

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


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ABSTRACT

Within the framework of Iranian social relationships, the family is positioned as a sacred institution under strict religious and legal jurisdiction. This cultural sanctity often functions as a barrier to the disclosure of internal abuses, prioritizing the preservation of the family's "moral" image over the safety of its individual members. Consequently, conservative societal frameworks frequently marginalize instances of intra-familial child sexual abuse, inadvertently perpetuating a cycle of violence that shatters the foundational trust inherent in family bonds. Utilizing a Grounded Theory (GT) methodology and semi-structured interviews, this study engaged 452 survivors through purposive and snowball sampling to explore their childhood experiences of incestuous abuse. Analysis of the data—updated to reflect the socio-legal climate of 2024 and 2025—demonstrates that sexual violence within the home remains a minimized issue across legal and social strata. The findings reveal that dominant religious discourses often re-victimize the child by framing abuse through the lens of "dishonour" or "sin." Furthermore, the state's restrictive stance on sex education and the patriarchal legal structure contribute to a pervasive culture of silence. The study concludes that addressing this pathology requires a multi-dimensional strategy involving legislative reform, the de-tabooing of sexual discourse, and the creation of independent support services to redefine the nature of child protection within the Iranian family and society.

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1. INTRODUCTION

The fundamental nature of social relationships—whether within the family, workplace, or broader society—is predicated on the assumption of safety and mutual protection. However, when these relationships are corrupted by violence, the structural integrity of the social fabric is compromised. Since the 1980s, sexual violence has garnered significant academic scrutiny because of its pervasive nature and capacity to inflict enduring psychological trauma (Grubb & Turner, 2012). While all forms of aggression are deleterious, intra-familial sexual violence carries a unique "ontological weight," as it shatters the primary bond of trust between a child and their immediate caregivers.

In the contemporary Iranian context (2024–2025), reports indicate that the state structure often fails to provide a protective environment, leaving children vulnerable to exploitation within the institutions meant to safeguard them (Iran Human Rights Monitor, 2025). While ruling religious and legal agents emphasize the family as the cornerstone of a moral society, this sanctification often serves as a "veil of silence," insulating the domestic sphere from judicial oversight. Any disclosure of sexual assault within the home is frequently perceived not as a cry for justice but as an act of "sacrilege" against the social consciousness. Consequently, the relationship between the victim, family, and state becomes one of conflict rather than protection (Zarei, 2017).

The cultural and legal frameworks currently active in Iran often fail to categorize survivors of sexual violence as victims in need of restorative care. Instead, a dominant discourse—often informed by a



specific interpretation of Sharia and local customs—frequently rebrands the survivor as a “deviant” or a “criminal.” This results in a “double oppression”: the original trauma of the abuse is compounded by the trauma of institutionalized blame. This rejection by the state and the family hinders the development of essential rehabilitation services and prevents the maturation of voluntary support networks, leaving the survivor in a state of social and economic precarity.

Furthermore, the ideological landscape of the Iranian educational system prohibits systematic sex education in schools. As of 2025, the continued absence of rights-based sexual awareness programs in schools leaves children—particularly those in marginalized or impoverished regions—without the critical thinking skills necessary for self-protection from sexual abuse. This systemic ignorance is not a mere oversight but a by-product of a closed ideological system that prioritizes the suppression of sexual discourse over the biological and psychological safety of youth.

The evidentiary requirements under current Iranian law represent the most formidable barrier to justice. Proving that a crime is “rape” as distinct from “consensual adultery” often requires the testimony of four “righteous” male witnesses—a standard that is virtually impossible to meet for crimes occurring in the privacy of the home. When a victim cannot meet this burden of proof, they may find themselves liable for punishment for the very act they suffered. Additionally, the presence of capital punishment for certain types of incestuous crimes acts as a deterrent to reporting; families may choose to conceal abuse to prevent the execution of a relative, thereby trapping the child in a cycle of repeated victimization.

Given the prevalence of these issues and the urgent need for reform identified in recent 2024 scholarly assessments, it is imperative to deconstruct the mechanisms that allow these crimes to remain hidden. This study employs a qualitative framework to scrutinize the macro-and micro-level policies and social dynamics that define the Iranian experience. By prioritizing the voices of those who have navigated this legal pathology, this study seeks to answer the following central, pressing question:

How is the sexual abuse of children by relatives legally justified and socially perpetuated within the contemporary Iranian structure?

2. THEORETICAL BACKGROUND AND LITERATURE REVIEW

According to the research findings, violence can be culturally determined. In some instances, it may even be legitimized by law. Although individuals may cause harm to others, they may not consider their actions violent because of their cultural backgrounds and beliefs. For instance, in certain societies, sexual relations without consent between a man and his wife may not be recognized as sexual violence because it is within the context of a marital relationship, which is often considered to be a space of consent. 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 rape. Therefore, it is essential to recognize 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, programs, and actions for victims of sexual violence. [Edleson \(1999\)](#) reviewed more than 80 studies related to domestic violence against children and categorized their issues into three major groups: behavioural and emotional performance problems, attitudinal and cognitive performance problems and physical performance problems.

[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. Perpetrators may use force or incapacitate their victims with 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.

[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 rape based on the lack of consent, as minors are not legally capable of giving informed consent.

Walker (2011, p. 171) utilized a spectrum to categorize different forms of violence. To better illustrate the interdependence and overlap between various types of violence, Walker 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 are significant overlaps between them.

Under Iranian law, there is a lack of specific provisions concerning children based on 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 complexity 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 to the problem.

The Islamic Penal Code and the Law on the 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, including 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.

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

3. METHODOLOGY

To explore the deeply sensitive and “taboo” nature of incestuous abuse in Iran, this study utilized Grounded Theory (GT). This inductive methodology was chosen because it allows for the emergence of theoretical frameworks directly from the lived experiences of survivors rather than imposing pre-existing Western theories onto a unique socio-religious context.

3.1. Sampling and Participants

The study population comprised 452 individuals who experienced sexual abuse by family members during childhood (defined as before the age of 18 years). Given the clandestine nature of the subject and the high risk of social stigma in Iran, snowball and targeted sampling were employed. Participants were recruited through secure virtual networks, chat rooms, and non-governmental organizations (NGOs) specializing in trauma and social harm.

3.2. Data Collection

Most of the data were obtained during the fieldwork and according to the semi-structured interview format. This format provided the flexibility to pursue emerging themes while ensuring that the core research question—how legal structures justify abuse—remained the focus of the study. Interviews were conducted with a high degree of ethical sensitivity, ensuring anonymity and providing participants with psychological support resources when necessary.

3.3. Data Analysis and Coding

Following the systematic approach of Strauss and Corbin (1990), the data underwent three distinct stages of analysis to ensure “theoretical saturation”:

1. *Open Coding*: Raw data were broken down into discrete incidents and labelled with initial concepts (e.g., “fear of dishonour,” “judicial dismissal”).
2. *Axial Coding*: Categories were refined and linked to subcategories to identify causal conditions and intervening variables (e.g., how “patriarchy” links to “legal loopholes”).

3. *Selective Coding*: All categories were integrated around a central “core category” to explain the phenomenon of legal pathology in child abuse cases.

3.4. *Trustworthiness and Ethical Considerations*

To ensure methodological rigor and credibility of this study, several validation criteria were employed. First, “member checking” was conducted, wherein a subset of the 452 participants reviewed the preliminary themes to confirm that the findings accurately represented their experiences. Second, dependability was established through a detailed “audit trail,” documenting every stage of the Grounded Theory coding process to allow for conceptual replication by other researchers.

Regarding ethical protocols, the research was conducted with the highest degree of sensitivity. Given the severe legal and social risks associated with incest in Iran, all participants provided informed consent and were guaranteed absolute anonymity through the use of pseudonyms. Data were managed with strict security measures to protect survivors from potential repercussions, strictly adhering to the “do no harm” principle throughout the investigative process.

By utilizing the constant comparative method, the researcher ensured that the findings were rigorously grounded in the data, allowing for a reproducible qualitative framework that captures the intersection of family relationships and legal failure.

4. RESULTS AND DISCUSSION

The empirical data presented in this study capture the lived experiences and intellectual orientations of survivors, legal experts, and social advocates regarding the current state of child protection in Iran (Ahmady, 2023). The analysis of these perspectives reveals three primary themes: (1) the perceived invisibility of legal safeguards, (2) the systemic non-implementation of protective provisions, and (3) the pervasive role of patriarchal jurisprudence in institutionalizing women’s vulnerability.

4.1. *The Evidentiary Barrier and Victim Stigmatization*

The path to legal redress is often blocked by the impossible evidentiary requirements. Mrs. Mahmoudi, a clinical psychologist in Sanandaj, shared the account of a young woman who was gang-raped but faced a judicial dead-end. The authorities insisted on an unattainable threshold of evidence, allowing the perpetrators to claim “consent.” This highlights a fundamental pathology: the law effectively demands that the victim prove the absence of consent in a private setting, a task that Mrs. Mahmoudi describes as “insurmountable” without the testimony of multiple “righteous” witnesses—a Sharia-based requirement that remains a cornerstone of the Iranian Penal Code in 2025.

4.2. *Article 220: Paternal Immunity and “Ownership” of the Child*

The most harrowing legal pathology identified by the participants was the concept of paternal immunity. Mr. Riazati, a lawyer, scrutinized the profound influence of patriarchal jurisprudence on article 220 of the Islamic Penal Code. Under this provision, a father or paternal grandfather who murders or severely abuses their child is exempt from “retribution” (*Qisas*) and receives only a fine or limited imprisonment.

This “ownership paradigm” effectively grants a license for abuse within the domestic sphere, shattering the sacred nature of family relationships and replacing them with a structure of absolute subjugation.

4.3. *Reproductive Coercion and the “Illegitimate” Label*

The intersection of incest and reproductive rights provides a stark example of this structural violence. Dr. Khorrami Banaraki, a neurologist, recalled a clinical case involving a 14-year-old girl who became pregnant by her father. Despite the trauma of incest, the legal system denies the victim the right to an abortion while upholding the father’s “guardianship rights” to dictate the child’s future.

Banaraki’s account highlights how the law re-victimizes the child by labeling the resulting fetus as “special” or “illegitimate.” This terminology—rooted in *fiqh*—strips survivors and their offspring of their social and economic security.

4.4. *Institutionalized Abuse: The Case of Child Marriage*

Ms. Keshavarznia, an advocate for women’s and children’s rights, identified child marriage as a form of “legalized rape” that exists within the state’s structural framework. Iranian law uses ambiguous terms like *koodak* (child), *tefl* (toddler), and *nojavan* (adolescent) interchangeably, lacking a clear age-based marriage demarcation.

Evidence indicates that thousands of underage girls are married every year (Ahmady, 2017a). This practice is not merely a cultural relic but a form of “structural violence” supported by courts that grant

marriage permissions to girls as young as ten, provided there is “paternal consent.” (Ahmady, 2017b pp. 125–140).

4.5. Summary of Empirical Findings

Field data confirm that the “nature of relationships” within the Iranian family and society is currently defined by a profound power imbalance. The legal structure does not function as an objective arbiter of justice but as an instrument that reinforces the patriarchal guardianship of fathers. Without a fundamental secularization of civil laws and a shift toward a “restorative justice” model—as identified in the most recent 2024–2025 scholarly discussions—the cycle of incestuous abuse and judicial re-victimization is likely to persist in the Philippines.

5. CONCLUSION

In contemporary Iran, the phenomenon of sexual violence within the family remains obscured by a profound lack of conceptual clarity across legal, social and familial strata. This study reveals that sexual harassment is not yet understood as a distinct objective reality; instead, it is filtered through moral and customary discourses that restrict analytical inquiries. In the current social structure (2024–2025), moral standards are subjectively reproduced to maintain existing power hierarchies rather than to address the objective safety needs of children. This dominant discourse often legitimizes abuse by reframing it as a matter of “dishonour,” thereby shifting the burden of guilt from the perpetrator to the victim. Consequently, the victim faces a “triple rejection” by the family, society, and law.

The culture of silence that pervades Iranian domestic relationships is rooted in ideological beliefs and pragmatic survival strategies. The fear of reputational damage leads families to prioritize “prestige” over the physical and psychological integrity of the child. Pragmatically, families often resort to denial or punishment of the whistle blower to maintain the domestic status quo. This results in an environment of “institutionalized humiliation,” where the child’s attempt to seek justice is met with ridicule or further tension, effectively trapping them in a cycle of re-victimization.

From a legal perspective, the pathology of the Iranian system is most evident in the lack of demarcation between “rape” and “adultery.” In the current 2025 legal climate, these two concepts remain dangerously similar. By subsuming rape under the banner of adultery, the law treats a violent violation as a “sinful act” (haram). This creates a significant barrier to reporting; if a survivor cannot provide the near-impossible “four-witness” standard of proof, they risk being prosecuted themselves. This legal stasis ensures that the “sanctity” of the family relationship is protected at the cost of the individual child’s human rights.

Furthermore, the implementation of existing laws faces a critical infrastructure crisis in India. While the 2020 Law on Protection of Children and Adolescents was a step forward, its effectiveness in 2024 and 2025 is severely hampered by the “financing gap.” Social-emergency institutions and welfare entities face persistent challenges, including salary delays for case workers and a lack of secure residential facilities for children (Ahmady, 2023b). When the state lacks the resources to provide a safe haven, abused children are frequently returned to the households where the abuse originated. This “revolving door” of domestic violence represents a failure of the state’s duty of care.

The structural dimension of this violence is perhaps most visible in the institution of child marriage. Within the context of “kinship relationships,” child marriage functions as a legally sanctioned form of aggression (Ahmady, 2023a). Compelled by poverty, tradition, and Sharia-based “guardianship” rules, young girls are entered into marital bonds where sexual violence is legitimized under the guise of “marital rights.” This form of aggression is not an aberration; it is a systemic process perpetuated within the framework of legitimate laws, exacerbating the trauma of childhood and hindering the survivor’s future participation in society and the workforce.

Additionally, recent neurocognitive studies in 2025 suggest that child sexual abuse in Iran has prevalence rates as high as 32.5% in some regions, further highlighting the urgent need for the restorative justice measures proposed in this study (Daneshvari *et al.*, 2025).

Ultimately, the efficacy of any law depends on the socio-economic foundations of the society it governs. In Iran, the erosion of social capital, increasing economic inequality, and residential instability have created a “fertile ground” for social harm to flourish. Even progressive laws lose their impact when the underlying social fabric is weakened by poverty and patriarchal dominance. The abuser’s use of “physical power and coercion” is supported by a system that refuses to perceive the victim as a rights-bearing agent (World Health Organization, 2022). To transform the “nature of relationships” in Iran—within the family, work, and society—a comprehensive paradigm shift is required. Legal reform must be paired with the secularization of civil codes, robust funding of protective institutions, and a cultural movement that deconstructs the “shame” associated with disclosure. Only then can the legal pathology of child abuse be effectively addressed.

6. STRATEGIC RECOMMENDATIONS

The empirical findings of this study necessitate a radical paradigm shift in Iran's approach to protecting children within the domestic sphere. Addressing the "legal pathology" of child abuse requires more than superficial amendments; it demands a multisectoral strategy that harmonizes the nature of relationships across the family, professional environments (work), and the broader societal fabric.

Based on the 2024–2025 socio-legal landscape, the following strategic imperatives are proposed:

6.1. Legislative and Judicial Reform

1. **Transition to Restorative Justice:** The current penal focus on capital punishment for incestuous crimes often deters reporting, as families fear the execution of a relative. The legal system should transition toward a "restorative justice" model that prioritizes the victim's safety, provides professional rehabilitation for offenders, and utilizes non-lethal deterrent sentencing that encourages disclosure.
2. **Codification of a Universal Age of Childhood:** To eliminate the "legal lacunae" caused by the interchangeable use of terms like *tefl* (toddler) and *nojavan* (adolescent), the law must establish a definitive age of 18 for all protective measures, in alignment with the UN Convention (CRC).
3. **Abolition of Legalized Child Marriage:** Legislative action is urgently required to set the minimum marriage age at 18 without exception. This would dismantle the structural framework that currently allows "legalized rape" to occur under the guise of paternal guardianship.
4. **Secularization of Civil Protections:** There is a critical need to decouple civil child protection laws from rigid jurisprudential interpretations that view the father as the "owner" of the child. Judicial offices must be trained to recognize children as independent "rights-bearing agents" with personal autonomy.

6.2. Institutional Synergy and "Work" Sector Integration

1. **Multi-Sectoral Collaboration:** A formal "Protection Network" should be established among schools, law enforcement agencies, medical facilities, and labor departments. This ensures that the "Work" sector (teachers, doctors, and social workers) is legally empowered and protected when reporting suspected abuse cases.
2. **Strengthening the Specialized Judiciary:** The state should establish a "Council for the Protection of Children's Rights" within the judiciary, comprising experts in behaviorism, sociology, and trauma-informed law. This council should oversee specialized assistance offices at the neighborhood level to ensure that survivors do not have to navigate complex, centralized bureaucracies.
3. **Professionalization of Legal Advocacy:** Training programs for specialized lawyers must be expanded to handle the unique psychological dimensions of sexual assault cases, ensuring that victims receive expert representation in both the public and private sectors.

6.3. Socio-Cultural and Relational Deconstruction

1. **Uprooting Patriarchal Norms:** Educational initiatives must be launched to challenge the "culture of ownership" that defines the father as the absolute guardian. These programs should focus on redefining the "Nature of Relationships" within the family as a partnership based on mutual respect and safety rather than hierarchy and submission.
2. **Implementation of the 2030 Agenda:** Civil society organizations should leverage the principles of the UN 2030 Agenda for Sustainable Development to apply pressure on state bodies, emphasizing that "Sustainable Development Goal 5" (Gender Equality) and "Goal 16" (Peace, Justice, and Strong Institutions) are unattainable without the eradication of intra-familial violence.
3. **Systemic Awareness and Digital Enlightenment:** The state and NGOs must collaborate on "de-tabooing" the topic of sexual abuse by utilizing social media and information centers. Raising awareness among parents and children about bodily autonomy and legal rights is the first step in dismantling the "culture of silence" that currently protects abusers.

6.4. Summary of Moving Forward

The transition from a "pathological" legal state to a "protective" one requires the courageous dismantling of entrenched tradition. By strengthening specialized assistance offices and prioritizing

the secularization of child protection laws, Iran can begin to bridge the gap between its current jurisprudential discourse and the global standards of child rights. Only through this holistic approach—encompassing the Family, the Work sector, and society—can the integrity of Iranian social relationships be restored and the safety of its next generation guaranteed.

CONFLICT OF INTEREST

Authors declare no conflicts of interest.

AI ASSISTANCE STATEMENT

The authors confirm that no AI-based tools or language models were used in the writing, analysis, or preparation of this manuscript.

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