

The University of Malta is not Above the Law: An Analysis of the *Stephanie Dalli* Case

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This article by **Jamie Montebello** was previously submitted as part of PBL1012 and is being published with the author's permission. This article deals with the intricate field of education law, delving into the principle of how educational institutions, like the University of Malta, should not go beyond the law. Initially, the historical evolution and definition of education law are explored, where one can see the origins of education in Malta, and how one can define the law that governs it. The focus is then shifted on the legal framework which governs education law in Malta, where the most important provisions which educational institutions must adhere to are analysed. Furthermore, the structure of the University of Malta (UOM), and its decision-making process are explored, where one is able to see how the different bodies in the UOM work together to ensure that all student rights are upheld. The landmark case of *Stephanie Dalli* is then analysed in order to further understand important principles like accountability and procedural fairness within the University of Malta. By examining the elements which come out of this case, one is then able to analyse the statement that "The University of Malta is not above the law", ensuring that education systems operate within the national legal framework, upholding the principle of the rule of law.

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1. Definition and Historical Background of Education Law

Education law, forming part of public law, refers to a set of legal frameworks which work together in governing all education systems, ensuring that both the rights and obligations of all educators and students are upheld.¹ One should note however that education law in Malta is not a recent development but has rather deep roots. Maltese education law dates back to the fifteenth century, when certain religious orders started opening up schools for clerics. Later, under the rule of the Knights Hospitallers of St. John, the Jesuits opened what they called the *Collegium Melitense* in Valletta, making quite a big advancement towards structured education. Over time, under the influence of the Romans, Muslims, and the British, the Maltese education system continued to be shaped, though it was much later in time that formal regulation was formed, leading to the structured system of education law we have today.²

When it comes to examining the law of education, it is essential that one does not look at it in isolation. Education law is deeply intertwined and influenced by other aspects of law, including European law, international human rights law and employment law. In fact, Article 2 of the European Convention on Human Rights (ECHR) protects the right to education across all European Member States.³ When it comes to employment, education law in Malta contains within it employment regulations, as demonstrated by the role of Jobsplus in providing job training to any prospective employees.⁴ Furthermore, there are also laws in place which support persons with disabilities, ensuring the presence of inclusion in education law. Such laws are there to guarantee equal access to educational opportunities whilst also ensuring that they are tailored to the individual's needs.⁵

In order to gain a better understanding, one can look at the literal understanding given by the dictionary. The Oxford Dictionary splits the definition of education and law in separate parts. Firstly, education is defined as both a process of being educated and as the practice of teaching. Moreover, it is also described as the continuous training in a specific subject, emphasising that it is a continuous process of learning, and not something which happens instantly. When it comes to law, it is defined as a set of rules in a community or country which regulate conduct. Although punishments are mentioned in the definition given by dictionary, law is actually there to

¹ Michael Imber and Tyll van Geel, *Teacher's Guide to Education Law* (Lawrence Erlbaum Associates Incorporated 2004) 1.

² Kevan Azzopardi, 'The Development of Education Law in Malta: 1771-1964' (LL.D thesis, University of Malta 2006).

³ Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (Protocol No 1, 1952) Article 2.

⁴ Employment and Training Services Act, Chapter 594 of the Laws of Malta.

⁵ Equal Opportunities (Persons with Disability) Act, Chapter 413 of the Laws of Malta.

ensure fairness across multiple areas, including that of education.⁶

2. Legal Framework Governing Education Law in Malta

The legal framework governing education law in Malta is quite broad, comprising of various laws that together shape the rights and obligations which educational institutions must uphold. Central to these many laws is the Constitution of Malta, which not only serves as the fundamental law of the country but also being integral to the education system, with it including several key provisions related to the law of education. Among these is Article 2, which highlights the role of the church in moral teaching within the education system, making the Roman Catholic Religion part of compulsory education in state schools.⁷ However, it is important to note that this does not mean that non-Catholic students are obliged to take part in these teachings. Apart from Article 2, one can also take a look at Article 10, which guarantees free and compulsory primary education to everyone.⁸ Although this article only mentions primary education, the Education Act further expands on this provision to include secondary schools. One should also note that all of these provision of Chapter 2 of the Constitution are found under the section “Declaration of Principles”, and although they are not directly enforceable in court, they serve as a framework which is to be implemented through primary education.⁹

The Education Act is another important legal document when it comes to the structure of education law in Malta.¹⁰ Apart from formally establishing the University of Malta, it also provides certain regulations and guidelines for educational bodies.¹¹ However, the Education Act is also crucial in creating a difference between the Act itself and education law in general. Educational law is a broader term which does not only include the Education Act itself but also many other provisions. This broader spectrum of laws indicates that the law of education is diverse, being a comprehensive legal field with a varied legal framework.¹² In fact, there are many other provisions which govern education law. Some of which include the Further and Higher Education Act, regulating post-secondary and tertiary institutions¹³ and the MCAST Act and the Institute of Tourism Studies Act, which regulate and establish other tertiary institutions which focus on vocational and technical education.¹⁴ In addition, other provisions in the law like the Equal Opportunities (Persons with Disability) Act further ensure

⁶ Oxford English Dictionary (*Oxford English Dictionary*), 2023 <<https://www.oed.com/>> accessed on 7 November 2024.

⁷ Constitution, Article 2.

⁸ *ibid.* Article 10.

⁹ Joe Zammit Ciantar (ed), *Education in Malta: A Handbook* (Ministry of Education and Human Resources 1993) 6.

¹⁰ Education Act, Chapter 327 of the Laws of Malta.

¹¹ *ibid.*

¹² Kevin Aquilina, 'Book Review of President Emeritus Dr Ugo Mifsud Bonnici, *An Introduction to the Law of Education* (Malta University Press 2013)' (2016) 6 *ELSA Malta Law Review*, 267-272.

¹³ Further and Higher Education Act, Chapter 607 of the Laws of Malta.

¹⁴ Institute of Tourism Studies Act, Chapter 566 of the Laws of Malta; Malta College of Arts, Science and Technology Act, Chapter 638 of the Laws of Malta.

that persons with disabilities receive equal access to education.¹⁵ All of these show that education law in Malta is quite broad, taking from different provisions of the law to ensure that the rights of students and educational standards are upheld.

3. The University of Malta

The University of Malta Act, Chapter 327 of the Laws of Malta, establishes the University of Malta (UOM). The UOM is a public tertiary educational institution, vital for the country's academic development. As stated in the Act, the University is led by the Rector, currently Prof. Alfred J. Vella, who is responsible for any executive decisions.¹⁶ However, one must note that there are other bodies within the University, each holding different and equally important functions. One of such is the Board of Examinations, which is responsible for ensuring that examination procedures and academic evaluations are done in accordance with relevant regulations.¹⁷

The UOM is split into separate faculties, each overseeing the different academic courses. The Faculty of Laws is one of these faculties, which operates under the direction of the Dean, whose task is to oversee the faculty's administrative operations. The Dean also has other bodies that support him, including the Head of Departments and academic staff. The Faculty also works hand in hand with student organisations, so that they can better understand the students' needs and work upon them.¹⁸ Each faculty and each body that form part of the UOM have certain responsibilities that they must adhere to. Apart from the fact that all must comply with national laws, they must also work towards safeguarding students' rights. Without a doubt, the University also has other obvious key roles, such as offering a range of undergraduate and postgraduate programs, as well as conducting research to further expand their knowledge.

As one can see, by separating its powers among different bodies, the University of Malta aims to ensure that it provides the best education possible, irrespective of the course one takes. However, one must note that all of this has to be done while adhering to certain legal and ethical principles, in order to ensure that the students' rights are adequately respected.

¹⁵ Equal Opportunities (Persons with Disability) Act (n 5).

¹⁶ Education Act (n 10) Articles 72-74.

¹⁷ L.N. 274/2009, University Assessment Regulations 2009, Regulation 7.

¹⁸ Kevin Aquilina, 'On Legal Education: A Vision Statement for the Faculty of Laws, University of Malta' (2011) 25 Law & Practice, 5, 7, 8, 11, 13.

4. The Stephanie Dalli Case

When it comes to gaining a better understanding of certain principles of education law, one can look at the case of *Dalli Stephanie vs Sollars Valerie Dr et al.*¹⁹ This case involved a student enrolled in the Faculty of Education, Stephanie Dalli, whose academic progress in a specific credit called “Symposia in Psychology” was questioned.²⁰ After a decision was taken against Dalli and her friends by the University’s Examinations Disciplinary Board regarding the presence of plagiarism in their assignment, she filed for legal action. Some of the University officials concerned with this case included Dr. Valerie Sollars (The Dean of the Faculty of Education), Dr. Elena Tanti Burlo (The Principal of the Department of Psychology), and the Rector of the University of Malta, Prof. Juanito Camilleri.²¹

This case brings to light certain questions regarding the University of Malta’s administrative practices, mainly the way in which decisions are made. Throughout the execution of the case, it became clear that universities must follow established protocols and laws, when it comes to making decisions that affect the student’s position and future, regarding any given field of study. In fact, the University of Malta was fined €50 for violating Article 469A(1)(b)(ii) of Chapter 12 of the Laws of Malta and Regulation 7 of the Examination Conduct Regulations enacted under Chapter 327 of the Laws of Malta.²² This case also highlighted the importance of the students’ rights in the academic process, as well as the responsibilities of educational authorities under Maltese legislation.

Overall, the case of Stephanie Dalli highlighted the importance of principles like procedural fairness to students, ensuring that fair decisions are made regarding a student’s academic progress, and accountability, guaranteeing that educational authorities take responsibility for times when unjust actions are taken. Although this case concerned the University of Malta, such principles apply to all educational institutions and to all students, whether at primary, secondary, or tertiary levels. Similar to this case, one can look at the case of *Gaetano Vella vs University of Malta*.²³ Here, Vella disagreed with the University’s administrative decision, and much like in the case of Stephanie Dalli, he argued that they failed to adhere to established protocols and procedures.²⁴ Such cases continue to highlight the fact that the University must not go beyond the law.

¹⁹ 824/2008 *Stephanie Dalli vs Dr Valerie Sollars et*, Civil Court (First Hall) 20 October 2009.

²⁰ Times of Malta, ‘University Annuls University Decision on Alleged Plagiarism Case’ (*Times of Malta*, 23 October 2009) <<https://timesofmalta.com/article/university-annuls-university-decision-on-alleged-plagiarism-case.278385>> accessed 7 November 2024.

²¹ *Stephanie Dalli (n 19)*.

²² *ibid.* 21-22.

²³ 1030/2016 *Gaetano Vella vs L-Universita' ta' Malta*, Civil Court (First Hall) 22 September 2020.

²⁴ *ibid.*

5. Analysis of “not above the law”

The phrase “not above the law”, as seen in the statement “The University of Malta is not above the law”, is important as it prompts one to reflect upon its significance and attempt to decipher its meaning. In general, this principle suggests that the University of Malta, like any other educational institution, is subject to a higher authority, that of the law itself. This means that no entity may act beyond the legal framework which is established by the State. This phrase forms the entire concept of the rule of law, ensuring that legal entities like the University of Malta are held responsible for their actions in cases where they go beyond the law.

As previously discussed, in the case of *Dalli Stephanie vs Sollars Valerie Dr et al*, the University of Malta was held accountable for going beyond the law, and so this principle regarding the rule of law was put to the test. The case brought forward the ways in which the University had failed to adhere to its own regulations and legal principles, mainly when it came to Article 469A(1)(b)(ii) of the Code of Organisation and Civil Procedure and Regulation 7 of the Code of Conduct for Examinations under the Education Act.²⁵ For this, the University of Malta was fined €50, which demonstrates how even well-established educational institutions are not above the law. This highlights the fact that at the end of the day, no educational establishment is immune to legal consequences when going beyond the law. Mainly, this judgement reaffirmed the idea that all educational institutions, in this case the University of Malta, must act within the legal framework, ultimately placing the law itself at the top of the hierarchy. However, if any entity decides to act beyond the law, the Judiciary has the power to hold them accountable.

Despite the outcome of this case, some still argue that educational institutions like the University of Malta continue to operate as though they are beyond the law. If one takes a look at the centralised decision-making structure of the University of Malta, which involves entities like the Rector and the Board of Examinations, some may say that it can lead to limited transparency. However, one must also note that the University of Malta has taken multiple steps along the years to ensure that there is transparency in its governance and that it does not act beyond the law. As an example, one can take a look at Statute 12 of the University of Malta, which speaks of the functioning of University boards. This statute brings forward certain principles like the fact that the University’s boards may operate with a quorum and the fact that a board membership continues until a new appointment is made.²⁶ Statutes like this reflect the University of Malta’s commitment to transparency when it comes to its decision-making process, ensuring that it does not go above the law.

²⁵ *Stephanie Dalli (no 19)*.

²⁶ Statute 12 – Functioning of University Boards Statute, S.L. 327.224.

6. Implications and Conclusions

In conclusion, the idea that the University of Malta is not above the law is crucial in order to uphold principles like accountability and transparency when conducting its operations. As seen in cases like that of Stephanie Dalli, all educational institutions must adhere to legal frameworks to ensure that integrity is maintained. Such cases highlight the idea of law being at the top of the hierarchy, where the Judiciary is entitled to punish any entity who acts above the law. The Stephanie Dalli case proved to be a crucial case when it comes to understanding education law. It demonstrated the principle of accountability by showing that despite its authority, the University of Malta was still subject to legal scrutiny.

However, it is important to acknowledge the efforts of the University of Malta to operate with full transparency, making sure no acts are carried out which go beyond the law. This can be seen in instances like Statute 12 of the University of Malta, which outline the provisions for the functioning of the boards. Moving forward, to further avoid the idea of acting above the law, the University of Malta should consider a more decentralised approach in its decision-making processes. As Kevin Aquilina argues, in order to significantly enhance transparency and accountability, and to ensure that it does not act beyond the law, the University of Malta should implement a decision-making process rooted in teamwork and inclusion.²⁷ By adopting such reforms, the University can ensure that all its operations align with the national laws and principles, ensuring that no acts are done which go beyond the law.

Therefore, when it comes to analysing the statement that “The University of Malta is not above the law”, it is important to approach it with a dual perspective. On one hand, one can conclude that the University of Malta is not above the law, and that this can be seen with the transparency provided by certain statutes. On the other hand, one can also conclude that the University fails to act within the legal framework multiple times, and so it does in fact go beyond the law. However, as seen in the Stephanie Dalli case, one can conclude that although there may be times when the University of Malta does operate beyond the law, like any other educational institution it must be held accountable, and respond to the necessary legal consequences. Ultimately, this reinforces the principle that no educational institution is above the law.

²⁷ Kevin Aquilina (n 18) 7.



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