

Debate & Analysis

Malta: A Fascist State



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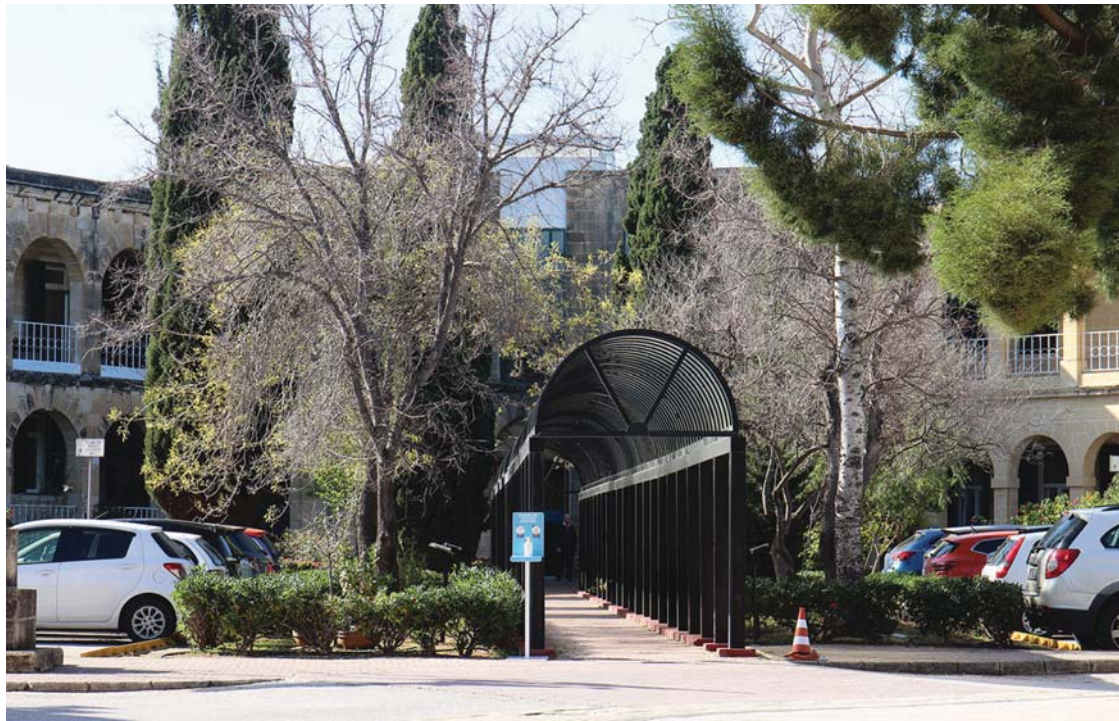
The more time passes the more events emerge to confirm that Malta is a fascist state.

The most recent event that brought about the death knell of the rule of law in Malta is the Planning Authority reversing a Court of Appeal judgment that had found the authority in violation of the law. If Malta were a parliament democracy that respects the rule of law – not by lip service, but by deeds – heads would have rolled at the Planning Authority. However, from the government's end its silence is deafening on this catastrophic episode for the simple reason that it has become immune to good governance.

How can it be that the Planning Authority issues a permit, have it annulled by the Court of Appeal, but then passes on to re-issue it again, Court of Appeal judgment notwithstanding? Where in the world does this happen except in a fascist state? The way that the government treats our courts is totally incomprehensible in a country that supposedly cherishes European values, including the rule of law and governmental accountability. Were this to be the case, not only would the competent minister have sought explanations from the Planning Authority for its outright abuse of power, a revocation of the permit issued on the basis of illegality, but he would have instituted an independent judicial board of inquiry to establish the facts of this case and why the Planning Authority considers itself and acts as though it is above the law.

Malta is a fascist state because this government is dismantling – one by one – all the provisions in the law that hold government to account. Take the case of the one-time right that public spirited non-governmental organisations, civil society associations, and others enjoyed to request the opening of a criminal magisterial inquiry where there is reasonable suspicion that a minister or a public officer is tainted by corruption. What did government do? It repealed this right.

What is government proposing in Bills 143 and 144 currently pending second reading in the



The Planning Authority offices in Floriana

House of Representatives? To remove citizens' right to challenge illegal Planning Authority decisions (such as the one mentioned above) and to empower the Planning Authority to regularise all illegal development that – through its own crass incompetence – it has not managed to demolish. But nobody at the Planning Authority is held accountable for this dereliction of duties.

Has not the right that Maltese citizens enjoyed since 1812 not to be detained for more than 48 hours been doubled by government with the complicity of the parliamentary opposition? Have not the changes made to the Criminal Code empowered the Commissioner of Police – a government appointee – to decide which complaints to investigate or not in lieu of a magistrate who exercised that function before?

Take the case of the flawed gender corrective electoral mechanism that is everything except democratic. The people vote in a general election so that these failed candidates are not elected to the House of Representatives but, through a bipartisan alteration of the Constitution, these 12 botched candidates are still elected to the House in full defi-

ance of the people's verdict? And our parliamentary system is supposed to be 'representative'. Whom do these 12 MPs represent? Surely not the electorate.

What about errant members of parliament who are never punished by the House of Representatives for breach of ethics in terms of reports drawn up by an independent Commissioner for Standards in Public Life because the Speaker sides with the government and not with Justice? Why should not MPs be subject to the same constitutional disciplinary mechanism as the judiciary? For the simple reason that the said Committee will not grant them immunity from disciplinary punishment but will punish them accordingly for each and every breach of ethics.

Why has not the Daphne Caruana Galizia Assassination Report been implemented? The next general election will be held some time early next year, probably in March/April 2026, but still no concrete and effective measures would have been implemented by then to write down the principles of government accountability in Maltese Law.

Why are government ministers

and parliamentary secretaries empowered to run their respective ministry and secretariat as though it was their personal fiefdom, employing persons of trust in flagrant breach of the constitution and issuing direct orders in full breach of the principles of due diligence and financial propriety? Why is our deficit always sky rocketing and nobody cares how the people's taxes are being abused?

What about the accountability of chairs and CEOs of public corporations? Why are not CEOs appointed following a call for applications and on the basis of merit? Why are chairs hand-picked not on the basis of merit but to award loyalty to the party in government?

Parliament is only a frivolous talking shop with no power to keep in check the arrogance of government; where PQs remain unanswered for months, if not years; where the Opposition does not have the possibility to see its own private motions discussed on a fortnightly basis; where PM question time is inexistent; where the Speaker lacks independence in his method of appointment and operation and is the *lunga manus* of government? Has a Speaker ever allowed the opposition to discuss a subject of extreme urgency to the governance of the country as proposed by the opposition except in those cases where government approves such request?

The Constitutional Court gets shivers in its spine when deciding cases against the government of the day. Its record in human rights cases (9 out of 10 Constitutional Court judgments favouring the government are overturned by the European Court of Human Rights in Strasbourg to favour the victim)

speaks volumes.

What about this week's statement given by the justice minister to put pressure on the Judicial Appointment Committee to appoint new members of the judiciary abruptly without the necessary procedures taking their due course? For ministers expect this Committee to ignore its own procedures and substitute the principle of merit with that of appointing government sympathisers as has been the situation since independence, bar a few years ago when merit substituted cronyism.

What about Act No XXVI of 2025, a law recently enacted to ensure that incompetent and negligent public officers are not sued personally but the government is sued in their stead and the government has to use taxpayers' monies to make good for the public officers' incompetence and negligence? Should not the law be reversed to allow everybody to sue personally incompetent and negligent public officers? Were this to be the case, no public officer will ever abuse public authority for they will know that they personally will be held responsible and will have to make good through their own money.

Take the case of the Planning Authority that has challenged with impunity a Court of Appeal judgment as stated above. If the third party is that case were to request the Court to impose a punishment by way of contempt of court, in terms of the said 2025 enactment, it will not be the officers who approved an illegal permit that will be punished through imprisonment or a fine but the Planning Authority which cannot be imprisoned but only fined. And who will have to pay the fine? The taxpayer ends up bailing out incompetent and negligent Planning Authority officers.

When one considers all the above matters – and others not listed here – will not s/he in his/her good senses come to the inevitable conclusion that Malta is a fascist state, where court judgments are ignored with impunity, where no action is taken by the government to redress such impunity as in the case of the Caruana Galizia assassination report, where the rule of law is honoured by its breach than by its adherence, where government has lost the reins of good administration and good governance, and where the institutions of the state – bar a few independent ones – have been captured by government?

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