

GENERIC MOTIVATIONS FOR ATTITUDE OF REJECTION OF INCEST

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Abstract

The number of incest cases has amazingly increased during the last decades in Romania. This quantitative dimension is supplemented, started with 2010, by a new legislation initiative which is going to facilitate even more numerous incestuous situations. It is about non-criminalization of non-aggressive incest that is the incest between two adults having consented on their sexual relation. Biological, psychological, theological, social and demographic motivations partly block all incestuous temptations of individuals and force them to comply with different rules in order to avoid committing incest. We address such motives in the current study since we believe that the regulator should act differently to have his initiative well perceived: firstly he should inform and warn the population on the harmful effects of the incest and he should launch his new law initiatives on the incest only after the first stage have been successfully completed.

Keywords: *prohibition, incest, aggressive incest, non/aggressive incest, sexual consciousness, legislative reasoning, natural exclusion, sexual liberalism, ethnocentric attitude, xenocentric attitude, action reasoning*

In many of the current civilisations, such a monstrous fact like the incest is given much too little consideration. The outrageous numbers of incestuous situations seem neither alert or bother too many people. Really serious situations are currently considered unemployment, dramatic decrease in income, increases of taxes, getting sick with new forms of flu, clashes between clans or groups, etc.

Romanians rank among people showing at least lately a tolerant attitude towards incestuous offenders. The passive position they adopt is inexplicable since they used to radically blame not only the act of incest in itself for which no clear evidence has been produced but the suspicion of such an act as well.

The current concessive attitude of the Romanians on the incest is given certain intelligibility if we are to judge it terms of their receptiveness and obedience to the offers of the western cultural pattern. Accession of Romania to the European Union was a longed-for decision by the Romanians. One of their former aspirations would therefore come true once their affiliation to western European

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values have been sanctioned and formally admitted and their status as “peripheral nation” has been dropped off.

The accession act would have lacked substance or would have remained just some political decision unless several concrete changes hadn't come after it as well. It is only these to testify that Romania has effectively joined the European community environment. That is the reason why the Romanians had to introduce at very short notice several changes on their economic life, social protection, education system, health care, environment protection, crime control etc.

Within a given space of social reasoning, such changes should be provided with the backup and support of a proper legislation. Consequently new judicial codes have emerged as the justice system has been one of the most dynamic domains since the 1989 revolution. Unfortunately, the Romanian legislation, being under pressure of rendering it compatible with the western legislation, hasn't initiated a precisely successful approach: one the one hand, it accepted a large number of foreign juridical recommendations whether they matched or not the operational requirements of the Romanian society, and on the other hand, it mimetically took the customary legislation from several western states. That explains why such a crime as the incest is will be given, beginning with 2010, a tolerant treatment, borrowed from Western Europe.

To make distinction between the “incest without victims” and the “incest with victims” and to label the former, in a Western-like manner, as a crime which could not be criminalized, means to neglect the generic dangers of this fact. Too many and too dense are the reasons for which the incest should be avoided / punished, regardless its form and circumstances. Only if we do not accept the conspicuousness of these reasons and do not understand the absurdity of the marital / sexual relationships between persons related by kinship we could not reach repressive and restitutory sanction of the incest. We shall ultimately find ourselves in the position of not becoming aware that the incest even if it has been committed without aggression will result in victims. Usually the incestuous offenders are at the origins of a chain of collateral victims but they do not consider themselves victims of their act.

a. Biological and demographic motivations

As geneticists and anthropologists clearly stated, in archaic communities¹ incestuous intercourse between parents and their children was almost impossible. The control over the register of sexual relationships derived from the pressure of some biological and demographic factors, long before the kinship had been

¹ We refer to these communities since they have been the first to formulate the incest forbiddance. The post-archaic communities have replicated or completed these primary rules, but the results have not been entirely positive. The rate of incest has increased from one epoch to another, and this confirms the continuous weakening of the effectiveness of the rules on the incest.

delimited and the interdiction rule of incest had been formulated. The *natural avoidance of the incest* has therefore occurred given that there has been a life expectancy of maximum 35 years while people would reach their puberty at the age of (about) 15 years, the infant mortality rate would still be very high – about 50% – women would give birth to only one child and would breastfeed it longer, the ovulation of breastfeeding mothers would be then reduced and would affect the demographic rate, and by the time children would become sexually mature and could have sexual relationships with their parents the latter were either too old, or had already passed away (N. Constantinescu, 2000, pp. 94-95). Reversely, the incestuous relationships would have been possible within families (quite a few numerous) with several children. Specialists would argue that this time too the incest was avoided since the sexual relationships between brothers and sisters failed to get materialized through long-awaited and numerous births; infant mortality rate was higher than to non- consanguinity parents, new born children would often develop malformations and a weakened physical resistance, etc. Intuition-based conclusion of the old communitarian was that the advantageous sexual / marital relationship should not involve parents and their children or sons of the same parents. Later this finding has turned into a rule and it was further developed through delineation of several *applicability zones*². Nevertheless the fears on the biological decay and demographic regress through incest are still valid today and they largely control the area of the sexual /marital relationships among individuals³. At least “the interdiction on the incest between mother and her son is the major interdiction to people. If it is transgressed, it results in the disintegration of the son and his entire family group. Apart from this major interdiction, all social organisations postulate provisions to limit the free choice of one’s partner ... some sort of warning lights on the way of adult desires, when it deals with procreation” (Fr. Dolto, 2009, p. 531).

b. Psychological Motivations

When forced to satisfy their needs, individuals would naturally appeal to current offers within their immediate area. Consequently the physiological needs for sex and perpetuation of species might have been satisfied through consanguinity breeding since they used to live almost all of the time together within their

² The initial rule referred only to consanguinity. Later its effects were expanded to people related among them through spiritual kinship, conventional kinship, name similarity, residential bias, etc.

³ Some theories would argue for contrary hypotheses: our ancestors have evolved precisely because they practiced the incest. As a result they have succeeded in preserving the most successful samples and have kept the most powerful and positive genes. Yet recent research reveals that populations coined as primitive were highly interested in avoiding the incest, as they were especially frightened by the perspective of their physical disappearance. For further details on it, see R. Lewis, *Origins*, E.P.Dutton, New York, 1977 and V. Durham, *Co-evolution. Genes, Culture and Human Diversity*, Stranford University Press, Stranfords 1991.

domestic perimeter. While residing together and owing some intimate area of their own, the people related by kinship might have been stimulated and somehow determined to practice the incest. Fortunately, Edward Westermarck (E. Westermarck, 1994) argues in his famous paper *The History of the Human Marriage*, that the spatial proximity and the relational diversity are not also accompanied by the erotic attraction between parents and their children, between brothers and sisters and generally among people with a closed kinship. Moreover, the numerous stimuli spread among related people would create a sort of *super-saturation* and instinctive *rejection* of the consanguinity to sexual relationship. It is within such a context that the psychic of each individual is to emerge and evolve, till it reaches to *naturally exclude the incest* from his sexual alternatives. Furthermore, the same contextual aspects make us understand why the incestuous offenders are exceptions or deviation from human nature, and why *people had to postulate the rule on forbidden of the incest*: on the one hand, they had to protect themselves from those representing exceptions or anomalies of the sexual behaviours of the community, and on the other hand they had to warn the prospective followers of such behaviours against on their ill-fated consequences.

The aversion or the natural disgust at a sexual relationship with a relative, Cl. Levi Strauss (Cl. Levi Strauss, 1967) argues in agreement with E. Westermarck, would have protected humankind from some of its greatest troubles: the permanent questioning on the leadership, the premature sexual life, the pervert of the community spirit, the human estrangement, the disintegration of communities, etc. The psychological argument presented by Westermarck, centred on the idea that familiarity generates sexual repulsion and rejection of the incest, was brilliantly completed by S. Freud (S. Freud, 1991). Founded on an entirely opposed idea, namely that familiarity generates sexual attraction, the Freudian argument on the incest in plausibly built towards suggesting the following pattern of family psychology: “due to the familiarity, and to the physical and affectionate contact between mother and her son, the latter develops powerful sexual propensities to his mother. Yet he sees that his father enjoys the erotic privileges, where his jealousy and hostility towards his father, but his fears as well since he feels him stronger than he is. The solution would be to repress his sexual impulse. This passes to the sub-conscious where it keeps on working. The psychic would then develop as a form of protection the hostility of incest” (P. Ilut, 2005, pp. 79-80). That explains why man, although he owns the impulse of the incestuous manifestation, psychically frees himself only if he fights against it.

The attitude of rejecting the incest has been therefore fixed to the individual and collective psychic and to the hereditary data of the human species as well. Without having a very clear motivation of the incest and without knowing many details on it, the individual is endowed in his very own psychic life with the tendency to blame this action. In other words, he experiences a feeling of horror towards incest without having been given a special training for it. Any deviation

from this tendency having occurred within critical social-cultural circumstances results in mental discomfort: the incestuous person himself feels embarrassed or completely inhibited for not having matched the psychological prototype of the society and group he belongs to, while the latter feels unsecured. That is why groups mentally protect each others while brutally or rationally moving away from the incestuous person, and why society has discovered self-adjustment mechanisms to purify the practitioner of incest. *To contemptuously treat the incestuous persons is not self-sufficient.* In quite a few cases this is how we can get their recovery and normality. Conversely, to *severely punish them* for it is equal to proving them that they are parts of the social body and that they should integrate with it and not to become its abnormalities and misappropriations.

An old axiom tells us that “exceptions prove the rule”. Consequently, each incest case, followed by proper society reactions, should provide the prohibition of incest with even greater vigour. For the moment being, the interdiction rule on the incest appears not to frighten the Romanians any longer; the social crises have triggered such a psychic confusion that not all incestuous situations look dangerous to them any longer.

c. Juridical Motivations

For most of its existence mankind has performed its functions based on some practices of juridical nature. Written laws are rather late acquisitions and when they were mentioned earlier they could not be read since almost all people were illiterate. At least within the Romanian area, the more significant written laws have their history of about one and a half century.

In early times, *the fear of moral – religious punishment was greater than the fear of juridical punishment.* The regular individual was aware that committing an injustice was firstly a sin and then a juridical blameworthy action. Consequently his crimes were few numerous but severely punished by church in the first place.

Justice is currently independent from religion or it still keeps a symbolic relationship to it. A fact as the incest is, punished both morally and religiously, is received as defying reparatory claims made by the victim and the society where the crime has been committed. People can hardly understand how crimes are no longer being punished. Especially in the case of a crime as the incest is, its author shouldn't be forgiven but it should be severely punished as they used to do it long ago. The current juridical logic of the concerned citizen is a simple one, and it has been inherited from the traditional period and it is somehow in contradiction to that of the formal law institutions. Hence, when a deed is equal to a crime, the offender is a criminal and all criminal should be punished for his deed. Unlike this more paremiological than juridical point of view, formal law would claim on punishment of facts yielding social danger, that passes from the personal to public area and results in being reported / instrumented by an institution (E. Schur, 1965). In

agreement with this juridical vision, the cases of domestic violence, rape, prostitution, sexual assault, incest, etc. if not considered by concerned institutions (Police, Law Court, Social Services etc.) are to fall into the category of *hidden criminality or victimless crime*. As for the incest as victimless crime, the laws should not allow its being unpunished, even if participants have reached the age of majority and they mutually agreed on the sexual /marital relationship. Its catastrophic biological, demographical, moral, mental and social effects might motivate a *special juridical control* over the incestuous offenders and by no means a relaxation of it.

d. Theological Motivations

The religious theories and practices have promoted an impressive number of interdictions on the incestuous nature of the sexual/marital relationships. Complementary with naturist and juridical motivations, *theology has imposed its own assessment and sanctions* on the sexuality, family and incest. As for the timeliness and credibility of its solutions there is still some reserve related to the pre-modern origin of some of the current theological arguments, having been considered *left behind by the cultural time*.

Some persons do not associate the old age of the theological arguments to the perennial, constructive and positive outcomes facilitating the proper operation of the social environment, but to the excessively conservative religious vision on social life. For instance, the sexual life before marriage and outside the institution of marriage, undisputedly rejected by traditional society, is currently forbidden by the church only; similarly, women's obedience to their husbands is still recommended by the church but it is labelled discrimination by the civil society. *Only when they refer to incest, there has been a close similarity between rational justice views and church's views*. Paradoxically, the new Criminal Code, in its dealing with "incest without victims", clearly distances itself from what is accepted by the Romanian Orthodox Church. When taking this distance, it seriously disturbs the complementarity relationship between church and civil society depriving the former of its prestige and amplifying the anomalies of the latter.

Theology, since it transcends the laic or formal sphere for judging the incest and it supports the secularized zone of the society for effectively protect itself from this act, succeeds in providing for a more complex approach on the phenomenon. Basically all biological, demographical and psychological marks having been mentioned above interfere on the theological version of analysis and interpretation of the incest. Consequently the theological version should be better known than the laic one, since it is known that *only if religious requirements of the incest are met, the laic shortcomings of committing incest will be automatically defeated*. The additional and formal intervention of the moral-religious control might have been endorsed by the regulator when he formulated the new Criminal Code and he did not criminalize the non-aggressive incest.

The theological motivations for rejecting the incest are not explicitly formulated, yet they result from several specific elements starting with the way in which this act is defined, to individual concern for personal normality and up to proper rules and precautions required by harmonious functioning of family and residential community. Hence, according to the orthodox theology, the incest is defined as “lust of the flesh” or as “sin crying to Heaven for vengeance”, together with murder, sodomy, not honour your father and your mother, mistreat old people and widows, etc. Since it is such a severe act, Saint Paul the Apostle calls it “the sin that should not be given a name” (1 Corinthians 5,1). In other words, individuals *should not even talk about incest* to say nothing about living next to other communitarians after having committed such a sin.

For repulsion and disagreement it arouses, the incestuous fact is *one of the social diseases that the Christian individual should mostly avoid*. It is hard to believe that he will actually ever get rid of being labelled incestuous person, since it is deeply inscribed inside and outside him, even if he will be concerned with getting a new identity through other types of socially desirable facts. Such approaches are collateral and they remain transient disillusion; they inspire the illusion of normality but they fail to discharge the stigma.

How narrow-minded should that man be when he sees his house tearing apart and instead of fixing it he starts sweeping the courtyard! How careless should that man be whose body is sick and instead of taking care of restoring his health, he just sits and weaves expensive clothes to cover it (Sfântul Ioan Gură de Aur, 2007, p. 33) argues Saint John the Golden Mouthed. So should be said about the inappropriateness of the delimitation of provisions on the incest by the New Criminal Code of Romania: it did not start from an ethno-sociological research on it, it did not consider the point of view of the Church as an institution having succeeded in stopping the escalation of the phenomenon so far, it ignored the dangers manifested in the number of incest cases, it did not capitalize the Romanian traditional cultural background on the same issue, etc. For example, to avoid suspicion of incestuous marriage, in the Romanian traditional village people used to observe the practice of “announcements” in the church (D. Stan, 2001, pp. 256-259) for three Sundays, after service; it was actually announced the intention of two persons willing to get married to each other, and the old people of the village together with its priest should decide on it. They would only give their consent to it provided that the couple’s family tree should not raise any interdiction to it. Avoiding “blood-mixing” was pursued not only in the case of blood relationships, but also in that of the parents-in-law, god parenting, adoption and cohabitation.

John Mack, an orthodox priest in the USA, delimited eight religious motivations preventing people from getting married to each other (Pr. J. Mack, 2007, p.130) and father Ilarion Argatu identified as much as 70 situations in which

marriages and sexual relationships are forbidden for being incestuous (Pr. Argatu V. Ioan, 2007, pp. 43-50). Writings of several saints, especially those of the Saint Basil the Great and Saint Paul the Apostle, as well as some old Romanian writings (“the Teachings of Neagoe-Basarab to his son Theodosie”, “Correction of the Law” – issued during the reign of Matei Basarab, and “Description of Moldavia” – written by Dimitie Cantemir upon the request of the Academy of Berlin) give examples of types of incestuous relationships and/or punishment for having committed such a sin. Generally speaking, writings mentioning such ‘non-canonical marriages’ or illegitimate marriages, that is marriages without a religious union, banned by the Church and the Bible canons, would also present the most important threatening of the incest: the *mixing of the blood*. That is why all persons having been raised and educated within a Christian area should share the conviction that the incestuous person commits a “deadly sin” or “a sin more severe than over-lust of the flesh” (Arhimandrit Ioanichie Bălan, 1993, p. 33), Ioanichie Bălan concludes. Christianity, in general and not only the Romanian Christianity confirms the sexuality “within marriage, between a man and a woman validated by the church and divinity, within a monogamous union with a view to physical reproduction or childbirth while complying to all interdictions on the incest in order to benefit from the protection of the Holy Spirit. Otherwise this is only a way to solve sexual instincts, a purely physical relationship, bereft of the opportunity to get spiritual fulfilment” (H. Tristram Engelhardt jr. 2008, p.334).

To Christian theologians, the problem of the incest is extremely difficult. The difficulty lies in that that they call it a *peak of mundane sins* and on the other hand they *cannot recommend the reprimand of the incestuous offenders*. Any oppressive act would be a denial of the fundamental Christian dogmas pleading for the love of the neighbouring no matter how “lost” he should be.

If the reprimand is excluded then church has nothing else to do but act preventively through its own moral-religious educational ways. To this purpose, the Church needs the support of the laic norms and institutions whose actions would help it to fight against avoiding or eliminating the incest. The current legislation at least in Romania leaves the impression that it sabotages the church anti-incest mission since the non-aggressive incestuous offenders are no longer being punished by the laic law.

It is known that *whenever the strength of an interdiction is weakened it will result in a numerical increase of those breaking the interdiction*. Given the relaxation of the Romanian law on the incest, an increase on the number of the incestuous offenders has been already noticed without that the new Criminal Code to have come into force. Under these circumstances the church and the theology could only express their views on it and react to it so deeply and so convincingly that to sensitize and motivate believers to avoid practising the incest.

e. Social Motivations

Since the incestuous offenders commit a socially condemnatory fact, they will be either considered incapable to raise themselves to the requirements of the social environment, or ignored in relation to morals and normative system, or hostile to what their fellow men do and/or recommend them to do. The non-conformism of the incestuous offenders exposes them to all sorts of risks: from brutal intervention towards blocking any possibility to replicate the criminalized act up to mockery and moral sanction of their vice, from their immediate punishment without having sufficient evidence against it to his late rejection after having tried several social-cultural recovering; from exclusive punishment of that revealed to have committed the incest to formal reprimand or marginalisation of the whole group he belongs to; from exemplary and eloquent sanction of the whole community to shy, discrete and restoring obstruction of the offender, etc.

Eventually, the highest risks the incestuous offenders take is a social one: *they are not allowed to take full part to the community life on grounds of abnormality*. In other words, they will lose numerous statutory, relational, political, financial opportunities for carrying a stigma.

Biological, demographical, psychological, juridical and theological motivations for stopping the incest are reflected in way in which society works. That explains why some biological, demographical, juridical, theological etc. pressures could be eluded or, on the contrary, exaggerated if it foresees comfort and social benefits. For example, the horror for incest, psychologically justified, determined the Romanian traditional society to forbid sexual/marital relationships up to the ninth kin. When all opportunity to obtain the marital /sexual part has been limited, the feeling of repulsion to incest diminished as well while its repudiative sphere decreased up to the seventh kin and then to the fourth kin.

Hence socio-cultures have modified the marital /sexual selection criteria and have differently motivated self-protection against the incest. M. Mead offers the simplest and most evident social motivations to rejection of incest that he identified in replies of the natives from New Guinea: “We do not sleep with our own sisters; we give them to other men and they give us their own sisters. ... Marry your own sister? What can you get of it? Don't you want to have brothers-in-law? Don't you understand that if you marry another's man sister and if another man marries your sister you'll have at least two brothers-in-law while if you get married to your own sister you'll have none? Who will join you for hunting then? Who will help you with your planting? Whom will pay visits to?” (N. Constantinescu, 2000, pp. 100-101).

Conclusion to be drawn from these lines is as simple and clear as that: prohibition of incest, although it may have a constraining nature, produces effects which are more protective than constraining and it offers tremendous social advantages to those complying to it.

From the presentation of motivations for which the incest should no longer find itself among human behaviours it results – either implicitly or explicitly – fostering of attitude of incest rejection. Since the juridical law has become less and less effective in nurturing such an attitude, some other instances (the Church, the school, the enlarged family community, the neighbouring area, etc.) should substitute these avoidances, helplessness, lack of reaction on behalf of the justice. Tenacious, convergent and complementary actions of these instances may possibly result in stopping the increase of the incestuous offenders and diminishing regretful consequences of the incest.

References

1. Argatu, V.I., Pr. 2007. *Ne vorbește părintele Ilarion Argatu despre căsătorie* (Father Hilarion Argatu Speaks about Marriage). Editura „Mila Creștină”, Fălticeni.
2. Bălan, I., Arhimandrit. 1993. *Călăuză ortodoxă în familie și societate* (Orthodox Guide for Family and Society), vol.2. Editura Mitropoliei Moldovei și Bucovinei, Iași.
3. Constantinescu, N. 2000. *Etnologia și folclorul relațiilor de rudenie* (Ethnology and Kinship Folklore). Editura Univers, București.
4. Dolto, Fr. 2009. *Dificultatea de a trăi. Povestiri psihanalitice despre copii* (The Difficulty of Living. Psychoanalytic Stories about Children). Editura Trei, București.
5. Engelhardt jr, H.T. 2008. *Fundamentele bisericii creștine. Perspectiva ortodoxă* (The Foundations of the Christian Church.The Orthodox Perspective). Deisis, Sibiu.
6. Freud, S. 1991. *Opere* (Works), vol 1. Editura Științifică, București.
7. Iluț, P. 2005. *Sociopsihologia și antropologia familiei* (Family Socio-psychology and Anthropology). Polirom, Iași.
8. Mack, J., Pr. 2007. *Ghid pentru dobândirea armoniei în familiile ortodoxe* (Guide for Harmony in Orthodox Families. Editura Sophia, București.
9. Schur, E. 1965. *Crimes Without Victims*. Prentice Hall, Englewood Cliffs.
10. Sfântul Ioan Gură de Aur. 2007. *Problemele vieții* (Life Issues). Egumenița, Galați.
11. Stan, D. 2001. *Sociologia ruralului tradițional românesc* (The Sociology of Romanian Traditional Rural). Editura Universității Al.I.Cuza, Iași.
12. Strauss, C.L. 1967. *Les structures elementaires de la parente* (The Elementary Structures of Kinship). Mouton, Paris.
13. Westermarck, E.. 1994. *The History of Human Marriage*, MacMillan, London.