

Schnellrecherche der SFH-Länderanalyse vom 10. April 2015 zu Iran: Gefährdungslage bei der Rückkehr in den Iran mit einem unehelichen Kind

Frage an die SFH-Länderanalyse:

- Was droht der Mutter eines unehelichen Kindes im Falle einer Rückkehr in den Iran?

Die Informationen beruhen auf einer zeitlich begrenzten Recherche (Schnellrecherche) in öffentlich zugänglichen Dokumenten, die uns derzeit zur Verfügung stehen.

1 Gefährdungslage der Mutter eines unehelichen Kindes im Falle einer Rückkehr nach Iran

Verbot sexueller Handlungen Nichtverheirateter. Das iranische Gesetz verbietet sexuelle Handlungen zwischen nichtverheirateten Personen explizit. Wie der Übersetzung des iranischen Strafgesetzbuches vom *Iran Human Rights Documentation Center* zu entnehmen ist, wird ausserehelicher Geschlechtsverkehr (*zina*) als Verstoss gegen die «Rechtsansprüche Gottes» (*hadd*) gewertet und entsprechend bestraft (Book 2 – *Hudud*, Chapter 1 *Hadd* punishment for *Zina*, Sections 1-4). Für verheiratete Personen, die Ehebruch begehen, ist die Todesstrafe durch Steinigung vorgesehen. Für unverheiratete Personen ist das Strafmass auf 100 Peitschenhiebe festgelegt.

Nachteile für Frauen in Gerichtsverfahren. Im Rahmen der vorliegenden Schnellrecherche konnten keine Angaben ausfindig gemacht werden, was die Zahl der Gerichtsverfahren sowie die Häufigkeit von Schuldsprüchen aufgrund unehelichen Geschlechtsverkehrs von unverheirateten Personen betrifft. Es ist aber klar, dass das gesetzliche Regelwerk Frauen insgesamt diskriminiert. Wie das *Iran Human Rights Documentation Center* festhält, sind Frauen im Kontext von *zina*-Verfahren im Vergleich zu Männern mit gewichtigen Nachteilen konfrontiert. Zum einen werden sie aus verschiedenen Gründen häufiger des Ehebruchs beschuldigt als Männer, zum anderen werden sie auch viel öfter verurteilt. Da dem Richter im Rahmen eines *zina*-Prozesses relativ grosser Ermessensspielraum zusteht, können die Urteile je nach Gerichtshof unterschiedlich ausfallen. Gemäss des Berichts von Februar 2013 über die gemeinsame Fact-Finding Mission des *Danish Immigration Service*, des *Norwegian Country of Origin Information Centre* und des *Danish Refugee Council* werden in der Praxis grundsätzlich zwar kaum Todesstrafen wegen Ehebruchs ausgesprochen. Dies liege hauptsächlich darin begründet, dass für einen gültigen Schuldspruch entweder das Geständnis der oder des Angeklagten, oder aber die Aussage von vier Zeugen oder Zeuginnen notwendig ist. Gleichzeitig hat ein Richter im Prinzip aber auch die Befugnis, diese Richtlinien zu missachten und nach eigenem Ermessen («*knowledge of the judge*») ein Urteil zu fällen. Von einem entsprechenden Fall wurde im Jahr 2007 berichtet, als ein Richter trotz fehlender Zeugenaussagen eine Steinigung anordnete. Demselben Bericht ist auch zu entnehmen, dass *zina*-Vergehen im Allgemeinen relativ selten zur Anklage kommen, da sie meist als eine

Weyermannsstrasse 10
Postfach 8154
CH-3001 Bern

T++41 31 370 75 75
F++41 31 370 75 00

info@fluechtlingshilfe.ch
www.fluechtlingshilfe.ch

Spendenkonto
PC 30-1085-7



familiäre Angelegenheit behandelt werden. Die Gerichte seien wenig interessiert daran, sich mit solchen Fälle zu befassen. Wenn allerdings eine Anklage eintrifft, sind sie verpflichtet, ein rechtliches Verfahren zu eröffnen. Dann ist es sehr wahrscheinlich, dass der betroffenen Frau umgehend ihre zivilen Rechte abgesprochen werden und sie in der Folge beispielsweise auf finanzielle Unterstützungsleistungen und gegebenenfalls auf das Sorgerecht für ihre Kinder verzichten muss.

Iran Human Rights Documentation Center, Übersetzung des Iranisches Strafgesetzbuches:

«Book Two -Hudud

Chapter 1 -Hadd punishment for Zina

Section 1 -Definition and grounds of hadd punishment for zina

Article 63 -Zina is defined as sexual intercourse of a man with a woman who is inherently prohibited to him, even if it is an anal intercourse, except in the cases where the intercourse is done by mistake.

Article 64 -Zina shall be punished by hadd if the man or woman is pubescent, sane and free as well as being aware of the matter of fact and law. (...)

Section 3 -Different types of hadd punishment for zina:

(...) Article 88 -The hadd punishment for zina committed by a non-mohsan woman or man [who does not meet the conditions mentioned in art. 83] is one hundred lashes.» Quelle: IHRDC – Iran Human Rights Documentation Center, Gender Inequality and Discrimination: Translation of the Islamic Penal Code of the Islamic Republic of Iran – Book One & Book Two, Incorporating all amendments up to January 2012:

www.iranhrdc.org/files.php?force&file=pdf_en/Iranian_Codes/Islamic_Penal_Code_of_the_Islamic_Republic_of_Iran_212133839.pdf.

Human Rights Documentation Center, März 2013:

«Under the IRI's criminal law, some crimes and their elements are based on gender discrimination and some punishments differ between the genders. In some exceptional cases, the law gives a lesser punishment to women as compared to men for the same crime, such as the crime of homosexuality for which men get the death penalty, while women receive 100 lashes. However in most other cases the law, as written and as applied, imposes harsher punishments on women. One example of a punishment which is applied with more frequency and severity to women is stoning to death for the crime of adultery. Under the Shari'a law, sexual intercourse is only permitted within a marriage and sex out of marriage is considered to be a hadd crime. The crime of zina has been defined as sexual intercourse between a man and a woman who are not married to each other. To prove this offense, very strict standards of evidence are required, including the testimony of four eyewitnesses or the making of

a confession four times. Persons who have committed zina can be punished with the hadd penalties of either 100 lashes or death by stoning, depending on their legal status. For a specific group of married people, called mohsan (man) and mohsaneh (woman), the hadd punishment for zina is stoning to death:

(a) A 'mohsan' man is a man who is married to a permanent wife and has had sexual intercourse with her whilst he has been sane and can have sexual intercourse with her whenever he so wishes.

(b) A 'mosaneh' woman is a woman who is married to her permanent husband and the husband has had sexual intercourse with her whilst she was sane and she is able to have sexual intercourse with her husband.'

Although the punishment of stoning applies to men as well, it is applied in greater proportion to women. For example, in 1998 (a year with high recorded rates of punishment by stoning) five of the seven people reportedly sentenced to death by stoning were women. In fact, women are more readily accused and convicted of adultery, while men are rarely punished for adultery because they can easily claim that they engaged in those relations in the bounds of a temporary marriage. Claiming a temporary marriage permits sexual relations outside of formal marriage. Men can more easily claim a temporary marriage because under Iranian laws they may have multiple wives, allowing them to have both a permanent wife and be temporarily married at the same time. On the other hand, women cannot have multiple spouses under Iran's laws, thus making stoning more likely for women than men since they cannot evade punishment for adultery by claiming that the relations occurred in a lawful temporary marriage.

Moreover, men have an incontestable right to divorce, whereas women have only a limited right to divorce their husbands and a resulting freedom to marry another man. Due to cultural, economic and societal factors, many women are not permitted to exercise any personal choice over the man they marry and many are married at a young age. Poverty, drug addiction and domestic violence also play a part in making women more likely than men to engage in actions that can be deemed as adultery under Iranian laws and therefore render women more vulnerable to the ultimate punishment of stoning as compared to men. As demonstrated in some documented cases of stoning, married women are sometimes forced into prostitution by their husband to feed their drug habits. Or sometimes they are forced into selling their bodies as a result of an abusive relationship. If arrested, they are at risk of being charged with adultery and, if convicted, they could be sentenced to execution by stoning.» Quelle: IHRDC – Iran Human Rights Documentation Center, Gender Inequality and Discrimination: The Case of Iranian Women, März 2013, S. 10-12: www.iranhrdc.org/files.php?force&file=pdf_en/LegalCom/Womens_Rights_Commentary_389929723.pdf.

Danish Immigration Service/Norwegian Country of Origin Information Centre/Danish Refugee Council, Februar 2013:

«Regarding cases of adultery before the court, a Western embassy (3) stated that it is very difficult to sentence an individual on adultery charges due to the

requirement of four witnesses stated in the law. Asked about adultery cases in which the defendants have been convicted by means of other evidence than that stipulated in the law, the embassy stated that it was not aware of such judgments. (...)

A Western embassy (2) mentioned that adultery is very difficult to prove because of the requirement of four witnesses. **However, if the judge bases his argument on his knowledge, i.e. 'knowledge of the judge', he is given free hands to issue whatever sentence he sees fit. The same charge could lead to different verdicts according to which judge and in which city, the case is handled.** According to the source, the most recent case was that of Ja'far Kiani, a man who was stoned to death in July 2007 in Iran's north-western province of Qazvin and according to the source that verdict was based on the knowledge of the judge.

The source pointed out that in the existing Penal Code, the punishment for adultery has never been mentioned. The new Penal Code is still pending approval in the Guardian Council. In the new Code, stoning is not mentioned. Jurists argue that even if stoning was not mentioned, it does not mean that Sharia Law will not allow for a judge to pass a judgment involving stoning. The source mentioned that recently (October 2012), a news story about the stoning of four women in Iran surfaced. However, it was not known whether these women had been stoned because of adultery or for other reasons, and the news story itself could not be verified. The news had been reported on one political website and was later withdrawn. On the subject of cases of 'illicit relations' or adultery, AIIS [Amnesty International's International Secretariat] stated that in general the system wishes to avoid these cases. But once a case is brought before the court it is treated as it is a crime against God, not against the people. AIIS was aware of cases where women accused of some form of sexual indiscretion or 'crime' were not released, in contravention to law, but for their own safety, in the event she be at risk of violence meted out by family members, and against which the authorities have little ability to protect. On the other hand, women convicted of adultery while married cannot ever be released under law: the only way to do so would be for their sentence – stoning – to be implemented. As Iran looks unlikely to implement stoning sentences, those women are in a legal limbo resulting in indefinite detention. According to two lawyers with criminal law experience, adultery cases fall under the criminal courts. Asked about prevalence of adultery cases before the courts, the lawyers stated that adultery is usually not reported to the police or to the court. If there is no private plaintiff, there is no case. Asked who would potentially act as a plaintiff in a case regarding adultery, it was explained that it would usually be a husband or a father to a girl. However, few cases are reported and therefore it is very rare that a case of adultery reaches the courts. Adultery is a personal matter and it is not common to report such a case.' (...)

If a woman is tried in court due to her adultery, she will most likely lose all her rights, such as the right to financial support and often also the children. The only thing she will never lose is the dowry. Dowry is the only thing that is not negotiable according to Sharia law. Regarding punishment for adultery, a well-educated Iranian woman with links to the international community explained that it very much depends on how far the husband wants to take the case. It was further explained that many women are 'saved' by the fact that the husband for fear of shame will not proceed with a case through the court system, so only few women end up in jail due to adultery. It was

stated that these cases were often solved within the family. Regarding possible punishment for adultery, a well-educated Iranian woman with links to the international community mentioned flogging, jail and stoning. However, it was added that adultery is difficult to prove.(...)

Asked about regional differences and differences between urban and rural areas with regard to how cases are handled by the courts, two lawyers with criminal law experience stressed that the law is applied equally throughout the entire country. It was added that there have been cases of judges being caught breaching the law and who consequently have been charged on that basis.» Quelle: DIS/Landinfo/DRC - Danish Immigration Service/Norwegian Country of Origin Information Centre/Danish Refugee Council, Iran: On Conversion to Christianity, Issues concerning Kurds and Post-2009 Election Protestors as well as Legal Issues and Exit Procedures. Joint report from the Danish Immigration Service, the Norwegian LANDINFO and Danish Refugee Council's fact-finding mission to Tehran, Iran, Ankara, Turkey and London, United Kingdom (conducted 9 November to 20 November 2012 and 8 January to 9 January 2013), Februar 2013, S. 37-39:

www.nyidanmark.dk/NR/rdonlyres/A8C2C897-1CA9-49D1-BA32-EC3E599D646D/0/Iranendeligudgave.pdf.

Ehrenmorde in Iran aufgrund ausserehelicher Beziehung. Das *Iran Human Rights Documentation Center* bezeichnet Ehrenmorde in seinem Bericht vom März 2013 als Tötungen, die von einem Ehemann, Vater, Bruder oder sonstigen Verwandten des Mordopfers vollzogen werden. Das Tatmotiv besteht dabei im Vorwurf, dass Schande über die Familie gebracht wurde, was aus einer Reihe von Gründen geschieht. Einer davon ist das Eingehen einer ausserehelichen Beziehung. Daneben werden auch das Verweigern einer arrangierten Heirat, homosexuelle Handlungen oder das Tragen unangebrachter Kleidung als Anlass genannt. Zudem kann es zum Mord an Vergewaltigungsopfern kommen. Gemäss dem *Iran Human Rights Documentation Center* kommen Ehrenmorde in Iran zweifellos vor. Da sie aber eine Form der Selbstjustiz darstellen, die ausserhalb des Rechtssystems im Verborgenen vollzogen wird, existieren keine verlässlichen Erhebungen bezüglich ihrer Häufigkeit. Einen Anhaltspunkt bieten Angaben wie diejenigen eines iranischen Polizeikommandanten aus dem Jahr 2008, der die Zahl von Ehrenmorden innerhalb eines Zeitraums von sieben Monaten auf 50 bezifferte. Das Aufkommen variiert sehr stark von Region zu Region, was eine Beurteilung der landesweiten Häufigkeit zusätzlich erschwert. Gemäss Schätzungen werden Ehrenmorde in den Provinzen Chuzestan, Kordestan, Ost- und West-Aserbaidshān, Fars, Lorestan, Ilam, Kermanschāh im Nordwesten des Landes am häufigsten begangen. Die Opfer sind überwiegend Frauen und Mädchen. Das *United States Department of State* (USDOS) stellte in seinem *Country Report* 2013 fest, dass in Iran für dieses Jahr zwar keine offiziellen Meldungen zu Ehrenmorden veröffentlicht wurden, Menschenrechtsorganisationen aber durchaus von entsprechenden Vorfällen berichteten.

Täter werden kaum bestraft. Der jüngste Bericht eines Kollektivs von 21 Zivilgesellschaftsorganisationen (verfasst zuhanden des *UN Committee on the Rights of the Child*) vom 9. März 2015 zeigt auf, dass eine strafrechtliche Verfolgung nach Ehrenmorden selten stattfindet. Dies liegt in erster Linie am islamischen Wiedervergeltungsprinzip (*qisās*), das im iranischen Strafrecht bei Mordfällen zur

Anwendung kommt. Es sieht grundsätzlich vor, dass Mord mit dem Tod zu bestrafen ist. Weil dabei das Recht auf Vergeltung aber den Familienangehörigen des Opfers zukommt, ist für eine strafrechtliche Verfolgung deren Forderung nach der Bestrafung des Täters notwendig. Bei innerfamiliären Ehrenmorden kommt es entsprechend selten zur Anklage. Väter, die Kindsmord begehen, sind faktisch sogar geschützt vor dem *qisās*-Prinzip. Sie können lediglich zu Gefängnisstrafen verurteilt werden. Zwar besteht seit 2003 das *Law on the Rights of the Child*, laut dem der iranische Staat die Befugnis hat, bei Ehrenmorden selbst als Kläger aufzutreten. Offiziellen Zahlen zufolge gab es bisher aber noch keinen einzigen Fall, in dem der Staat diese Möglichkeit wahrgenommen hätte. Darüber hinaus werden im Rahmen jener seltenen Ehrenmord-Prozesse, in denen sich die Familienangehörigen eines Opfers tatsächlich als Kläger oder Klägerinnen zur Verfügung stellen, in der Regel weit mildere Strafen ausgesprochen als bei nicht-familiären Mordprozessen.

Mangelhafter Schutz für Frauen. Iranische Frauen, die Schutz suchen vor drohender innerfamiliärer Gewalt, befinden sich in einer schwierigen Situation. *Der UN-Sonderberichterstatter* Ahmed Shaheed legte der UN-Generalversammlung am 27. August 2014 in seinem Bericht dar, dass das Schutzangebot für iranische Frauen, die innerfamiliärer Gewalt ausgesetzt sind, nach wie vor ungenügend ist. Einem ausführlichen Bericht des *Norwegian Country of Origin Information Centre* vom 22. Mai 2009 ist zu entnehmen, dass der iranische Staat zwar Institutionen unterhält, die jeweils für bestimmte schutzbedürftige Zielgruppen wie alleinstehende Frauen, Prostituierte oder Drogenabhängige zugänglich sind. Das westeuropäische Modell der Frauenhäuser existiert dem Bericht zufolge in Iran allerdings nicht. Frauen, die sich mit der Bitte um Schutz an die Behörden wenden, müssen Beweise für die Bedrohungslage vorbringen, was oftmals kaum möglich ist. Laut des *Country Reports* des *US Department of State* (USDOS) vom 27. Februar 2014 gibt es einige durch NGOs betriebene *Shelters* und Hotlines für Opfer häuslicher Gewalt. Es liegen aber keine Informationen dazu vor, ob diese Institutionen auch Schutz vor Ehrenmord bieten können. Gemäss des Berichts des *Danish Immigration Service*, des *Norwegian Country of Origin Information Centre* und des *Danish Refugee Council* von Februar 2013 sind der internationalen Sektion von *Amnesty International* Fälle bekannt, die die Schutzunfähigkeit der iranischen Behörden belegen. So sollen Richter Frauen, die wegen ausserehelicher sexueller Handlungen angeklagt wurden, zu ihrer eigenen Sicherheit und entgegen der gesetzlichen Bestimmungen nicht aus der Haft entlassen haben. Dies, um sie vor möglichen Gewalthandlungen durch eigene Familienmitglieder zu schützen.

Ohne Familiennetzwerk alleine leben zu müssen, wird laut des Berichts des *Norwegian Country of Origin Information Centre* vom 22. Mai 2009 für Frauen in Iran nicht als praktikable Alternative betrachtet. Frauen und Kinder, die ihren familiären Strukturen entfliehen oder diese verlassen müssen, laufen gemäss desselben Berichts ausserdem Gefahr, Opfer von Menschenhandel und Prostitution zu werden.

Rechtliche Diskriminierung unehelicher Kinder. Die Kinder unverheirateter Eltern sind mit Schwierigkeiten konfrontiert, die sogar gesetzlich verankert sind. Dem liegt gemäss dem oben erwähnten Bericht vom 9. März 2015 für das *UN Committee on the Rights of the Child* das Prinzip zugrunde, dass durch die fehlende Ehe die religiöse Zugehörigkeit des Kindes nicht rechtskonform bestimmt wurde. Dabei spielt es keine

Rolle, welcher der in Iran anerkannten Glaubensrichtungen – muslimisch, christlich, jüdisch oder zoroastrisch – die Eltern des Kindes angehören. Das iranische Strafgesetzbuch spricht unehelichen Kindern daher nur sehr vagen Schutz zu, was ihr Recht auf Leben und persönliche Sicherheit betrifft. Sie sind aufgrund ihres Status als gesetzeswidrig gezeugte Kinder faktisch nicht gegen Mord geschützt, wie der Bericht festhält.

Iran Human Rights Documentation Center, März 2013:

*«Honor killing is an act of murder carried out by a husband, father, brother, or other relatives, to punish a family member perceived to have brought dishonor upon an entire family. The behavior—or the suspicion of such behavior—that is usually perceived as bringing dishonor upon a family include engaging in an extramarital relationship, electing to marry according to personal choice and refusing an arranged marriage, being a victim of rape, homosexual acts, or even dressing in an inappropriate manner in the eyes of the family. By virtue of culture and other factors, women and girls are the primary victims of honor killings. Honor killings are committed globally but the practice occurs with the most frequency in the Middle East and South Asia. Due to the clandestine nature of such practices, a lack of government reporting and other factors, there are no precise statistics about the rate of honor killings in Iran. However some official figures are occasionally revealed in the news. **For instance, according to a Police Commander, 50 honor killings were committed in the first seven months of the Persian calendar year of 1387.** Additionally, in provinces such as Khuzestan, Kordestan, Azerbaijan, Fars, Lorestan, Eilam, and Kermanshah, which are home to rural tribal communities that more frequently engage in the practice, the rates of honor killing are higher than in the rest of Iran. According to Abbas Jafari-Dolatabadi, the then Chief of the Judiciary of Khuzestan, ‘honor killings are a serious problem in this province and this is an accepted practice in this area. The offenders, therefore, escape from prosecution and the victim’s families often do not pledge—or pursue—the complaint against the offender’. In just Ahvaz, the capital of the province of Khuzestan, fifteen women were killed in the Persian calendar year of 1388 (2008/2009) in alleged honor killings. This inhuman practice is primarily caused by different cultural and social factors—and **while Iranian laws fall short of calling for the outright implementation of honor killing, they are nonetheless remiss in not prescribing a harsh punishment for the practice.** Additionally, in one specific case honor killings are even condoned by the Penal Code. Article 630 of the previous Penal Code expressly allowed a husband to kill his wife and her lover, if he caught them in flagrante, (‘in blazing offense’ in Latin; legal term that indicates a criminal has been caught in the act of committing an offense). However if he knows that his wife acted under coercion, he may only kill her rapist (Article 630). While in the new Penal Code Article 630 is unchanged, a paragraph has been added to Article 300 which again stresses the exemption of husband from qisas (retaliation) in cases where he kills his wife and her lover in flagrante. In fact, not only has Article 630 not been repealed, the IRI has solidified its approval of this practice. Moreover, as already discussed, a father cannot be sentenced to qisas (retaliation) for killing his child, rather he can only be sentenced to three to ten years’ imprisonment. **This gives fathers legal immunity if they kill their children and opens the door to more honor killings without any effective and deterrent punishment.** In addition, when another family member, such as the victim’s brother,*

kills a girl or woman in the family, the Islamic Shari'a gives the victims' next of kin (awliyā-al-dam) the right to determine whether the condemned should be sentenced to death or be forgiven. In cases where the victim's family committed the murder, they rarely even lodge a complaint, and if they do so, they will more likely forgive the offender which leaves no option but for the judge to sentence the offender to only three to ten years' imprisonment.» Quelle: IHRDC – Iran Human Rights Documentation Center, Gender Inequality and Discrimination: The Case of Iranian Women, März 2013, S. 12-14:

www.iranhrdc.org/files.php?force&file=pdf_en/LegalCom/Womens_Rights_Commentary_389929723.pdf.

USDOS, 27. Februar 2014:

«Abuse in the family was considered a private matter and seldom discussed publicly. Some nongovernmental shelters and hotlines assisted victims during the year, but such services were virtually nonexistent outside major cities. There were no official reports of killings motivated by "honor" or other harmful traditional practices during the year, although human rights activists reported that they occurred, particularly in areas with large rural and tribal populations.» Quelle: United States Department of State, 2013 Country Reports on Human Rights Practices – Iran, 27. Februar 2014:

www.refworld.org/docid/53284ac9b.html.

Bericht zuhanden des UN Committee on the Rights of the Child, 9. März 2015:

*«Another issue that is contributing to the lack of legal protection of children's right to life is the fact that most crimes of physical harm, including homicide, are based on the concept of qisas, an eye-for-an-eye, life-for-a-life type of retribution. This retribution is considered the private right of the victim rather than a function of the state. **In the case of homicide, the right of retribution belongs to the family of the victim, or more specifically, to the deceased victim's older paternal male next-of-kin.** In turn, the family member holding the right to retribution must demand that the perpetrator be punished. As such, when the perpetrator of a violent crime—or a killing—is a family member of the victim, **qisas can create a climate of impunity. For example, Iran has seen a number of 'honor killings' of mostly girls by their male family members. The family often refuses to file a complaint or pursue punishment in these cases.** Even if the government intervenes, homicide prosecutions require plaintiffs in order for the prosecution to pursue typical homicide sentences. In many of these cases, punitive sentences can be set much lower than they would be under the law for non-familial adult offenders. Even when families of victims join cases as plaintiffs and the perpetrators of violence are found guilty and sent to prison, the offenders are often released soon afterwards or serve no prison term at all, because the family formally forgives them, resulting in the retribution being legally settled. Moreover, under Article 301 of the Penal Code, if a father (or paternal grandfather in the absence of a father) murders his child, the qisas principle does not apply at all. Instead, the father, if found guilty, will face between three and 10 years in prison. **In effect, the murder of a child due to a father's act of domestic violence, including 'honor killings,' receives a lesser punishment than a murder where the victim and assailant are not related.** In one 2013 case, a court in Tehran sentenced a father to only six months in prison for stabbing his 17-year-old daughter to death in*

a dispute about marriage. The result is reduced accountability for those guilty of filicide. **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. 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.** Children born outside marriage are also not protected against murder. Children deemed 'illegitimate,' because their religion is not legally established, are granted extremely vague protections under the Penal Code and are not valued equally under qisas principles. **The Penal Code thus effectively fails to equally protect the right to life and right to personal security of a child born outside of marriage, and not deemed Muslim, compared to children born to married parents.** This issue also applies to children from religious backgrounds other than those recognized in Iran's Constitution (i.e., Islam, Christianity, Judaism, and Zoroastrianism).» Quelle: Abdorrahman Boroumand Foundation; Advocates for Human Rights; Article 19; Arseh Sevom; Association of Human Rights in Kurdistan of Iran-Geneva; Centre for Supporters of Human Rights; CRIN – Child Rights International Network; et al., Rights of the Child in Iran; Joint alternative report by civil society organizations on the implementation of the Convention on the Rights of the Child by the Islamic Republic of Iran, 9. März 2015, S. 12-13:
www.crin.org/sites/default/files/iran_joint_submission_to_crc_committee_0.pdf.

Norwegian Country of Origin Information Centre, 22. Mai 2009:

«3. PROTECTION

3.1 ATTITUDES TO VIOLENCE IN THE PRIVATE SPHERE

The tradition of Muslim cultures to regard problems and violence within families as a private and internal family matter is both a common and a widespread problem. This is also the case in Iranian culture and society. The religious and socio-cultural situation means that many girls and women do not see the option of getting help from outside the family circle or from the authorities as a real alternative. Lacking awareness of legal rights combined with strong family ties, fear of social shame and stigmatisation, threats and financial dependence lead many girls and women to give in to their family's wishes, remain in unhappy marriages or commit suicide.

3.2 PROTECTION IN PRACTICE

*A woman who is threatened with honour killing or subjected to other forms of violence must seek help on her own. The community around her will not come to her assistance unless she asks directly for help. Whether it is possible to ask for help depends on where a woman lives. In some parts of Iran, the physical and geographical conditions are such that fleeing is not possible in practice. **The extent to which a woman can get help depends on a number of factors; such as what the case concerns, how old she is, where she lives, what she wants and to what extent she is able to mobilise parts of her own family network to plead her case and negotiate in the conflict.** Depending on the nature of the case, she can for example seek help from a women's network, provided that such a network exists where she lives and that she is aware of it. Or she can file a suit in a family court or report the matter to the police. **If***

*she goes to the police, the scope of the violence and threats will be decisive in determining whether she receives help and what kind of help she is offered. She is responsible for presenting evidence that she is in fact threatened by violence, which in certain cases can be impossible. The attitudes of the police or a local judge may have a decisive impact on her chance of being given real protection. **The Western European model of a crisis centre/shelter for women does not exist in Iran.** There are, however, state institutions for single women, prostitutes, drug addicts and children and young people who have run away from home. These institutions are run by the national welfare organisation and offer protection, welfare services and rehabilitation programmes of varying quality for a transitional period. The number of such institutions in existence at any given time, and in which provinces they are found, is not public knowledge. The Iranian authorities are generally unwilling to provide the public with information about social situations and problems that may generate criticism of Islamic law and the Islamic Republic. In a 2006 report, the UN Special Rapporteur wrote that since 1999, the national welfare organisation had established 28 'health houses' for unmarried girls who had run away from home and were at risk of becoming victims of human trafficking. These sanctuaries offered temporary shelter, counselling and training for girls who had run away from home. According to the UN Special Rapporteur's information, girls living in such institutions were still at risk of abuse, and reference was made to a 2001 case, in which officials were arrested for having been involved in human trafficking of girls from such an institution (United Nations Commission on Human Rights 2006, page 11). A few of the shelters for children and young people (of both genders) who have run away from home have been established and are run by voluntary organisations and women's networks. According to a BBC report, a shelter such as this did exist in 2006 for single women, prostitutes and drug addicts over the age of 18 in Tehran (BBC 2006). According to a report written by the Danish Immigration authorities after a fact-finding trip in 2008, the sources disagreed about whether such shelters still existed in Tehran, and were uncertain about to what extent they (the existing ones) were able to provide adequate protection (Danish Immigration Service/Danish Refugee Council 2009, page 26). The starting point for various relief efforts under the auspices of public and private players are nonetheless that social problems and family issues must be solved within the framework of accepted cultural and religious values. The attitude that women neither can nor should live on their own, but that they need the protection of a husband and family is deeply rooted in all social classes in Iranian culture. Both family courts and voluntary organisations that try to assist in conflict mediation, will seek to reunite a girl or woman with her family through mediation and written guarantees for her safety, or, if applicable, to have her marry in order to be protected and supported. In cases in which this is not possible and the girl is over 18 years of age, voluntary organisations can assist in finding her accommodation and work. **Living alone with no family network is not seen as a real or acceptable alternative for an Iranian woman. It may also be associated with danger. Children and young people (of both genders) who run away from home are a large and growing social problem in Iran. Many of them end up as criminals or prostitutes or as victims of human trafficking.**»*

Quelle: Landinfo – Norwegian Country of Origin Information Centre, Honour killings in Iran, 22. Mai 2009, S. 9-11:

www.landinfo.no/asset/960/1/960_1.pdf.

Bericht des UN-Sonderberichterstatter zuhanden der UN-Generalversammlung, 27. August 2014:

«2. Domestic violence

18. Some 66 per cent of Iranian women have reportedly experienced domestic violence. The legislative framework remains insufficient to combat such violence. In addition, inadequate social service provisions challenge the State's ability to provide safety and redress for victims.

19. For example, laws continue to explicitly allow for non-consensual sexual relations in marriage. **There are insufficient safe houses for women in need of refuge.** A woman wishing to leave an abusive situation must also first prove that there is a significant risk of bodily harm or a threat to her life and safety in order to reside apart from her husband. Likewise, under the Civil Code, women seeking to obtain a divorce as a result of domestic violence must first prove that the abuse was intolerable (osr va-haraj).

20. In response to the above, the Government maintained that domestic violence was a capital offence and noted that draft legislation to legally define all forms of domestic violence was currently being considered.» Quelle: UN General Assembly, Situation of human rights in the Islamic Republic of Iran [A/69/356], 27. August 2014, S. 6:
www.ecoi.net/file_upload/1226_1414752324_n1451883iran.pdf.

Danish Immigration Service/Norwegian Country of Origin Information Centre/Danish Refugee Council, Februar 2013:

«The source pointed out that in the existing Penal Code, the punishment for adultery has never been mentioned. The new Penal Code is still pending approval in the Guardian Council. In the new Code, stoning is not mentioned. Jurists argue that even if stoning was not mentioned, it does not mean that Sharia Law will not allow for a judge to pass a judgment involving stoning. The source mentioned that recently (October 2012), a news story about the stoning of four women in Iran surfaced. However, it was not known whether these women had been stoned because of adultery or for other reasons, and the news story itself could not be verified. The news had been reported on one political website and was later withdrawn. On the subject of cases of 'illicit relations' or adultery, AIIS [Amnesty International's International Secretariat] stated that in general the system wishes to avoid these cases. But once a case is brought before the court it is treated as it is a crime against God, not against the people. **AIIS was aware of cases where women accused of some form of sexual indiscretion or 'crime' were not released, in contravention to law, but for their own safety, in the event she be at risk of violence meted out by family members, and against which the authorities have little ability to protect.** On the other hand, women convicted of adultery while married cannot ever be released under law: the only way to do so would be for their sentence – stoning – to be implemented. As Iran looks unlikely to implement stoning sentences, those women are in a legal limbo resulting in indefinite detention. According to two lawyers with criminal law experience, adultery cases fall under the criminal courts. Asked about prevalence of adultery cases before the courts, the lawyers stated that adultery is usually not reported to the police

or to the court. If there is no private plaintiff, there is no case. Asked who would potentially act as a plaintiff in a case regarding adultery, it was explained that it would usually be a husband or a father to a girl. However, few cases are reported and therefore it is very rare that a case of adultery reaches the courts. Adultery is a personal matter and it is not common to report such a case.' (...)

If a woman is tried in court due to her adultery, she will most likely lose all her rights, such as the right to financial support and often also the children. The only thing she will never lose is the dowry. Dowry is the only thing that is not negotiable according to Sharia law. Regarding punishment for adultery, a well-educated Iranian woman with links to the international community explained that it very much depends on how far the husband wants to take the case. It was further explained that many women are 'saved' by the fact that the husband for fear of shame will not proceed with a case through the court system, so only few women end up in jail due to adultery. It was stated that these cases were often solved within the family. Regarding possible punishment for adultery, a well-educated Iranian woman with links to the international community mentioned flogging, jail and stoning. However, it was added that adultery is difficult to prove.(...)

*Asked about regional differences and differences between urban and rural areas with regard to how cases are handled by the courts, two lawyers with criminal law experience stressed that the law is applied equally throughout the entire country. It was added that there have been cases of judges being caught breaching the law and who consequently have been charged on that basis.» Quelle: DIS/Landinfo/DRC - Danish Immigration Service/Norwegian Country of Origin Information Centre/Danish Refugee Council, Iran: On Conversion to Christianity, Issues concerning Kurds and Post-2009 Election Protestors as well as Legal Issues and Exit Procedures. Joint report from the Danish Immigration Service, the Norwegian LANDINFO and Danish Refugee Council's fact-finding mission to Tehran, Iran, Ankara, Turkey and London, United Kingdom (conducted 9 November to 20 November 2012 and 8 January to 9 January 2013), Februar 2013, S. 37-39:
www.nyidanmark.dk/NR/rdonlyres/A8C2C897-1CA9-49D1-BA32-EC3E599D646D/0/Iranendeligudgave.pdf.*