

Incest research paper examples

[Law](#), [Criminal Justice](#)



Incest is defined as sexual intercourse between family members who would not be married as a result of their close kinship. Incest can occur between father- daughter/step daughter, mother- son/stepson, between cousins or distant relatives. The prohibition of incest is dependent on culture and religion with most renowned religions frowning upon the idea. As early as the times of the Graeco-Roman Empire, there were reports of incest being practiced even among the monarchs. There is also evidence that there was widespread incest in the United Kingdom but it was not until 50 years ago that the legislation outlawing incest was introduced. Most industrialized Western nations incest is outlawed based on the individuals that are involved. For instance some states in the United States of America permit marriage between first cousins under special circumstances. While sexual relations between a father and a daughter are frowned upon, cases where the relations are consensual trigger moral and legal debates. It is argued that given the landmark ruling that lifted the ban on sodomy in 2003, a more liberal approach ought to be taken if the relationship is consensual. Most of the laws especially in the United States fail to protect minors who are sexually abused by their kin. The perpetrators can get off with sentences as lenient as probation, suspended sentences and being to rehabilitation programs. For instance in New York, rape of a minor under 11 years is punishable by a prison sentence of up to 25 years. However if the victim resides with the perpetrator then the sentence can be as lenient as probation. The programs often put the perpetrator in the same house with the victim, an act that gives room for repeat offences. It is therefore

imperative that the law finds ways to address the issue and protect the minors who are often the victims of incest.

1. 0 Introduction

Incest is referred to as sexual intercourse between family members who are not allowed to marry as a result of their close kinship. Most cultures including Western societies consider it a cultural taboo and the law also prohibits. The prohibition of marriage between family members varies from culture to culture. Marriage between parents and their children is universally frowned upon although prohibition of marriage among cousins and distant relatives varies. Historically incest can be traced as far back the times of the Roman Empire.

It is known that incestuous relationships were widely spread in the Graeco Roman Empire and the Egyptian empire. The Roman emperor Caligula is rumored to have had sexual relations with all of his three sisters (Drusila, Agrippina and Julia Livilla). His relations with Agrippina is said to have resulted in a child. An Egyptian could marry an aunt although Romans could not do so. It is also reported that incest was regarded as normal in the United Kingdom especially in the south.

In America consensual incest is common among similar age sisters and brothers. A study reveals carried out among American college students shows that 10-15% of the subjects had had sexual relations with a brother or sister. Only about 5-10% involved intercourse and are therefore regarded as sexual curiosity. This paper shall analyze the laws on incest against the moral stands in addition to examining the loopholes in the current laws.

2. 0 Forms of incest

There are various forms of incest. Parental incest occurs when a parent of either sex engage in sexual relations with their children. It is regarded as a form of sexual abuse. It is reported in the United States in the 1990's, there were about 100, 000 cases of incest of which only 10% were reported.

Sibling incest occurs between brothers or sisters and has been reported to be consensual at times in a survey conducted among college students where it emerged that 10-15% of the respondents had engaged in sexual experiences with a sibling.

Sexual relations can also occur between cousins and distant relatives. This is considered illegal among some states in the United States but not all of them. Twenty four states prohibit marriage among first cousins but about seven states permit it under special circumstances. For instance in Utah marriage among first cousins is permitted if the individuals are over 65 years. Maine permits marriage among first cousins only if a certificate of genetic counseling is presented. Other states that have some restrictions but do not entirely rule out marriage among cousins are Wisconsin, Indiana, Illinois and Arizona.

Research indicates that females are more prone to incest as compared to males. This is probably due to the fact they lack the physical capacity to rebuff their attacks and often suffer in silence especially when they are young. However, there have been documented cases of consensual incest between daughters and their fathers.

3. 0 Morality vs. the law

It is argued that incest is morally wrong on several premises: scientific, religious and sociological. According to genetics, inbreeding leads to an

increase in homozygosity (the same allele on the same locus on both members of a chromosome pair). When recessive alleles are homozygous, it can lead to defects during development.

Cases of incest can lead to an offspring in which case inbreeding can occur. As a result of the defects during development, offspring borne of an incestuous relationship can die before reaching reproduction age leading to “inbreeding depression” - a decrease in fitness as a result of inbreeding among individuals with deleterious recessives.

For instance, the child of a couple who both have hemophilia has a 25% chance of being a hemophiliac. This chance increases if the couple comes from the same family have similarities in the genetic make-up as would occur in the case of incest.

Religious views upon which most laws are based prohibit incest. The Bible which is a point of reference for Christians out rightly outlaw's sexual relations between a man and his mother, father, daughter and also between aunts and nephews but it does not specify prohibition of relations between uncles and nieces. However this is still regarded as wrong since in the traditional Jewish society it was outlawed. In the Quran, incest is mentioned in the Surat An- nisa.

A man is prohibited from having sexual relations with his mother, sister, paternal aunt, daughter, maternal aunt or niece. However marriage between cousins and distant relatives is permitted in Islam. Among the Hindus, incestuous marriages are spoken of in abhorrent terms. Not only does the religion forbid such liaisons but also goes ahead to prohibit marriage across the castes. For the longest time, the law was only concerned with keeping

peace and had little concern for sexual morality. In England, incest was not a crime until about fifty years ago. In United States, there are different stands on the issue of incest depending on the state.

Incest is prohibited because it interferes with the evolutionary process. By marrying within the same family, the diversity of the genetic pool is interfered with. It impairs the natural order which places human beings above other creatures hence can choose mates beyond their own families. In so doing, the evolutionary strides made by man remain obscure.

The law in the United States addresses incest on two fronts: the more serious offence is regarded as sexual relations that occur among closely related kins such as father- daughter, mother-son and brother sister. Father- daughter incest and step-daughter -father incest is the most common form of incest. It is regarded as a form of child abuse and remains widely unreported because of the shame, guilt and fear of reprisal by the victim in addition to the coercion. Marriage between cousins or distant relatives is permitted in certain states but not in other. Twenty four states in the United States permit marriage between first cousins while seven other states permit it only under special circumstances. In Utah marriage between first cousins is permitted if both partners are over the age of 55 and have been proven to be sterile. On the other hand, North Carolina permits marriage between first cousins if there is evidence that they are " double cousin"(are cousins through more than one line).

The prohibition of incest can however be challenges on several facets. To begin with, basing the morality of incest on what the Bible states is a breach of the separation between state and church. Only three of the Ten

Commandments are currently regarded as illegal under the current American law. The rest of the laws cannot be enforced and are incompatible with the laws on separation between church and the state. For instance coveting of the neighbor's wife is considered immoral by the Bible but that does not mean it should be enshrined in the American Law.

Prior to Lawrence vs. Texas in 2003, the laws that prohibit sodomy were widely accepted in the United States. Based on this premise, there have been argued that laws should be repealed which are against consensual adult incest. Some civil rights activists argue that all sexual conduct between two consenting adults is a private matter therefore any form of prohibition about the nature of it is a violation of the rights of the individuals.

In 1996, there was a proposal in Australia that was widely viewed as too liberal. The proposal which was made by Australian Model Criminal Code Officer's Committee discussion paper, " Sexual Offenses against the Person was withdrawn for fear that it would lead to the legalization of sexual relations between parents and their children.

Even to date, there are sections in the laws of Virginia that prohibit " adultery" and " lewd and lascivious cohabitation. The law on fornication was only struck out of Virginia laws as constitutional in the recent past. These laws are rarely enforced as the parties involved participate with full consent. It can therefore be argued that if there is consent between two members of a family regarding sexual relations then in essence, there is no basis for outlawing such a relationship. In addition to that, incest poses no harm to any person when it is consensual hence it would be unjust to simply convict people of it on grounds that it is simply immoral.

The argument that the legalization of incest could result in abuse of power is termed as one sided. This is based on the fact that parent-child relationship can be compared to that of a boss and a junior worker or a physically strong construction workers and an administration worker. To prevent such a union citing abuse of power would be say that a good relationship cannot thrive in the above named situations hence should not be allowed at all.

Although there are several scenarios in which there has been abuse of power, these situations cannot be used as a generalization for all situations. Poor judgment and poor morals which lead to power abuse are problems that are common in any family. This means coercion can occur in any relationship hence the case of incestuous relationship should not be used to exclude the debate on incestuous law that could lead to the development of the law on incest.

However this does not apply for instances when there are children and adults are involved and the children are coerced into participating in the act. It also does not apply in instances where there is undue influence such as pharmaceutical manipulation.

4. 0 Reasons against the legalization of consensual incest

The idea that incest should be legalized if it's consensual encourages abuse. The parent-child relationship is shaped such that the parent has influence over the views that their children have in regard to issues. If incest is made legal, then the parents may take advantage and begin to shape their children's views such that they have no other option apart from approving of incest. While there might be a delay in the onset of sexual intercourse, the parent could begin to fondle and cuddle with their offspring hence

introducing them to a sexualized environment early in life. With time, the children only know about the sexual gestures hence can easily advance to intercourse because they think that it is normal and acceptable. Given that most incest cases are between the father and daughters/step daughters, the abuse takes the form of the father having a domineering role in the family hence the mothers do not have a say at all.

This form of abuse is best demonstrated in the case of the Pitcairn abuses where a small community was permitted to have their own moral agenda. This gave rise to years upon years of incestuous relationships where generations of women were repeatedly abused while the law looked the other way. In addition to that, the women who were supposed to protect their daughters, their sisters were silenced. Their views were disregarded with some becoming complacent to the incestuous acts that were going on unabated in their community.

5. 0 Loopholes in the law in the United States of America

Loopholes exist in the laws of several laws in the United States which make it difficult for perpetrators of incest especially towards children get away with the crime. For instance in the state of New York, if a person rapes a child who is below 11 years of age, it is regarded as a violent felony with a mandatory sentence of up to twenty five years.

However if the victim is the child of the perpetrator of the crime, then the crime can be punished by a sentence as lenient as probation. The decision as to what crime the perpetrator should be charged with not based on the act that was committed or the damage to the victim. It is often based on the discretion of the prosecutor.

Prior to the commencement of the trial, there is often a charge bargaining plea between the District Attorney's office and the defendant's attorney.

During these sessions,

the " agreement" is more inclined towards avoiding a prison sentence for the defendant. With the politics involved in the election of the district attorney, there is little consideration for the victim and more inclination towards coming out in public as having convicted several cases.

In California prior to the Protect's Circle of Victory in 2005, the law allowed for criminals who raped children in their own homes(as is the case in incest) to get off on probation and participate in rehabilitation programs. The focus of these programs was allegedly to use a whole family approach which means that the perpetrator and the victim often had to meet.

It is argued that reunification of the offender with his family after a period of treatment is in the " best interest" of the child. This lowers the self-esteem of the victim, forces her or him the trauma and gives little room for them to freely express their anger at the crime perpetrated against them

In Utah, there are several circumstances that the court considers when handing a suspended sentence or probation to the perpetrator of rape or incest towards a child. The court considers the circumstances of the offence, the duration of the crime and the frequency. Based on this, the perpetrator can be committed to a rehabilitation facility if one or more of the following is established: the defendant did not use force, violence or threat of harm in the course of the act, the defendant did not cause bodily harm to the child or has not been convicted of another crime in Utah or a different state.

In addition to the above named circumstances, the court also considers if the

defendant shows pornographic material to the child in the course of the crime or acted in concert with another criminal in the course of the crime. The worst forms of child abuse against children especially those that occur within families never make it to criminal court.

Crimes on incest are rejected prior to adjudication or prosecution all across America. The diversion law is extreme and bizarre in the state of Hawaii. If sexual assault is conducted against a victim who is related to the perpetrator by marriage or resides in the same residence as the perpetrator, the charge can be expunged from the records altogether.

6. 0 Conclusion

In conclusion, incest remains a subject of great debate. However the impact on minor victims cannot be ignored. The trauma, low self-esteem, compulsion to become sex addicts or prostitutes as a result of incest cannot go unabated. The leniency of the law on the perpetrators needs to be addressed. Stricter laws on perpetrators of incest towards minors should be instituted. In addition to that, consensual incest ought to be debated fully and laws to draw the line instituted in order to prevent exploitation.

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