

2015-09-23

Fråga-svar

Iran. Incest och straff

Fråga

- Är incest olagligt i Iran och ger det upphov till dödsstraff?
- I vilken utsträckning straffas förövare i incestmål där exempelvis en far våldfört sig och utnyttjat sitt barn sexuellt?
- Vilka möjligheter finns för en minderårig person i en sådan situation att få hjälp?

Svar

Nedan följer en sammanställning av information/länkar kring incest och straff i Iran. Sammanställningen gör inte anspråk på att vara uttömmande. Refererade dokument bör alltid läsas i sitt sammanhang.

Incest och straff

I den reviderade iranska strafflagen (Islamic Penal Code - IPC) står att straffet för s.k. *zina* ("olagliga sexuella relationer") i vissa fall, däribland incest, är dödsstraff:

Part Two- Offenses punishable by *Hadd*

Chapter One- *Zina*

Article 221- *Zina* is defined as sexual intercourse of a man and a woman who are not married to each other, and also provided that the intercourse is not done by mistake.

Note 1- A sexual intercourse occurs when the sex organ (penis) of a man, up to the point of circumcision, enters into the vagina or anus of a woman.

Note 2- If both parties or one of them are non-pubescent, *zina* occurs but for the non-pubescent [party(parties)] the *hadd*

punishment shall not be given, but instead they shall be sentenced to security and correctional measures mentioned in the first book of this law.

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Article 224- In the following cases the *hadd* punishment for *zina* is the death penalty:

- (a) *Zina* with blood relatives who are prohibited to marry.
- (b) *Zina* with a step-mother; in which case, the man who committed *zina* shall be sentenced to the death penalty.
- (c) *Zina* of a non-Muslim man with a Muslim woman; in which case, the man who committed *zina* shall be sentenced to the death penalty.
- (d) *Zina* committed by coercion or force [i.e. rape]; in which case, the man who committed *zina* by coercion or force shall be sentenced to the death penalty.

Note 1- Punishment of the woman who has committed *zina* in paragraphs (b) and (c) shall be in accordance with other provisions of *zina*.

Note 2- The conduct of anyone who commits *zina* with a woman who did not consent to engage in *zina* with him, while she is unconscious, asleep, or drunk, shall be regarded as *zina* committed by coercion [i.e. rape]. In cases of *zina* by deceiving and enticing a non-pubescent girl, or by abducting, threatening, or intimidating a woman, even if she surrenders herself as a result of that, the abovementioned rule shall apply.

I en rapport (2014) från HRW om den nya iranska strafflagen framgår att:
... the amendments largely leave intact the provisions of the old code which make the death penalty mandatory for all individuals who willingly engage in sex with someone other than their married spouse (i.e. adultery), those who engage in incest, men who have sex with their stepmothers, and non-Muslim men who have sex with a Muslim woman regardless of his marital status.⁵² Judges can sentence offenders who have not reached the “age of maturity” only to correctional and rehabilitation measures.⁵³
(s. 24)

I not 53 i ovanstående stycke står:

53 Ibid., art. 22[1], note 2. In cases of incest, if the victim has not reached the “age of maturity,” a judge may sentence the offending party only to 100 lashes.

Omfattning av incestbrott

Jag har inte kunnat hitta tillförlitlig information eller statistik kring i vilken utsträckning förövare straffas i incestmål. Enligt flera rapporter är ämnet våld i hemmet, däribland incest, vara skambelagt i Iran och inget man talar om eller anmäler, vilket gör det svårt att få fram statistik:

Finska migrationsverket (Finnish Immigration Service) har publicerat en rapport (2015) som tar upp frågan om våld i hemmet:

2.1. Domestic violence

Domestic violence and abuse by family members are challenging research topics, as the scale of the phenomenon is difficult to estimate in any society. In Iran, information-gathering is especially difficult due to inadequate research and the sensitivity of the subject. The country's patriarchal culture forces women to keep silent about abuse inflicted on them by the men in their family. Mild forms of violence against women and children are generally tolerated when the acts are seen as necessary for discipline. Admitting abuse to outsiders is considered to bring shame to the victim.³⁴

(s. 7)

En artikel i Iranian Journal of Psychiatry (2014) tar upp svårigheten att få fram uppgifter kring sexuella övergrepp mot barn (inte specifikt incest):

Recently, some studies have investigated child abuse in different cities of Iran, but there is not an overall estimation of child abuse in the whole country. Most of these studies focus on any types of child abuse except sexual abuse due to cultural issues (24).

Även en artikel (2013) på webbplatsen IranWire beskriver svårigheten att få fram tillförlitlig fakta kring sexuella övergrepp, däribland incest:

Speaking with researchers and experts of sexual abuse in Iran, they all shied away from giving me a statistic or a sense of the scope of the problem of rape and incest --there's simply no way of really knowing, they all said to me. Too many people stay quiet on the issue to gain a realistic sense of the scope. The only statistic I was able to find was on a blog that cited a report published by Resalat newspaper in 2011 (Iranian year 1390). That report cited that in 2011, 5,200 court cases of reported rape were made raised before the judicial system; 1,200 of those cases related to father's raping daughters, and 4,000 related to brother's raping their sisters.

However, drawing on my previous experiences as a reporter in Iran, and also having spoken to many survivors, I know how few of them actually make a complaint about to the courts, given that the country's Islamic criminal codes effectively make it impossible for women to prosecute their abusers.

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According to Iranian law, incest is punishable by death, but if the rapist claims that the intercourse was consensual, the female survivor has to either present four witnesses to the rape, or the judge has to believe her story. If she is unable to present the four witnesses and the judge elects not to believe,

she can be sentenced to death. In such a legal atmosphere, it is understandable that many female survivors of family rape remain silent in Iran.

En artikel (2007) på Gozaars webbplats omnämner också svårigheter att få fram statistik kring incestbrott:

As an example, researchers do not have access to the statistics on the number of cases of incest and adultery whose perpetrators are tried by the judicial system.

Incest och skydd/hjälp för minderårig

I en rapport (2015) från Abdorrahman Boroumand Foundation redogörs för barns rättigheter i Iran:

Iran's Civil and Penal Codes provide definitions of the "child". These definitions directly impact the rights of children as understood in the Convention. According to note 1 of Article 1210 of Iran's Civil Code (1981), the age of maturity for boys is fifteen lunar years and for girls is nine lunar years.¹⁴
(s. 11)

Accordingly, any child over the lunar age of 15 (for boys) and 9 (for girls) is considered an adult under the law and does not benefit from any of the special protections afforded to children.
(s. 12)

The 2003 Law on the Rights of the Child gives the State the power to act as plaintiff in cases where the perpetrator of violence against a child is a member of the child's family.³¹ However, a book published by the Iranian Judiciary notes that according to official numbers, not one case of child abuse or murder has been prosecuted under this statute.³²
(s. 13)

If domestic abuse results in physical injury but not death, meaning the victim is able to file a complaint and act as a plaintiff, children under the age of 15 or who have not entered puberty must still have their father or guardian act as the complainant on their behalf.³⁵ Thus, when the abuser is a guardian or another family member, child victims receive less protection under the law.
(s. 14)

I finska migrationsverkets rapport (2015) beskrivs vilken hjälp som finns att tillgå för barn som utsatts för våld i hemmet:

Children under the age of 15 cannot file law suits themselves and must instead be represented by their legal guardian (father or grandfather). Children who suffer violence from their fathers therefore have no legal redress in practice.²⁵⁰

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The Iranian State Welfare Organisation (Sazman-e Behzisti) has maintained a network of approximately 30 'health houses' for unmarried girls who have run away from home since the beginning of the 21st century. These institutions provide temporary housing, professional counselling and skills development for runaway girls. However, reports indicate that girls have also been sexually abused by the authorities in at least one of these institutions.²⁵⁶ In any case, the shelters built on the initiative of the Cabinet of the reformist President Khatami have been said to be a failure, as they are not widely used or run properly.²⁵⁷

(s. 24)

One example of a non-governmental organisation that promotes the rights of children is Iran's Association of Children's Rights (Anjoman-e Hemayat az Hoquq-e Kudakan), which runs a few shelters for homeless and ill-treated children and teenagers.²⁶² However, these shelters are not able to accommodate all those in need.

(s. 25)

I en artikel på webbplatsen IranWire (2015) nämns bland annat att lagstiftningen gör det nästan omöjligt för offer för incest att bevisa brott:

Taboos around talking about sexual abuse means girls often face pressure to keep silent about what they have been through. The recent report's findings suggest that sexual abuse is on the rise, but also suggests that more girls are speaking out on the issue, and leaving family homes because of it.

In Iran, incest is punishable by death. But the law also stipulates that if a rapist says the intercourse was consensual, the survivor must persuade the judge otherwise through her own account and by presenting witnesses — impossible in most cases.

Enligt en artikel (2009) på webbplatsen Gozaar (forum för mänskliga rättigheter och demokrati i Iran) talas det inte om incest i Iran och det finns ingen hjälp att få för de som utsatts:

Another form of sexual abuse happens at home by close family members, and there is no organization or institution to prevent or deal with it and assist the victims of these violations. No one talks about the sexual abuse of young girls and no educational method is available to teach them how to prevent it. Shari'a and the customary law must remain silent about the subject of sex in the hope that it will be totally forgotten (which it usually isn't). Even the research institutes do not get involved in this area for fear of looking suspicious.

Denna sammanställning av information/länkar är baserad på informationsökningar gjorda under en begränsad tid. Den är sammanställd utifrån noggrant utvalda och allmänt tillgängliga informationskällor. Alla använda källor refereras. All information som presenteras, med undantag av obestridda/uppenbara fakta, har dubbelkontrollerats om inget annat anges. Sammanställningen gör inte anspråk på att vara uttömmande och bör inte tillmätas exklusivt bevisvärde i samband med avgörandet av ett enskilt ärende. Informationen i sammanställningen återspeglar inte nödvändigtvis Migrationsverkets officiella ståndpunkt i en viss fråga och det finns ingen avsikt att genom sammanställningen göra politiska ställningstaganden. Refererade dokument bör läsas i sitt sammanhang.

Källförteckning

Länkar hämtade 2015-09-22

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