

Legal Pathology of Child Abuse and Sexual Violence within Families: A Discussion About Incestuous Abuse in Iran

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Abstract

Iranian society views the family institution as sacred and governed by religious and legal laws, which discourages the disclosure of immoral matters that occur within it. As a result of this and other conservative arguments, violence and sexual abuse against children by family members are often ignored, which perpetuates the problem. This research aims to investigate the legal and social contexts contributing to child sexual abuse within the family in Iran, focusing on the legal 'justifications' for such abuse. The research piece employed a foundational-data method and semi-structured-interview techniques to study, through snowball and targeted sampling, 452 individuals who had experienced sexual abuse by their family members in childhood. The Strauss and Corbin coding process was used to analyse the data. The findings indicate that sexual harassment is not recognised as a serious issue by families, society or the legal system. The dominant moral and religious discourses hinder proper investigation of the problem and often legitimise sexual abuse, framing it as a dishonour while labelling the victim a criminal or sinner. The Iranian regime's strict stance on sex education and the taboo nature of the topic exacerbate the problem. The study also found that secrecy and denial are common coping mechanisms for victims of sexual abuse within the family, while the criminal justice system lacks adequate policies and support for victims. Furthermore, gender discrimination, the patriarchal structure of society and the law, and economic factors contribute to the perpetuation of sexual abuse. Overall, this study highlights the need for a comprehensive approach to addressing child sexual abuse within the family, including legal reforms, awareness campaigns and support services for victims.

Keywords: *legal pathology, sexual violence against children, construction of adultery, laws of Iran*

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1. Introduction

NB: Due to the sensitive and taboo nature of this topic in Iran in terms of some elements of the legal system, religious leaders, and government officials and organisations, the names and identities of certain respondents and groups have been changed or removed.

The issue of sexual harassment has been a topic of interest among researchers since the 1980s, due to its widespread prevalence and far-reaching impacts (Grubb and Turner, 2012). Sexual violence carries a greater weight of attention than other forms of violence, as it inflicts severe harm upon the victim. When this harm is inflicted by family members, the damage is compounded by the close familial relationship. Often accompanied by silence from both family members and the law, instances of sexual violence within families are frequently kept hidden by victims. In the rare cases when they come to light, they may be challenging to prove because of societal perceptions of the family as a safe haven where one is protected from such harm (Zarei, 2017).

Given the sacred status of the family institution in Iranian society, where the ruling religious agents have long emphasised the family's importance, any *disclosure* of sexual assault within that institution is viewed as sacrilege and is condemned in the social consciousness. Hence, it is imperative to scrutinise and challenge the relationship between the legal and religious structures.

In the cultural and legal framework of Iranian society, victims of rape are not regarded as normal individuals or even as victims, but as deviants and criminals. This not only stigmatises and oppresses, but also assigns blame and accountability to them before the law. The legal discourse, which derives its legitimacy from the ruling religion, aligns with local customs, cultures and social structures to create a doubled oppression on the victim group. The religious and moral discourse surrounding victims of sexual violence often leads to their rejection and punishment, which runs counter to the practices of many countries and international documents.

The denial and rejection of victims hinders the development of voluntary support and treatment measures, as well as state and non-state rehabilitation services for injured persons.

Moreover, due to the ideological nature of the Iranian Government, sex education is not permitted in schools or other education systems, resulting in suppression mechanisms and the incitement of sexual tendencies, especially during childhood and adolescence. This stands in contrast to practices that exist in many countries, where sexual education raises awareness about sex and teaches self-care methods and techniques. Due to the lack of systematic access to sexual education in Iran, children, especially those in remote or impoverished areas, lack critical thinking and other skills in relation to their rights and to sex and are thus more susceptible to sexual abuse and violence. This situation is a result of the closed religious and ideological systems of Iranian society.

Laws governing sexual harassment and the protection of victims, as well as the organisations responsible for their implementation, are subject to ideological and security factors that require further analysis. These organisations face various structural problems, both internal and external, which hinder their optimal functioning in this field. Internally, there are weaknesses in the rights and benefits of the human resources, which affect motivation, and cumbersome bureaucracies dominate the organisational atmosphere. Externally, issues include parallel working and overlapping duties and responsibilities, as well as government-provided facilities and budgets. Additional difficulties include, among others, the background and development of social-welfare policies, social security, health, education, marginalisation and sexual issues. The absence or inadequacy of appropriate policies exacerbate the issue of sexual harassment and incestuous relationships within the family institution. Furthermore, additional challenges arise because of the ineffectiveness or the lack of implementation of laws passed in this regard.

On the other hand, the cultural and legal systems of Islam that are enshrined in Iran's current laws present a barrier to reporting cases of rape. Under this legal framework, proving the occurrence of rape and pursuing litigation require the testimony of four righteous witnesses. In the absence of such witnesses, the victim is considered to be at fault and must be punished by the relevant authorities. This situation leads victims to remain silent and not disclose the abuse. In cases where rape occurs in private, away from public scrutiny and control, it becomes even more challenging to prove the crime due to the lack of witnesses. Additionally, the death penalty, based on

jurisprudence for family members who commit such crimes, can further deter victims from disclosing the violation of taboos. As a consequence of this prevailing legal discourse, victims and their families may choose to deny and conceal abuse.

Given the prevalence of violence against children, especially sexual violence, and the lack of effective support and sex education in schools and other organisations, alongside the social stigma associated with this phenomenon, it is imperative to address this issue. Therefore, at a macro level, it is necessary to develop sound policies based on scientific research, the input of experts and the experiences of those who have been abused. Failure to do so may lead to the perpetuation of sexual abuse and, in some cases, the punishment of victims.

With this goal in mind, a qualitative research design and field research were employed to explore the following question:

How is the sexual abuse of children by relatives legally justified in Iran?

2. Methodology

The answer to the research question requires concrete evidence and data obtained through research. To understand the phenomenon of incestuous sexual abuse, it is necessary to gain the trust of both the abused and abusers and to understand these individuals' perceptions of, and the meanings they have ascribed to, their experiences. These features can be explored through qualitative methods, particularly Grounded Theory ("GT").

The study population for this research consists of individuals who have experienced any form of sexual abuse during their childhood, meaning those who were abused before the age of 18. The sample size was 452 individuals, and the sampling methods were snowball and targeted, with virtual spaces such as social networks and chat rooms used to find and interview abused individuals. A purposeful-sampling method was also used to include cases with special experiences or knowledge. Semi-structured interviews were conducted to collect research data, and the Strauss and Corbin (1990) coding process was used for data analysis.

3. Research Background: Legal and Customary Typology of Sexual Violence

According to research findings, violence can be culturally determined. In some instances, it may even be legitimised by law. Although individuals may cause harm to others, they may not consider their actions to be violent due to their cultural backgrounds and beliefs. For instance, in certain societies, sexual relations without consent between a man and his wife may not be recognised as sexual violence because it is within the context of a marital relationship. It may even be culturally and legally acceptable, as in the current laws of Iran regarding women's submission or disobedience and child marriage. However, these practices, despite their social and cultural acceptance and legal legitimacy in some societies and among some legislators, can cause multiple harms and may be defined as forms of rape. Therefore, it is essential to recognise the harmful nature of these practices, regardless of their social, cultural or legal acceptability.

Many researchers have pointed out the deficiencies in the criminal justice system and the absence of supportive policies, programmes and actions for victims of sexual violence. Edleson (1999) reviewed more than 80 studies related to domestic violence against children and categorised their issues into three major groups: behavioural and emotional performance problems, attitudinal and cognitive performance problems, and physical performance problems.

Child sexual abuse entails coercing or deceiving children into non-violent sexual activities, regardless of whether they are aware of the situation or not. Although there is no universally accepted definition of 'abuse within a family setting', it can involve not only family members like parents, siblings or uncles, but also individuals in close proximity to the child, such as step-parents, friends, family members or caregivers. According to the World Health Organization (2022), violence against children encompasses all forms of violence against individuals under 18 years of age, including physical, emotional and sexual abuse, as well as neglect by parents or other caregivers.

According to Siegel's (2015) typology and definitions of sexual violence and rape, the legal definition of 'rape' within common law is sexual intercourse with a woman under compulsion and against her will. Siegel identifies

various forms and types of sexual assault and rapists, noting that these assaults can be premeditated or spontaneous and may target specific victims or occur in conjunction with other crimes. Sex offenders may commit a single crime or be repeat offenders, and some perpetrate this act as part of a group or gang. Perpetrators may use force or incapacitate their victims using drugs or alcohol. As there is no singular type of rape or sexual rapist, criminologists have attempted to define and categorise a broad range of rape situations.

Nicholas Groth (1979) provides one of the most comprehensive classifications of aggression. He identifies three major elements present in any act of aggression: anger, power and harassment. Groth's classification of rape includes seven forms: group rape, chain rape, rape against an acquaintance (which includes individuals known to the victim, such as family members and friends), rape during the acquaintance period (which occurs during the early stages of a relationship, including sexual assault during dating), adultery with children or prostitutes (where the victim is underage), marital rape (forced sex between legally married individuals), and rape among friends. Additionally, Groth identifies rape in the university environment, rape by deception and sexual harassment in alleys as other forms of rape. According to Siegel (2015), 'child rape' or 'incest' refers to sexual relations between a minor and an adult, which is considered to be rape based on the lack of consent, as minors are not legally capable of giving informed consent.

Brown (2011, p.171) utilises a spectrum to categorise different forms of violence. To better illustrate the interdependence and overlap between various types of violence, Brown employs the analogy of colours. Rather than being viewed as independent dimensions or distinctly pure types, sexual violence and other forms of violence are distinct, yet interconnected. As such, there exist significant overlaps between them.

4. An Overview of the Inefficient Legal Structure and Existing Law Vacuums in Iran

Prior to the approval of the Law on Protection of Children and Adolescents on 13 April 2020, there was no specific law regarding the protection of children from sexual abuse, or punishment for abusers, or measures to prevent re-

victimisation.² However, the passing of this law filled some of these gaps. Previously, the basis for dealing with child sexual abuse, particularly incest, was the Islamic Penal Code. Nevertheless, there is still room for contemplation and concern regarding the implementation of these laws by committed executives, and monitoring private sectors and non-governmental organisations is necessary to ensure the laws' proper enforcement.

Under Iranian law, there is a lack of specific provisions concerning children based on their age or development. The use of three different terms, namely *koodak* ('child'), *tefl* ('toddler') and *nojavan* ('adolescent'), to describe the period of childhood reflects the lack of consensus among lawmakers in this regard. The absence of a clear demarcation between childhood and adolescence has added new complexities to the issue of incestuous sexual abuse. Treating childhood and adolescence as a single stage with identical characteristics has led to the development of policies that inadequately address incestuous sexual abuse by family members, thereby aggravating and creating new dimensions of the problem.

The Islamic Penal Code and the Law on Protection of Children and Adolescents address the issue of sexual abuse of children and the associated punishment in Iran. According to Article 221 of The Islamic Penal Code, 'adultery' is defined as sexual intercourse between a man and a woman who are not married to each other and are not subject to suspicion. Commentary 2 of the same article clarifies that, if a minor is involved, they will not be punished; instead, they may receive protective and educational measures prescribed in the first book of this law, depending on the case. Article 224 of the same law lists the punishment for adultery, which includes death in some cases, such as adultery with relatives. Additionally, Article 91 states that adultery can be proven by the testimony of four righteous men or three righteous men and two righteous women, whether it leads to the limit of the cover or the limit of the stone. However, these provisions have several problems. For instance, the age of childhood is set at 15 years, which conflicts with many international documents, including those to which Iran is a

2 According to research conducted by Mohammad Maljou, the judicial system's response to cases of father-daughter rape is ineffective. The approach involves terminating the father's guardianship and granting custody of the child to someone else, while also punishing the offender. In the majority of rape cases, the accused are acquitted regardless of whether the rape occurred (Maljou, 2010).

signatory, that define childhood as being up to 18 years. Secondly, imposing the death penalty in cases of adultery not only fails to deter sexual abuse, but also goes against human dignity. Additionally, it discourages disclosure of the abuse due to fear of the execution of a family member. Therefore, it is necessary to replace punishment with restorative justice. Moreover, it is crucial to prove the issue of incestuous adultery, as historical evidence suggests that some abused children were wrongly accused and treated as criminals.

The Law on Protection of Children and Adolescents deals with the issue of child abuse in various forms, such as sexual abuse, prostitution, obscenity, pornography and severe imminent danger. The law's definition of 'a child' at the outset is ambiguous, as it specifies 'any person who has not reached the age of legal maturity', which leads to gender discrimination if the legal age is nine years for girls and 15 years for boys. The definition of 'a teenager' is also unclear, as the law defines it as 'any person under eighteen years of age who has reached the age of legal maturity.' This Sharia-based law suffers from fundamental flaws. Article 2 stipulates that 'all people who have not reached the age of eighteen are subject to this law.' Nevertheless, the law lacks a precise definition of the age of childhood and has several vague titles for it.

The law specifies the types of punishment for abusers and outlines intervention methods to support the victims. Despite being more advanced than other laws in this area, it still grapples with problematic definitions in relation to child abuse.

5. Field Data

The present study examines the perspectives of participants regarding existing laws on child abuse, which may not necessarily reflect the actual legal frameworks in place, but are significant in gauging their intellectual orientations towards this issue.

Through the categorisation and analysis of participants' views, three overarching themes emerge: 1) the lack of legal protections; 2) the non-implementation of legal provisions; and 3) the role of patriarchy in shaping

these laws. Certain participants express the belief that no specific laws exist to protect sexually abused children.³

In the first instance, Mrs Esmaili, a painting teacher and trainer affiliated with several non-governmental organisations, remarked that, ‘Tousi’s case revealed the absence of laws in the country.’ Mrs Esmaili is alluding to the case of Mr Saeed Tousi, a renowned Qur'an reciter who has been accused of sexually harassing several of his students. Despite numerous complaints and the publicity surrounding the case, Mr Tousi was eventually acquitted. Several pieces of evidence indicated a clear exertion of influence on the judicial process in this case.

Mr Shaeri, founder and director of the Iranian AIDS Association said:

I would like to bring to your attention the classification of child abuse in the DSM-5, the international manual used for classifying psychological disorders. It is extremely concerning that not only is child abuse prevalent in Iran, but also that it is not classified as a criminal act, despite being recognised as such in other parts of the world. It is crucial to note that paedophilia, a type of child abuse, is a significant issue, and, sadly, many cases go unreported. In fact, research suggests that around 70% of paedophilia abuse cases remain unreported. This is a troubling trend that calls for more awareness and education in our society. We must work together to prevent and address such heinous acts against children, as they have a lasting impact on their lives and well-being.

According to Mrs Mahmoudi, a psychologist practising in the city of Sanandaj, proving sexual assault in legal proceedings is a challenging and often insurmountable task:

Let me share a case that I have encountered in my professional capacity. It concerns a young woman who was courted by a man, but declined his proposal as she was more interested in her nephew.

3 The recent enactment of the Law on Protection of Children and Adolescents means that the interviewees who were surveyed in 2020 may not be aware of its existence. In practice, the implementation of laws has been hindered by the absence of appropriate procedures and mechanisms, resulting in the non-realisation of legal protections. Consequently, many existing laws remain unenforced.

Subsequently, the suitor and three of his friends sexually assaulted her one night. Upon confiding in me, I encouraged her to pursue legal action. However, the authorities stated that they could only assist her if there was sufficient evidence to prove that the act constituted sexual assault. Unfortunately, this proved difficult as the perpetrator could have contended that the act was consensual. It is disconcerting to note that there is a lack of legal provisions in Iran to safeguard the rights of victims of sexual assault, coupled with a shortage of shelters for them to seek refuge.

Mr Riazati, a lawyer, has discussed the shortcomings of the law regarding child abuse and the progress that has been made in this area. He has highlighted a major flaw in the law, which is the absence of effective punishment for fathers and grandfathers who commit murder. This deficiency is rooted in a flawed interpretation of jurisprudence, whereby no effective punishment is considered for a father who kills his child. This is indicative of the pervasive influence of patriarchy on Iran's legal system, with its roots tracing back to jurisprudence. However, Mr Riazati noted significant progress in the protection of children's rights within the recent bill for the protection of children and adolescents, which has since become law.

According to the law, child abuse is a public crime, which means that it does not require a private plaintiff. This implies that anyone who bears witness to a case of child abuse can report it, and the prosecutor, acting as the public prosecutor, must pursue the matter. The maximum penalty envisaged by this law is six months of imprisonment and a fine of one million Tomans. While the enactment of this law was a significant step towards supporting child victims, it still has many shortcomings. One of the major challenges lies in cases where a father kills their child. Under Article 220 of the Islamic Penal Code, a father or paternal grandfather who kills their child will not face retribution but will be sentenced to pay the death penalty to the victim's heirs. This punishment is based on Article 612 of the Islamic Penal Code, which stipulates that if a person is sentenced to retribution and the sentence is revoked, they will be sentenced to imprisonment ranging from three to ten years from a general criminal perspective. However, the exemption of fathers and paternal grandfathers from retribution is rooted in certain jurisprudential viewpoints that do not apply to mothers. It is worth noting that this article has led some fathers to abuse their

children, and in numerous cases, it has allowed offenders to evade appropriate punishment.

Dr Khorrami Banaraki, a neurologist, shares a case that exemplifies the characteristics of structural and cultural violence of the patriarchal type in the legal system. The case raises the question of how the law addresses cases where a child is raped by a family member and becomes pregnant. Dr Khorrami Banaraki's account provides some insight into this issue. Moreover, cultural violence is manifested through the stigmatisation of such children as 'illegitimate' or 'bastards'. This form of violence not only deprives them of socio-economic opportunities, but also leads to their rejection from society and a life without security.

One of the most disturbing cases I encountered in the emergency department involved a 14-year-old girl who came in complaining of abdominal pain. During the examination, we noticed a protrusion in her abdominal area, and upon further examination, we discovered that she was neither married nor engaged. This was particularly unusual, as she was brought in from a rural area where the cultural norms are strict. When we conducted an ultrasound, we initially thought that she had a tumour, but soon realised that she was carrying a foetus. The girl was devastated and broke down in tears. Her mother was brought in and we learned that the foetus was the result of incestuous relations with her own father. The girl was afraid that her father would remove or sell the foetus. We reported the case to the legal authorities, trusting that the father would be penalised for his actions and that the girl would be granted her right to an abortion. However, to our dismay, the law did not support the girl's right to an abortion, and the father retained the right to remove the foetus. As a doctor, I felt a deep sense of helplessness in this situation. The legal system's treatment of this case highlights the abusive nature of the law, which grants leniency and rights to those who commit heinous acts, while labelling the resulting child as 'special' or 'illegitimate'. Such a child would undoubtedly face issues from a Sharia perspective, as the law fails to offer adequate support. To this day, I remain deeply saddened by this case.

The legitimacy of the absence of punishment for sexual abusers in these narrative cases is often rooted in gender discrimination, a by-product of the

patriarchal culture that prevails in society. Furthermore, economic discourse reinforces the legal system's failure to punish sexual abuse by reducing the punishment to a mere fine, thus aligning with the cultural view that the father is the owner of the child. This suspension of punishment contributes to the repeated occurrence of sexual harassment, including incestuous relations, as preventative policies are not considered through legal and judicial measures. The result of these trends and processes is the birth of a human being who is subsequently labelled illegitimate by Sharia law and the same society that propagated the dominant discourses leading to their birth. Religious discourse often labels such a child as 'bastard' and 'forbidden', and their illegitimacy deprives them of basic human rights and dignity in the legal structure, as well as social and economic institutions based on *fiqh* and Sharia. Consequently, they lack social support and economic provision, including welfare policies and social and economic security.

Ms Keshavarznia, an advocate for women's and children's rights who holds a degree in women's studies, has drawn attention to several key problems within the legal system that have harmed children who are victims of sexual abuse. The first issue is the absence of legal safeguards for child victims of sexual abuse, which makes these children less likely to report their experiences and, even if they do, often leads to rejection by their families because of the lack of legal support. This double vulnerability further aggravates their trauma. The second issue is the patriarchal nature of the legal system, which has been discussed previously. Lastly, child marriage is a form of structural violence within the legal system. The law permits marriage for boys under the age of 15 and girls under the age of 13, subject to the approval of a competent court. Thus, there is no specific age for marriage in Iranian law, and girls as young as ten can be wed. Evidence indicates that thousands of underage girls are married every year, and any sexual relationship established at such a young age is a form of child abuse.

In Iranian laws, three terms, namely *koodak* ('child'), *tefl* ('toddler') and *nojavan* ('adolescent'), are interchangeably used to refer to the period of childhood, indicating the lack of consensus among lawmakers in this regard. This unclear distinction between the childhood and adolescent phases has led to the emergence of problems and difficulties and added new dimensions to the issue of sexual abuse between family members. Because childhood is different from adolescence in terms of nature and structure, considering

them to be the same leads to using the same policies in the context of sexual abuse by family members, exacerbating the problem.

Mrs Hazrat Nia, a senior expert in women's studies, addressed the legal issues and emphasised the necessity of amending the law:

As someone who has been working in this field for many years, I have noticed some serious flaws in the laws of our country. Unfortunately, these shortcomings don't just fail to provide adequate support for victims, but they also offer some level of protection to abusers. This issue is especially evident when it comes to discussions surrounding sexual violence, which are often silenced due to the laws being highly sexist. This lack of accountability can lead to further harm to the victim and their family. One of the most problematic issues in our laws is the prevalence of sexual abuse and honour killings. Practices like child marriage and marriage at an inappropriate age are particularly concerning because they are essentially forms of violence and rape. Yet, these practices continue to be legitimised by our laws. Furthermore, the laws' recognition of the father and paternal ancestors' guardianship perpetuates this issue. This allows for the possibility of sexual abuse taking place within the father's family, which is often not adequately addressed by the current legal system. The decision-maker for the child's marriage and other related matters should be the law, not the father and his family.

Ms Keshavarznia highlighted significant problems in the legal system that require urgent amendment, including the lack of support for victims, child marriage as a form of sexual violence, and patriarchal elements within the law. One crucial legal issue pertains to the punishment of offenders, for which severe penalties, including the death penalty, are prescribed in the law. However, such severe punishments have given rise to significant problems. For instance, in cases where the abuser is a family member or intimate of the victim, fear of the punishment may prevent reporting the abuse, leading to escalations of the problem and its traumatic consequences. Moreover, in some cases, harassment may be the result of a provocation or a mistake on the part of the offender, rather than a premeditated act, making the punishment unduly severe. Therefore, it is imperative to overhaul the laws governing this matter and shift the focus from punitive measures to restorative and protective measures. In doing so, the legal system can

provide a basis for the rehabilitation and reintegration of offenders into society.

During an interview, Mrs Mandani, the director of The Ascension of the Nameless, a mother-and-child care facility, highlighted the issue of law enforcement. She specifically discussed how law-enforcement officers often fail to uphold the law and create obstacles for child activists:

The problem is that the law may seem great and all on paper, but when it comes down to actually enforcing it, things can get pretty murky and unclear. It's like we're trying to do the right thing and bring about justice, but then there are people out there who just want to tear us down and sabotage our efforts. And it's not just individuals either – sometimes the very institutions that are supposed to be enforcing the law can become targets for attack, which can leave us feeling pretty helpless and hopeless.

The lack of a clear legal structure and the absence of support institutions for survivors of sexual abuse have created a perilous environment where victims not only fail to receive the help they need but are also ostracised by their own families if they dare to speak out. In a society where family structures are deeply rooted in patriarchy, honour and dignity hold significance. As a result, both the victim and the family might opt for silence and even resort to heinous acts such as child marriages or other forms of abuse like self-exploitation, running away and substance addiction to sweep the issue under the rug. This gross negligence towards survivors of sexual abuse is simply unacceptable, and it is high time that we address the issue with urgency and make sure that these survivors receive the support and protection they deserve.

Without efficient legal and civil structures that support victims and address sexual harassment inflicted by intimate partners, Iranian society is inadequately equipped to prevent this injurious behaviour or to integrate and provide support to victims. This lacuna has consequently led to a rise in the frequency and severity of such instances, along with other consequential social issues. The widespread denial of such occurrences, both by Iranian families and society at large, represents a typical mechanism of coping that is rooted in cultural norms and enforced through the rule of law. The effects

of this mechanism are far-reaching and impact all strata of society, irrespective of the specific context or situation.

6. Conclusion

In present-day Iran, the issue of sexual harassment is not understood as a specific act, phenomenon or reality by families, society or the law; thus, it is not fully comprehended in all its various dimensions. The prevalence of moral and customary discourses has restricted the scope of acceptable and conventional sexual relations, making it difficult to conduct logical and analytical inquiries into the phenomenon of sexual harassment and its dimensions. In all political and social structures, moral standards are subjectively reproduced and prescribed, without regard for the objective needs of the people, to justify and maintain the power structure. The same dominant moral discourse legitimises abuse as dishonourable, and the victim as guilty, and ultimately leads to their rejection, condemnation and punishment. The reasons for this entrenched culture of silence and shame are twofold: it is rooted in the beliefs of the family and in the pragmatic actions taken by them. Among the beliefs that prevent survivors from disclosing abuse are the fear of damaging one's reputation and being judged and blamed, while the pragmatic actions of the family include denial, non-acceptance, punishment and rejection, often resulting in further trauma, humiliation, ridicule and tension.

In contrast, the legal perspective in Iran, aligned with the religious discourse, lacks differentiation or demarcation between rape and adultery. These two concepts are considered to be synonymous, with rape being subsumed under the banner of adultery and thus considered *haram* and subject to punishment. Consequently, the entrenched Islamic attitudes and laws in Iran's present legal system serve as hindrances to the reporting of incidents of rape.

The legal framework in Iran faces a significant challenge in dealing with the issue of childhood and the protection of abused children. While it is necessary to establish progressive and protective laws, this is not sufficient, for two primary reasons. Firstly, the mere existence of laws does not guarantee their effectiveness without proper implementation mechanisms. Secondly, agencies responsible for enforcing child and adolescent protection

laws, including judicial, welfare and law-enforcement entities, need to be considered. Although social-emergency institutions, which support children, have expanded significantly in recent years, they are facing critical challenges. One such issue is financing, leading to salary delays for employees and problems with infrastructure, such as inadequate places to accommodate children. Consequently, abused children are at times returned to their families, which may lead to further abuse.

Child marriage represents another form of rape that is characterised by its structural dimension and occurs through kinship institutions. The harm caused by this form of violence is structural in nature, as certain girls are compelled to enter into such relationships due to tradition, poverty and adherence to Sharia laws. In other words, this form of aggression is perpetuated within the context of legitimate laws and traditions, which further exacerbates the issue.

The implementation of laws in society depends greatly on the presence of social and economic foundations. Without these foundations, the mere existence of laws is insufficient. In Iran, these platforms are lacking. For instance, poverty, inequality, the weakening of institutions like the family, the erosion of traditional social capital, the inability to create new social capital, and the concentration of unfavourable structural features in neighbourhoods, such as poverty and residential instability, have all led to extensive social harm, including the sexual abuse of children. In such a contexts, even if a law is progressive in nature, it will not have any significant impact.

The role of power in subjugation is an essential factor both in the structural and individual dimensions. Abusers frequently employ tactics of bullying, coercion, physical force, violence and threats to prevent the disclosure of abuse by the victim. In addition to casting blame on the victim, this can effectively conceal the abuse and enable its continuation. Since the victim is not perceived as a victim and may even accept this belief, an opportune environment is created for the abuser to utilise their physical power, bullying and influence.

7. Moving Forward: Recommendations

The interview results reveal significant legal problems related to child sexual abuse, including the lack of protection for victims, the prevalence of child marriage as a form of sexual violence, and patriarchal dominance in legal frameworks. These issues require legal amendments to address them effectively.

The severe punishment for harassment, including the death penalty, has also led to serious concerns. For instance, in cases where the perpetrator is a close family member, fear of punishment from the family (or punishment of a family member) may prevent the victim from reporting the abuse, resulting in increased abuse and trauma.

Therefore, addressing the phenomenon of child sexual abuse at the macro, structural and institutional levels necessitates legal and preventative measures. The following section proposes several measures to tackle this issue.

- ***Amend laws and effectively implement them:*** In Iran, there is currently no specific law addressing sexual harassment, and the provisions of the existing laws conflict with one another. Participants in the study expressed concerns regarding the lack of legal protection, non-enforcement of existing provisions and the influence of patriarchal attitudes within the legal system. Therefore, it is necessary to draft effective laws that can provide support for victims of abuse and facilitate the rehabilitation of abusers back into society. These laws should be informed by scientific research, social customs and the experiences of leading countries in this field. The involvement of experts and activists in the field of child protection is also crucial in the formulation of such laws. Moreover, the punitive approach in the legal system should be replaced with a restorative approach. However, enacting laws alone will not suffice, and it is essential to design and implement effective mechanisms for their proper implementation. This requires the existence of appropriate governing institutions, efficient social norms and tendencies, the expansion of empathy and altruism, clear and equal punishment, and a deep understanding of the limitations imposed by biological life and technology. Only by addressing these social

bottlenecks and conflicts of interests can we achieve favourable social results in our interactions.

- ***Increase the minimum age for marriage:*** Despite the widespread occurrence of early marriages in Iran, such practices are not widely accepted in society. In fact, there have been discussions in parliament about increasing the minimum marriage age, but these efforts have been thwarted due to pressure from certain interest groups.
- ***Implement training and planning programmes*** aimed at uprooting patriarchal culture and eliminating barriers to legal equality for women and children, by identifying individuals and educating them on the rejection of inhumane values that govern patriarchal societies.
- Encouraging civil institutions to apply pressure on government and judicial bodies to ***uphold the principles outlined in the United Nations' 2030 Agenda for Sustainable Development.***
- ***Urgently assess laws*** pertaining to sexual violence and abuse against children.
- Encourage civil-society organisations to exert pressure on legislators and executives to ***reduce the gap between Islamic and jurisprudential laws and the laws outlined in the Convention on the Rights of the Child.***
- ***Efficient collaboration*** should be established between schools, law-enforcement agencies, medical facilities and labour departments. It is essential to create educational programmes to identify and assist abused children, while ensuring their safety and confidentiality.
- ***Strengthen the specialised assistance offices*** in the judiciary and establish such offices in schools, medical and social emergency centres, and neighbourhoods, at the city and village levels.
- ***Establish a Council for the Protection of Children's Rights in the Judiciary,*** consisting of experts in psychology, sociology, behaviourism and law.

- ***Train specialised lawyers*** to handle cases related to sexual assault in both the public and private sectors.
- ***Expedite the secularisation of civil laws and impose punishments for perpetrators*** of sexual harassment and violence by creating campaigns and protest organisations, and making demands through reference groups trusted by the people and through international groups.
- ***Teach methods to fight against the negation of children’s agency*** and the systematic dehumanising approach of governance and law in Iran, which considers the father as the guardian and the child as the object of every property.
- ***Review the legal structure, laws and the laws’ implementation related to sexual abuse***, plan preventive policies from a legal perspective, and legal and judicial measures in the field of sexual abuse, remove ambiguity in the demarcation of the groups of ‘children’ and ‘adolescents’, clarify and criticise gender approaches in legal discourse and solve their intertwining with jurisprudential discourse and the pathology of its implementing organisations.
- ***Raise the awareness of children and parents*** in respect of children’s rights and continue enlightenment through social media and information centres.

References

- Ahmady, K. *et al.* (2023). *Taboo and Secrecy: Investigating the Link Between Adultery and Child Sexual Abuse in Iran*. Avaye Buf.
- Brown, J. (2011). Psychological perspectives on sexual violence: generating a general theory. In B, Jennifer and Walklate S L. *Handbook on Sexual Violence*. Routledge.
- Edleson, J.L. (1999). Children's Witnessing of Adult Domestic Violence. *Journal of Interpersonal Violence*, 14(8), 839–870.
- Brown, J.M., and Walklate, S.L. (Eds). (2011). *Handbook on sexual violence*. Routledge.
- Groth, A. N. (1979). *Men Who Rape: The Psychology of the Offender*. Plenum Press.
- Grubb, A., and Turner, E. (2012). Attribution of blame in rape cases: A review of the impact of rape myth acceptance, gender role conformity and substance use on victim blaming. *Aggression and Violent Behavior*, 17(5), 443–452.
- Irvanian, A. (2010). Re-traumatization of sexual victims in the context of society's responses and the criminal justice system. *Law Research*, 12(29), 1–24.
- Maljou, M. (2010). Incestuous Abuse: contexts, strategies of the aggressor and reactions of the victim. *Social Welfare*, 9(34), 113–83.
- Mansour, J. (2021). *Islamic Penal Code 1400*. Didavar Publications.
- Siegel, L. (2015). *Criminology: Theories, patterns, and typologies*. Nelson Education.
- Strauss, A., and Corbin, J. (1990). *Qualitative research. Grounded Theory*. SAGE Publications Ltd. B. Mohammadi, Trans.
- World Health Organization (2022) *Violence against children*.
<https://www.who.int/news-room/fact-sheets/detail/violence-against-children>.
- Zarei, M. H. (2017). *A comparative study of privacy protection in cyberspace with an emphasis on the EU new regulations*. Presented at the International Conference on Legal Aspects of Information and Communication Technology.