

I assent.

(L.S.)

GEORGE ABELA
President

31st January, 2014

ACT No. I of 2014

AN ACT to amend the Criminal Code, Cap. 9.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

1. The short title of this Act is the Criminal Code (Amendment) Act, 2014, and this Act shall be read and construed as one with the Criminal Code, hereinafter referred to as "the Code". Short title.
Cap. 9.
2. Immediately after article 251D of the Code, there shall be added the following new articles: Addition of new
articles to the
Code.

"Female
genital
mutilation.

251E. (1) Whosoever, for non-medical reasons, performs an operation or carries out any intervention on a woman's genitalia that damages the genitalia or inflicts upon them permanent changes, shall be guilty of enforced female genital mutilation and shall be liable to the punishment of imprisonment for a term from three to nine years.

(2) (a) Whosoever shall be guilty of female genital mutilation from which death shall ensue solely as a result of the nature or the natural consequences of the harm and not of any supervening accidental cause, shall be liable -

(i) to imprisonment for a term from six to twenty years, if death shall ensue within forty days to be reckoned from the midnight immediately preceding the operation or intervention;

(ii) to imprisonment for a term from four to twelve years, if death shall ensue after the said forty days, but within one year to be reckoned as above.

(b) If death shall ensue as a result of a supervening accidental cause and not solely as a result of the nature or the natural consequences of the operation or intervention, the offender shall, on conviction, be liable to imprisonment for a term from three to nine years.

(3) Consent of the person undergoing the operation or intervention shall not justify exemption from punishment.

(4) Whosoever shall wilfully fail to seek to avert, by formal complaint or in another manner, female genital mutilation, shall be liable to a fine (*multa*) of not less than one thousand euro (€1,000) and not exceeding five thousand euro (€5,000) or to a term of imprisonment for a term of six months to two years, or to both such fine and imprisonment:

Provided that the duty to avert such an act shall apply regardless of any duty of confidentiality.

(5) For purposes of this article the terms "operation" and "intervention" shall include the excision, infibulation or mutilation of the genitalia.

(6) Whosoever aids, abets, counsels or procures a female to excise, infibulate or otherwise mutilate the whole or any part of her own genitalia, shall be guilty of an offence and shall be liable, on conviction, to the punishment laid down under this article.

Enforced
sterilization

251F. Any person who for non-medical reasons, by force, deceit, bribery or threats surgically removes or disables a person's reproductive organs without that person's full and informed consent, leading to sterilization, shall be guilty of enforced sterilization and shall, unless the fact constitutes a more serious offence under any other provision of this Code, be liable on conviction to imprisonment for a term from four to ten years.

Forced
marriage.

251G. Any person who by force, bribery, deceit, deprivation of liberty, improper pressure or any other unlawful conduct or by threats of such conduct, forces anyone to enter into a marriage shall be guilty of causing a forced marriage and shall, unless the fact constitutes a more serious offence under any other provision of this Code, be liable on conviction to imprisonment for a term from three to five years:

Provided that any act so made in contravention of this provision shall be null and without effect at law.

Increase in
punishment

251H. The punishment for the offences referred to in articles 251 to 251G, both inclusive, shall be increased by one to two degrees in each of the following cases:

(a) the offence was committed against a former or current spouse or partner, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority:

Provided that, in this paragraph spouse includes a person whose marriage with the accused has been dissolved or declared null.

(b) the offence, or related offences, were committed repeatedly;

(c) the offence was committed against a vulnerable person within the meaning of article 208AC(2);

(d) the offence was committed against or in the presence of a minor;

(e) the offence was committed by two or more people acting together;

(f) the offence was preceded or accompanied by violence;

(g) the offence was committed with the use or threat of a weapon;

(h) the offence resulted in severe physical or psychological harm for the victim;

(i) the offender has been previously convicted of offences of a similar nature.

Applicability of provisions.

251I. (1) The following provisions shall apply to the offences under articles 198, and 251 to 251G, both inclusive.

(2) Without prejudice to the provisions of article 5, the Maltese courts shall also have jurisdiction over the said offences where:

(a) only part of the action giving execution to the offence took place in Malta; or

(b) the offender is a Maltese national or permanent resident in Malta; or

(c) the offence was committed against a Maltese national or permanent resident in Malta.

(3) Notwithstanding any other provision of this Code or of any other law, where the person against whom the offence is committed is a minor, the period of prescription shall run from the day on which the victim attains the age of majority."

Passed by the House of Representatives at Sitting No. 112 of the 27th January, 2014.

ANĠLU FARRUGIA

Speaker

RAYMOND SCICLUNA

Clerk to the House of Representatives