existing Government tenements in the area and superimposing the Ramblers’ Association trail onto the map, giving a clearer picture as to where it was necessary to deviate the trail and what measures needed to be implemented to enhance its attractiveness and suitability for wider use.
Legislation

The right of a landowner to the peaceful and uninterrupted enjoyment of property is enshrined in our Constitution. Landowners have every right to prohibit access rights to the public in general, including organised groups such as ramblers.

Trespassing is however common, particularly on public land, which is taken up for picnics, outings and other social and sporting activities. Though such activities on public land may not be considered as illegal, more often than not they result in considerable environmental and physical damage, such as littering, damage to rubble walls and other features of the natural and man-made landscape and light and noise pollution during the activities, especially when these involve crowds or large groups. Vandalism is of course a perennial problem.

Privately-owned land is often not spared as well, particularly in the open country areas where there is often no clear demarcation between public and privately-owned property and little or no security exists against trespassing.

This situation is of course not particular to Malta alone since the conflict between the rights to peaceful enjoyment of one’s property and the public's right to enjoyment of the countryside is found everywhere – these rights are entrenched in local legislation.

However a solution was found in some countries by the enactment of legislation introducing the concept of access rights. In the UK for instance, this concept also includes rights of access to private land where the landowner has agreed to let people use it, e.g. for walking, cycling or horse riding (sometimes known as giving ‘permissive access’).

As a result it has been possible to develop a comprehensive network of trails which can be identified either by reference to guide books or accessed electronically. Signs along the trail clearly indicate where access rights are allowed and if any conditions appertain to these rights, such as whether access is limited to certain times of the day or during particular periods of the year.
In England for instance, the concept was extended even further by the granting of access rights to ‘open access land’ or ‘access land’, where one can access some land across the country without having to use paths.

Access land includes mountains, moors, heaths and downs that are privately owned. It also includes common land registered with the local council and some land around the English Coast Path.

The right to access this land is called the ‘right to roam’, or ‘freedom to roam’. Access land may be used for walking, running, watching wildlife and climbing. There are certain activities which usually are not permitted on open access land, these include horse-riding, cycling, camping, taking animals other than dogs on to the land and driving a vehicle (except a mobility vehicle).
However one can use access land for horse-riding and cycling if the landowner allows it or if public bridleways or byways cross the land – horse riders and cyclists can ride along these, or if there are local traditions, or rights of access.

In the Scottish model, the system works by allocating overall responsibility for the administration of access rights to local authorities and national park authorities. These set up a Local Access Forum (LAF) which acts as an advisory role on access issues in the area. LAFs are made up of representatives of the access authority, public agencies, land managers, access user groups and the local community.

The access authority draws up a Core Path Plan for the area, in consultation with local communities and stakeholders. The Core Paths aim to satisfy the basic need of the local community and visitors for general access and recreation and provides links to the wider path network within the area, including existing and new paths.
Legislation is backed by the Outdoor Access Code which basically emphasises the principles that users:

- take responsibility for their own actions;
- respect the interests of other people; and
- care for the environment.

Annex I with this report gives a more detailed explanation to the above.

In addition, a comprehensive raft of publications, guides and information data underpins the system and guarantees easy access to references by users.

The system therefore offers a win-win situation where property rights are not ceded or abdicated. Rather they are reinforced by the granting of access rights which therefore recognises the prerogative of landowners to regulate such access.

In return, the presence of groups of ramblers, serves as a deterrent against vandalism and damage to the paths, structures and infrastructure forming the trail and surrounding countryside and provides an additional monitoring and ‘watchdog’ service in favour of the upkeep and preservation of the landscape.

Locally, some local councils have already set up Heritage or Nature Trails within their locality. Such trails can be ‘plugged in’ to the Core Trail if a system as proposed is set up. In the wider context, the local trail system will then become part of the international trail network, where dedicated websites give continuously-updated information on new trails and facilities dedicated to rambling.

In planning the trail, care is taken to provide space and time for all pastimes and activities practiced in the surrounding areas. The system provides for a coordinated method of access to allocate space and time to activities which, by their very nature, might lead to conflict for the use of the land.

Hunting and trapping would obviously fall into such categories.
However these activities, if recognised and regulated at law, have a right to access the countryside as well. Rambling trails passing through areas where hunting and trapping are permitted would have to be subject to access restrictions during the open seasons.

Likewise, hunters and trappers would have to respect the fact that once the season is closed or when hunting and trapping has to be suspended during the open season, ramblers would have the right to pass through.

It is basically a matter of good neighbourliness and of respecting the fact that different people choose different ways and means to pass their time, as long as such activities remain within the law.

The Public Domain bill, recently passed by Parliament, will give an added opportunity for setting up rambling trails and regulating activities along and around them.

For example, security of access could lead to the laying down of trails along the coastline to include the historic watchtowers, redoubts, batteries and entrenchments which give the coastline its unique identity.

These military structures can be used as ‘staging posts’ along the trail, which can be used as assembly or dispersal points for rambling events and where information on the particular location can be obtained.

In fact, one such proposal has already been made by the Qala Local Council where it made reference to the beautifully-restored St Anthony Battery. Indeed, there is a case for such structures to be put to good use in connection with rambling events, thereby providing an increased element of security against vandalism and will help in ensuring that these isolated fortifications are retained in a proper state of repair.

Rambling trails which include historic military structures may not be limited to the coastal zones alone. There is a strong case for delineating such trails along the extensive and impressive
fortifications in the historic urban centres such as Valletta, Cottonera, Mdina, and the Cittadella in Gozo. A sizeable portion of these fortifications has been restored and is waiting to be ‘discovered’ by all those who appreciate this heritage.

Other historical structures and natural features of geological, cultural and archaeological importance sited on privately-owned land are also waiting to be discovered.

There is an urgent need for the setting up of rambling trails locally. As has been shown, there are environmental and economic benefits to be derived, apart from the obvious beneficial effect on health by the promotion of such an activity.

Implementing the proposals will also raise awareness and appreciation of the natural and historical heritage we are so fortunate to have in our custody and for the safeguarding of which we are all responsible.

Perit David Pace
Commissioner for Environment and Planning
ANNEX
Access Law
The Scottish Model
Access Law - The Scottish Model

The Access Law translates into statute what people commonly regarded as their “right to roam”. It states the rights and responsibilities of those exercising access rights, as well as those of land managers and recreation managers. You have the right to access most land and coastal areas including cliffs and ridges, valleys, woods, grassland, fields, garigue, most parks and open spaces, golf courses (to cross them); day and night, providing you do so responsibly. It also requires access authorities to uphold access rights.

This Act is supported by the Outdoor Access Code (OAC). The main messages of the OAC:

- take responsibility for your own actions;
- respect the interests of other people;
- care for the environment.

The other important legislation concerns Nature Conservation laws of the country which will be particularly interesting to access users and land managers alike because wildlife is legally protected and disturbance to it must be prevented at all costs.

The lead management role is given to the local authorities and national park authorities (collectively known as the access authorities). Each authority will set up one Local Access Forum (LAF). Its role is to advise on access issues in the relevant area. LAFs are made up of representatives from the access authority, other public agencies, land managers, access user groups and local community. The contact for each LAF is the local Access Officer.

Each access authority draws up a Core Path Plan for their area, in consultation with local communities and other stakeholders.

The Core Paths aim to satisfy the basic needs of local people and visitors for general access and recreation and will provide
links to the wider path network throughout the Local Council area. These Core Paths comprise a mixture of existing paths with some new paths. These paths are close to where people live and can range from tracks worn into natural ground to high-specification constructed paths.

The Core Paths cater for all types of users - walkers, cyclists, horse riders, canoeists, people with disabilities, etc. and are a key part of outdoor access provision.


RESTRICTIONS UPON ACCESS

All Sections of this Act shall not apply to a person who, in or upon the land in question:

(a) drives or rides any vehicle;

(b) lights any fire or does any act which is likely to cause a fire;

(c) takes, or allows to enter or remain, any dog not on a lead or under proper control;

(d) wilfully kills, takes, molests or disturbs any animal, bird or fish or takes or injures any eggs or nests;

(e) bathes in any non-tidal water in contravention of a notice displayed near the water prohibiting bathing, being a notice displayed, and purporting to be displayed, with the approval of the local planning authority;

(f) engages in any operations of or connected with hunting, shooting, fishing, snaring, taking or destroying of animals, birds or fish, or brings or has any engine, instrument or apparatus used for hunting, shooting, fishing, snaring, taking or destroying animals, birds or fish;
(g) wilfully damages the land or anything thereon or therein;

(h) wilfully injures, removes or destroys any plant, shrub, tree or root or any part thereof;

(i) obstructs the flow of any drain or watercourse, opens, shuts or otherwise interferes with any sluice-gate or other apparatus, breaks through any hedge, fence or wall, or neglects to shut any gate or to fasten it if any means of so doing is provided;

(j) affixes or writes any advertisement, bill, placard or notice;

(k) deposits any rubbish or leaves any litter;

(l) engages in riotous, disorderly or indecent conduct;

(m) wantonly disturbs, annoys or obstructs any person engaged in any lawful occupation; or

(n) hinders or obstructs any person interested in the land, or any person acting under his authority, in the exercise of any right or power vested in him.