

Contribution to UNGASS 2021

Grand Corruption in Malta: A Global Concern that Needs Urgent International Intervention

The Daphne Caruana Galizia Foundation's Work

1. The Daphne Caruana Galizia Foundation is a non-profit, independent non-governmental organisation founded by the heirs of journalist Daphne Caruana Galizia.¹ Daphne was assassinated in a car bombing in Malta on 16 October 2017. The Foundation ensures full justice for Daphne and her investigative work into large-scale, transnational corruption, using all available legal and political mechanisms.
2. In Malta, the Foundation's team has won landmark constitutional cases on freedom of expression and the right to life; fought down the number of posthumous libel suits against Daphne from 44 to 25; pushed the government into convening the country's first public inquiry, into the state failures that enabled Daphne's assassination; and, working alongside civil society, started a process of constitutional reform.²

Institutional Collapse in Malta and Outside Intervention

3. While working primarily in Malta, the Foundation has resorted to international mechanisms to support its work. The public inquiry is the product of pressure applied through the Council of Europe, particularly the special rapporteur its parliamentary assembly assigned to Daphne's case.³ The constitutional reform was proposed by the Council's "Venice Commission" on democracy and the rule of law.⁴ Support for the Foundation's campaign for better libel law and media freedom comes from Members of the European Parliament⁵ and a coalition of international non-governmental organisations.⁶
4. The Foundation supports the work of journalists and here, too, it has resorted to organisations outside the country. With a substantial international grant of funding, it is building the Malta Investigative Journalism Centre to facilitate cooperation between journalists working in Malta. Daphne's investigative work provided the basis of the "Daphne Project," a consortium of journalists from *Reuters*, *The Guardian*, *Süddeutsche Zeitung*, *The New York Times*, and *Le Monde*, among others, who are following the threads of her investigations.⁷

¹ Malta voluntary organisation number VO/1633 and legal person registration number LPF-280. Website: <https://www.daphne.foundation/>.

² [Justice for Daphne, justice for journalism](#)

³ [PACE demands public inquiry into death of Daphne Caruana Galizia](#)

⁴ [Venice Commission :: Council of Europe](#)

⁵ [MEPs lobby for measures against SLAPP suits](#)

⁶ [International Freedom of Expression Mission to Malta Statement of Findings 19 October 2018](#)

⁷ [THE DAPHNE PROJECT: Every story published so far • Forbidden Stories](#)

5. The Foundation resorted to international organisations and mechanisms because corruption rendered Malta’s own institutions ineffective. It will continue to do so for as long as Malta’s institutions remain ineffective. The Group of States Against Corruption (“GRECO”), the Council of Europe’s anti-corruption body, reported in 2019 that Malta’s criminal justice system is “at risk of paralysis”, that there is “an unprecedented wave of controversies concerning the integrity of senior government officials up to the highest level”, and an environment of total impunity for those officials.⁸ Transparency International’s latest annual report warned that corruption is “undermining the rule of law” and “weakening democracy” in Malta, adding that “two years after the assassination of journalist Daphne Caruana Galizia, who was killed while reporting on corruption, the country is still mired in corruption”.⁹

Grand Corruption in Malta is a Global Concern

6. The characteristics of corruption in Malta — bribery schemes involving shell companies,¹⁰ the involvement of high-level public officials,¹¹ the large-scale misappropriation of public resources for the benefit of a few interlinked individuals,¹² gross violations of human rights,¹³ widespread harm to society¹⁴ and, crucially, that it goes unpunished — meet the definition of “grand corruption”.¹⁵
7. Grand corruption, large in scale by definition, crosses international borders and destabilises countries. “Malta’s weaknesses are a source of vulnerability for all of Europe: Maltese citizenship is European Union citizenship, a Maltese visa is a Schengen visa, and a Maltese bank gives access to the European banking system”, the Council of Europe’s special rapporteur on Daphne’s case concluded.¹⁶ “If Malta cannot or will not correct its weaknesses, European institutions must intervene.”
8. In fact, Malta connects transnational corrupt actors beyond Europe; from China and Azerbaijan¹⁷ to Iran¹⁸ and Libya¹⁹. “With its serious and often global effects,” Transparency International has long argued, “combatting grand corruption must be the responsibility of the international community. For this to happen grand corruption should be treated as an international crime.”²⁰

⁸ [EVAL 5 Malta](#)

⁹ [CPI 2019: Western Europe & European Union - News](#)

¹⁰ [Exclusive: Mystery company named by murdered Maltese journalist is linked to power station developer](#)

¹¹ [Maltese politicians face pressure over \\$1.6m paid to offshore firms](#)

¹² [Malta losing money 'hand over fist' from Azerbaijan energy deal, claim experts](#)

¹³ <https://www.publicinquiry.mt/en/legal-advice/daphne-caruana-galizia-legal-advice-1.pdf>

¹⁴ [Malta must establish accountability for the murder of Daphne Caruana Galizia](#)

¹⁵ [Statement submitted by Transparency International, a non-governmental organization in consultative status with the UN Economic and Social Council](#)

¹⁶ [Resolution 2293 \(2019\) - Daphne Caruana Galizia's assassination and the rule of law in Malta and beyond: ensuring that the whole truth emerges](#)

¹⁷ [Malta and the laundering of Azeri money](#)

¹⁸ [Iran sanctions case against Pilatus banker Ali Sadr Hasheminejad being dropped](#)

¹⁹ <https://www.google.com/search?q=malta+libya+fuel+smugglers>

²⁰ [What is Grand Corruption and how can we stop it?](#)

An International Anti-Corruption Court

9. As crimes against humanity led to the creation of the International Criminal Court (ICC), grand corruption should now lead to an international anti-corruption court. The Colombian government has already called on the UN for such a court.²¹ US Judge Mark Wolf, who has long campaigned for it, suggested an anti-corruption court could form part of the ICC.²² Either way, it is now clearer than ever that grand corruption is distorting our societies, politics, and economies, and that we need an international body for the enforcement of criminal laws that prohibit corruption, which already exist in almost all countries.
10. We have, in summary, a problem of criminal law enforcement, not of legal definitions, new rules or laws. We have an enforcement problem because, as Wolf has said, “Grand corruption depends on a culture of impunity that exists because of the unwillingness of leaders to permit the honest and able investigation of their friends, families, and, indeed, themselves.”²³
11. The world needs an anti-corruption court, but Malta needs a remedy with greater urgency. Regional consensus on an anti-corruption prosecutor, along the lines of the European Public Prosecutor’s Office, which can only prosecute fraud against the European Union budget, may be easier than international consensus.

Malta Needs Urgent United Nations Intervention

12. More readily, there are legal frameworks for ad hoc international corruption prosecutors focused on single countries. The most appropriate example is the International Commission against Impunity in Guatemala (CICIG), which the UN established in 2006 and whose mandate ended in 2019.²⁴
13. The Public Inquiry into the Assassination of Daphne Caruana Galizia continues to collect evidence that Malta’s institutions, particularly its law enforcement agencies, are not functioning, but it relies on the same institutions to launch prosecutions.²⁵ Those institutions have fallen victim to criminal capture, bribery, government interference, and have been deliberately starved of resources and staffed with corrupt actors. Yet there remain honest individuals, working with integrity and at great personal risk, against Malta’s grand corruption.
14. The UN can support those individuals with a treaty-level agreement, like the CICIG, which establishes an independent body to support the Malta Police Force, the anti-money laundering agency, the financial services regulator, the attorney general’s office, and other state institutions to investigate and prosecute the country’s most sensitive and difficult cases. In the long run, such a body can help national institutions to confront grand corruption on their own. Those lone individuals, civil society, and journalists have made important and hard-won

²¹ [Colombia to propose international anti-corruption court at UN](#)

²² [The Case for an International Anti-Corruption Court](#)

²³ [The Case for an International Anti-Corruption Court](#)

²⁴ [CICIG \(International Commission against Impunity in Guatemala\)](#)

²⁵ [Daphne Caruana Galizia’s public inquiry: what we know and what we don’t](#)



progress so far. Their progress provides the UN with a basis on which to build a successful and signal anti-corruption body.

Submitted by The Daphne Caruana Galizia Foundation on 6 August 2020 in Valletta, Malta.

56 Melita Street, Valletta VLT 1122, Malta
+356 21236211 www.daphne.foundation matthew@daphne.foundation

VAT number: MT 25669501 Bankers: HSBC Bank Malta plc IBAN: MT83MMEB4433600000033401910001 BIC: MMEBMTMT

The Daphne Caruana Galizia Foundation is registered as a non-profit advocacy and civil rights organisation in Malta with enrolment number VO/1633 and foundation number LPF-280.