

**“Defamation: Global Perspectives”**  
**Parallel Event organised by PEN International**  
**to the 38th Regular Session of the UN Human Rights Council**  
**Room XI, Palais des Nations, United Nations, Geneva**  
**Opening remarks by Andrew Caruana Galizia**  
**20 June 2018**

We’re here today to talk about defamation law and how it is often used to suppress protected speech. But why am I here today? It was a car bomb, not defamation law, that stopped my mother from writing. But the longer and perhaps lesser known story is that before she was killed my mother’s life had already become a wretched caricature of what the life of a journalist in any country, let alone a European Union member state, should be.

When my brothers and I spoke publicly for the first time after our mother was killed, at the Council of Europe in Strasbourg a few months ago, we were asked by a Maltese member of parliament from the governing party to confirm that my mother was free to write before she was killed. The member of parliament confused freedom with courage. My mother wrote despite the threats she faced and only because she had the courage and resilience to pay the price for what she wrote.

Let’s now talk about the price she paid and the price she’ll still be paying had she not been killed for expressing herself.

Aside from two arson attacks on our family home, countless poisoned pet dogs and the usual on and offline harassment, my mother was both a victim of defamation and a victim of civil and criminal defamation law.

She was sued for libel about sixty times during her lifetime. She was sued on average once a week during the last year of her life. Most of these cases were brought against her by public officials, including the Prime Minister and several cabinet ministers; the very people entrusted to foster an enabling environment for journalists.

47 of these cases were still pending against her when she was killed, including five criminal defamation cases. Her bank accounts were still frozen after a request brought by the Economy Minister and his aide as part of four libel cases brought against her.

My father and my brothers and I have inherited 34 of these cases and my father continues to mount the best defence he can, even though the defendant is dead.

How did this affect my mother? She rarely lost a libel case. The reality is that few of these libel cases are ever concluded. The aims of the applicants do not typically involve winning or clearing their names.

What I’ve seen in the cases brought against my mother and my family — my older brother Matthew has also been sued by the Prime Minister — is that the overriding aim is revenge, not justice. The tactics used by their lawyers ensure that the cases drag on for as long as possible — even beyond the grave — to exacted high a price as possible in terms of time wasted, costs incurred and psychological impact. The Economy Minister, for example, has never once in seventeen months shown up in court to defend his name in the cases he himself brought.

These cases tormented my mother. But the libel threats that really threatened her were letters she received from UK libel lawyers at Mishcon de Reya in the last few months of her life. Suddenly, she faced the prospect of financial ruin even to simply contest claims brought against her in London.

After she was killed my family discovered she was being sued for \$40 million in Arizona by a man who has since been indicted for sanctions evasion and money laundering in the United States.

What made these cases so much worse for my mother and so dangerous for Maltese democracy is that they were in large part state sanctioned. My mother published leaked emails showing that the company that sells Maltese passports, Henley & Partners, actually sought and received approval from the Maltese Prime Minister and his chief of staff before threatening to sue her in London. Meanwhile, 90 percent of the cases filed against her in Malta, which included an asset freeze, came from government ministers, governing party officials, or corrupt beneficiaries of large public contracts. Ten days before she was killed she told me, “they are trying to fry me alive.” None of them were forced to resign, none lost their lucrative contracts and, of course, none were investigated by the police. This meant, and still means, that the facts of Malta’s biggest corruption scandals fell to my mother and now to family to prove in the libel courts, rather than for the police to investigate and prosecute in the criminal courts.

Panels are usually very good at identifying problems. I’ll try to help avoid this trap by proposing a specific solution that my mother had herself suggested in an interview with the International Press Institute last year.

To illustrate this solution I’ll use one of the more egregious examples of the abuse of libel law that my mother faced: one beneficiary of a corrupt government contract worth €200 million sued my mother 19 times for a single story about the deal. When my mother asked this man why 19 times when the courts can only award damages once for the same allegation, his response was, “because I can.” My mother had to pay 19 times the usual court fee to respond to the cases and had to hire a lawyer to fight 19 cases. The cases still continue and the case against my mother is weak. But what happens if we win or the cases are withdrawn? We might get our legal costs covered but there’ll be no other penalty against this government crony for using the courts to harass a journalist and her surviving family. He’ll get to keep his €200m deal. The costs to him are negligible. To change this calculus, my mother suggested empowering the courts to award compensation to victims of frivolous and vexatious cases. It’s not the cost of paying out compensation that will deter this abuse but the fact that vexatious cases, instead of hampering a journalist, could actually strengthen her financially.

Instead, what happened in my mother’s case — the stress, the costs, and the isolation she suffered — serves not only to hurt her but to deter others, especially women, from following in her footsteps. In her own words, the Maltese government and its associates successfully transformed her from a positive to a negative role model; an example of the fate that awaits you should you dare dig too deep or criticize too effectively.

Now it would be disingenuous of me not to mention the media reform that took place in Malta since my mother was killed. Some of the tools used to torment her, like criminal libel and asset freezes, are no longer possible.

But if it takes the assassination of Malta's most influential journalist to achieve this modest and inadequate reform, none of us can afford another victory like that.

The reality is that my mother's assassination saved her from a different kind of death — a death by a thousand cuts perpetrated by Malta's most powerful figures using laws meant to protect the reputations of the innocent from attacks by the powerful.

It would have been a far less horrific death but it might have been just as permanent.

Thank you.