

**68. L-Onor. Christopher Fearne jipproponi:**

L-Ewwel Qari tal-Abbozz ta' Ligi msejjaħ Att tal-2013 li jemenda l-Kodici Kriminali, Kap 9.

24.09.13

**ABBOZZ TA' LIĠI**  
**msejjah**

*ATT biex ikompli jemenda l-Kodiċi Kriminali, Kap. 9.*

IL-PRESIDENT bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, hareġ b'liġi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2013 li jemenda l-Kodiċi Kriminali (Emenda Nru. 2), u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kodiċi Kriminali, hawnhekk iżjed 'il quddiem imsejjah "il-Kodiċi".

Titolu fil-qosor.

Kap. 9.

2. Minnufih wara l-artikolu 251D tal-Kodiċi għandhom jiżdiedu dawn l-artikoli godda li ġejjin:

Zjieda ta' artikoli godda mal-Kodiċi.

"Mutilazzjoni tal-organi ġenitali ta' mara.

251E. (1) Kull min, għal raġunijiet li ma jkunux mediċi, jagħmel operazzjoni jew iwettaq xi intervent fuq l-organi ġenitali ta' mara, liema operazzjoni jew intervent jikkawżaw hsara fuq l-organi ġenitali jew igibu fuq daww l-organi tibdil permanenti, ikun hati ta' mutilazzjoni furzata tal-organi ġenitali ta' mara u jehel il-piena tal-prigunerija għal zmien ta' minn tliet snin sa seba' snin.

(2) Jekk l-operazzjoni jew l-intervent jikkawżaw offiża gravi fuq il-persuna, il-piena għandha tkun dik ta' prigrunerija għal żmien ta' minn hames snin sa disa' snin.

(3) (a) Kull min jinsab hati ta' mutilazzjoni tal-organi ġenitali ta' mara li biha tigris l-mewt minhabba biss fin-natura jew fil-konsegwenzi naturali tal-offiża, u mhux għal xi kawża aċċidentali li tinqala' wara, jehel -

(i) il-piena ta' prigrunerija minn sitt snin sa għoxrin sena, jekk il-mewt tigris fi żmien erbgħin gurnata li jibdeu iġoddu mill-aħħar nofs il-lejl ta' qabel id-delitt;

(ii) il-piena ta' prigrunerija minn erba' snin sa tnax-il sena, jekk il-mewt tigris wara l-erbgħin gurnata hawn fuq imsemmija, imma qabel sena li tibda tgħodd bħal ma jingħad hawn fuq.

(b) Jekk il-mewt tigris minhabba f'xi kawża aċċidentali li tinqala' wara u mhux biss minhabba fin-natura jew fil-konsegwenzi naturali tal-operazzjoni jew intervent, l-akkużat, meta jinsab hati, jehel il-piena ta' prigrunerija għal żmien minn tliet snin sa disa' snin.

(4) Il-kunsens tal-persuna li fuqha jsiru l-operazzjoni jew l-intervent ma jiġġustifikax l-eżenzjoni mill-piena.

(5) Kull min xjentement jonqos milli jipprova jevita, permezz ta' lment formali jew b'xi mod ieħor, mutilazzjoni tal-organi ġenitali ta' mara, jehel multa ta' mhux inqas minn elf euro (€1,000) u mhux iżjed minn hamest elef euro (€5,000) jew prigrunerija għal żmien ta' minn sitt xhur sa sentejn jew għal multa u prigrunerija flimkien:

Izda d-dmir li jiġi evitat att bħal dan għandu jgħodd minkejja kull dmir ta' kunfidenzjalità.

(6) Għal finijiet ta' dan l-artikolu, il-kliem "operazzjoni" u "intervent" għandhom jinkludu l-qtuġ, infibulazzjoni jew mutilazzjoni tal-organi ġenitali.

(7) Kull min jgħin, ihajjar, jagħti parir jew iħabrek mara sabiex taqta', tinfibula jew b'xi mod iehor timmutila l-organi ġenitali tagħha kollha jew xi parti minnha, ikun ħati ta' reat u jehel, meta jinsab ħati, il-piena stabbilita taħt dan l-artikolu.

Sterilizzazzjoni  
furzata.

251F. Kull min bl-użu tal-forza, qerq, tixhim jew theddid, u mhux għal raġuni medika, permezz tal-kirurgija jneħhi jew jiddizabilita l-organi riproduttivi ta' individwu sabiex iwassal għal sterilizzazzjoni, mingħajr ma jkun hemm il-kunsens sħiħ u infurmat ta' dak l-individwu jkun ħati ta' sterilizzazzjoni furzata u jehel, kemm-il darba l-fatt ma jkunx jikkostitwixxi reat aktar gravi taħt xi dispożizzjoni oħra ta' dan il-Kodiċi, meta jinsab ħati prigunerija għal żmien ta' minn erba' snin sa għaxar snin.

Żwieġ  
furzat.

251G. Kull min bl-użu tal-forza, tixhim, qerq, deprivazzjoni tal-libertà, pressjoni mhux kif imiss jew xi mġiba oħra illegali jew bit-theddid ta' aġir bħal dan, igieghel lil xi hadd jiżżewweġ ikun ħati li jkun ikkawża żwieġ furzat u jehel, kemm-il darba l-fatt ma jkunx jikkostitwixxi reat aktar gravi taħt xi dispożizzjoni oħra ta' dan il-Kodiċi, meta jinsab ħati prigunerija għal żmien ta' minn tliet snin sa ħames snin:

Iżda kull att li hekk isir li jmur kontra din id-dispożizzjoni għandu jkun null u mingħajr effett legali.

Żjieda fil-piena.

251H. Il-piena għad-delitti msemmijin fl-artikoli 251 sa 251G, it-tnejn inklużi, għandhom jiżdiedu bi grad jew żewġ gradi f'kull wiehed mill-kazijiet li ġejjin:

(a) id-delitt twettaq kontra il-konjuġi jew is-sieħba prezenti jew ta' qabel, minn membru tal-familja, persuna li tgħix mal-vittma jew persuna li tkun abbużat mill-awtorità tagħha:

Iżda f'dan il-paragrafu "konjuġi" tinkludi persuna li ż-żwieġ tagħha mal-akkużat gie xolt jew gie dikjarat null;

(b) id-delitt, jew id-delitti relatati, twettaq jew twettqu ripetutament;

(ċ) id-delitt twettaq fuq persuna vulnerabbli skont it-tifsira tal-artikolu 208AĊ(2);

(d) id-delitt twettaq fuq jew fil-preżenza ta' minuri;

(e) id-delitt twettaq minn żewġ persuni jew aktar li aġixxew flimkien;

(f) twettqet vjolenza qabel jew waqt it-twettiq tad-delitt;

(g) id-delitt twettaq bl-użu jew it-theddid tal-użu ta' arma;

(h) id-delitt ikkawża offiża gravi fizika jew psikologika fuq il-vittma;

(i) l-akkuzat kien qabel instab hati ta' delitti ta' natura simili.

Applikabilità ta' dispożizzjonijiet.

251I. (1) Id-dispożizzjonijiet li ġejjin jgħoddu għad-delitti taht l-artikoli 198, u 251 sa 251G, it-tnejn inkluzi.

(2) Minghajr preġudizzju għad-dispożizzjonijiet tal-artikolu 5, il-qrati ta' Malta għandhom ġurisdizzjoni wkoll fuq id-delitti msemmija meta:

(a) parti biss mill-azzjoni li twassal għall-eżekuzzjoni tad-delitt twettqet f'Malta; jew

(b) l-akkuzat hu ċittadin Malti jew hu resident permanenti f'Malta; jew

(c) id-delitt twettaq fuq ċittadin Malti jew fuq resident permanenti f'Malta.

(3) Minkejja kull dispożizzjoni oħra ta' dan il-Kodiċi jew ta' xi liġi oħra, fejn id-delitt jitwettaq fuq persuna li tkun taht l-età, il-perjodu ta' preskrizzjoni għandu jiddekorri mill-ġurnata li fiha l-vittma tkun tal-età."

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### Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz ta' Liġi hu sabiex jipprovdi għar-reati ta' mutilazzjoni tal-organi genitali ta' mara, sterilizzazzjoni furzata u żwieġ furzat.



**A BILL  
entitled**

*AN ACT to further 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 No. 3) Act, 2013, 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 seven years.

(2) If the operation or intervention has resulted in grievous bodily harm, the punishment shall be that of imprisonment for a term from five to nine years.

(3) (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.

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

(5) 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.

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

(7) 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."

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### Objects and Reasons

The object of this Bill is to make provision for the offences of female genital mutilation, forced sterilization and forced marriage.