84982 - Incest is a worse and more serious sin

the question

What is the hadd punishment for incest? Can there be any repentance from that?.

Detailed answer

Praise be to Allah.

Firstly:

Zina with a mahram relative is a graven sin that zina with a non-mahram, because it is severing the ties of kinship, and an act of aggression against those with whom we are enjoined to uphold ties of kinship. Hence some of the scholars are of the view that the one who commits zina with a mahram should be executed in all cases, whether he was married or unmarried. This was narrated from Ahmad (may Allaah have mercy on him). The majority are of the view that he should be subjected to the hadd punishment; so if he was married he should be stoned and if he was not married he should be given one hundred lashes, even though his sin is greater.

It says in Mataalib Ooli al-Nuha (6/18): The one who commits zina with his sister is like one who commits zina with anyone else (with regard to hadd punishment), because of the general meaning of the reports. It was narrated from him (i.e., Imam Ahmad) that the one who commits zina with a mahram should be killed whatever the case, whether he was married or not. It was said to him: What about the woman? He said: It applies to both of them. But out view is what was stated above, i.e., that zina with a mahram is like zina with anyone else. End quote.

Ibn al-Qayyim (may Allaah have mercy on him) said concerning intercourse with one’s mother, daughter or sister: There is a totally natural repulsion towards that, and the hadd punishment for that is one of the most severe of punishments according to one of the two opinions, which is execution in all cases, whether he was married or not. This is one of the two views narrated from

Imam Ahmad, and it is also the view of Ishaaq ibn Raahawayh and a number of the scholars of hadeeth. Abu Dawood narrated that al-Bara' ibn 'Aazib said: I met my paternal uncle and he was carrying the banner. I said to him: Where are you going? He said: The Messenger of Allaah (peace and blessings of Allaah be upon him) has sent me to a man who married his father's wife after he died, to strike his neck and confiscate his wealth. [Classed as saheeh by al-Albaani in Irwa' al-Ghaleel (2351).]

In Sunan Abi Dawood and Sunan Ibn Majaah it is narrated that Ibn 'Abbaas said: The Messenger of Allaah (peace and blessings of Allaah be upon him) said: "Whoever has intercourse with a mahram relative, kill him." [Classed as da'eef by al-Albaani in Da'eef al-Jaami' (5524).]

The Muslims are unanimously agreed that the one who commits zina with a mahram deserves the hadd punishment; they only differed with regard to the nature of hadd punishment: should it be execution in all cases, or is it the hadd punishment of the (ordinary) zaani? There are two points of view. Al-Shaafa'i, Maalik and Ahmad, according to one of the reports from him, were of the view that he should be subjected to the hadd punishment for zina. Ahmad, Ishaaq and a number of the scholars of hadeeth were of the view that his punishment is execution whatever the case. End quote from al-Jawaab al-Kaafi, p. 270.

Shaykh Ibn 'Uthaymeen (may Allaah have mercy on him) favoured the view that the one who commits zina with a mahram should be executed in all cases. He said: The apparent meaning of the author's words is that there is no difference between zina with a mahram relative and zina with anyone else, but zina with a mahram is punishable by execution in all cases, because of a saheeh hadeeth that speaks of that. This view was favoured by Ibn al-Qayyim in al-Jawaab al-Kaafi , where he said that the one who commits zina with a mahram should be executed whatever the case.

For example, if a man committed zina – Allaah forbid – with his sister or his paternal aunt or his maternal aunt or his wife's mother or the daughter of a wife with whom he had consummated the marriage and so on, then he is to be executed whatever the case, because this intimacy is not permissible to him under any circumstances whatsoever, because the woman is one of his

mahrams, and because this is a grave immoral action. There is also a hadeeth which was narrated from the Messenger (peace and blessings of Allaah be upon him) about executing the one who has intercourse with one of his mahrams. This was narrated from Ahmad, and it is the correct view, that the one who commits zina with one of his mahrams should be executed even if he was not married. End quote from al-Sharh al-Mumti' (6/132).

It says in al-Mawsoo'ah al-Fiqhiyyah (24/20): The sin of zina varies in severity. Zina with a mahram or married woman is worse than zina with a stranger (non-mahram) or unmarried woman, because it is a transgression against the sacred rights of the husband and corrupting his lineage, and it may involve attributing offspring to him who are not his, and other kinds of damage. So it is a worse sin than zina with a woman who does not have a husband or who is a stranger (non-mahram). If her husband is a neighbour then it also involves bad treatment of neighbours, and mistreating neighbours is one of the worst kinds of mistreatment and one of the worst sins that may doom a person to Hell. If the neighbour was a brother or one of his relatives, it also involves severing ties of kinship, so the sin is compounded. It was proven that the Prophet (peace and blessings of Allaah be upon him) said: "He will not enter Paradise from whose harm his neighbour is not safe." There is no harm greater than zina with one's neighbour's wife. If the neighbour is absent doing something in obedience to Allaah, such as worship, seeking knowledge or jihad, then the sin is compounded. The one who commits zina with the wife of one who is fighting for the sake of Allaah will be made to stand before him on the Day of Resurrection, and he will take as much of his good deeds as he wants. The Messenger of Allaah (peace and blessings of Allaah be upon him) said: "The sanctity of the wives of the mujaahideen for those who stay behind is like the sanctity of their own mothers. There is no man among those who stay behind who looks after the family of one of the mujaahideen and then betrays him with regard to them, but he will be made to stand on the Day of Resurrection, and he (the mujaahid) will take as much of his good deeds as he wishes, so what do you think?" Narrated by Muslim (1897). i.e., do you think he will leave him any of his hasanaat (good deeds)? It has already been ruled that he has the right to take whatever he wants at the time when all people will be desperate for even a single hasanah. If it so happens that the woman was also his relative, the sin of severing ties of kinship will be added to that. If it so happens that the zaani was also married, then the sin is even greater. If he was an old man, the

sin and punishment will be greater. If that also occurred during a sacred month or in a sacred place, or at a time that is held in high regard by Allaah, such as the time of prayer or times when du’aa’s are answered, the sin is further compounded. End quote.

Secondly:

The one who has done any such thing should hasten to repent to Allaah, may He be exalted. Repentance may be valid for any sin, no matter how great. Allaah says (interpretation of the meaning):

“Know they not that Allaah accepts repentance from His slaves and takes the Sadaqaat (alms, charity), and that Allaah Alone is the One Who forgives and accepts repentance, Most Merciful?”

[al-Tawbah 9:104]

“And those who invoke not any other ilaah (god) along with Allaah, nor kill such person as Allaah has forbidden, except for just cause, nor commit illegal sexual intercourse and whoever does this shall receive the punishment.

69. The torment will be doubled to him on the Day of Resurrection, and he will abide therein in disgrace;

70. Except those who repent and believe (in Islamic Monotheism), and do righteous deeds; for those, Allaah will change their sins into good deeds, and Allaah is Oft-Forgiving, Most Merciful

71. And whosoever repents and does righteous good deeds; then verily, he repents towards Allaah with true repentance”

[al-Furqaan 25:68-70]

“And verily, I am indeed forgiving to him who repents, believes (in My Oneness, and associates none in worship with Me) and does righteous good deeds, and then remains constant in doing them (till his death)”

[Ta-Ha 20:82]

These verses indicate that the one who repents must do a lot of good deeds and follow the path of guidance, and keep away from the causes of temptation.

And Allaah knows best.