opinion—it is notable that, throughout Great Britain, the offence is dealt with severely when two generations are involved and that this applies particularly to the father/daughter relationship.

There seem to be sensible grounds for a re-appraisal of attitudes to incest and the related law in the light of recent medical, anthropological and social work. Certainly, as regards Scotland, 400 years appears an undue time for a statute to remain virtually unamended and the whole subject is currently being considered by the Scottish Law Commission.

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References


Commentary

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The moral philosopher's first reaction to the paper by Noble and Mason is to ask what it is trying to do, and what assumptions about the nature of morality underlie its treatment of the subject. It appears to me that the principal assumption of the paper is entirely a correct one, that for any conduct to be considered morally wrong, or to be justifiably made illegal, it must be possible to demonstrate that that conduct is in some way harmful. The paper accordingly sets out to examine various grounds on which incestuous behaviour might be considered harmful. The cautious conclusion is that although such behaviour may well be harmful on other grounds (e.g. that it often involves molestation of minors, or assault, or the degrading treatment of women), it is far from clear that there are grounds for considering it harmful precisely because it is incestuous. There are therefore grounds for suggesting that a review of the legal situation might well be opportune. I am in agreement with the overall method of approaching but there are some points at which the argument strikes me as less than conclusive.

Some comparatively minor quibbles may be dealt with reasonably briefly. In general, I would wish for a somewhat clearer distinction to be drawn between the question 'What led people to hold a particular view about incest?' and the question 'Is a particular view about incest defensible?' People can get the right answer for the wrong reasons, or draw a mistaken conclusion from correct premises after all. Thus is it at least possible that incestuous conduct (or some form of such conduct) might be harmful, and that people grasp that it is, and for them still to explain this to themselves in ways which cannot in the end be supported by evidence. Again, I am not altogether happy about the use of the term 'instinct', when it is, I think, a matter of dispute among psychologists whether, if at all, human beings can properly be said to have instincts. I should make it clear, however, that it does not seem to me that these criticisms would seriously undermine the overall argument of the paper as a whole. Finally, in the light of the claims made by the NCCL, I would have found it helpful to have some evidence about the age of the younger person in connection with the cases of incest reported, those brought to court, and those in which prosecution resulted in imprisonment.

Two rather more important issues seem to me to arise out of the paper, even assuming that the evidence as there presented is factually correct.

Firstly, it does not seem to me that the conclusion which strictly follows from the evidence is not quite that there is no 'pure universal instinctive revulsion' to incest (even allowing for the unclarity of 'instinctive' here). All that strictly follows is that if there is such a revulsion, it is expressed through, and over-laid by, a very varied set of institutionalised forms and structures. Moreover, even if 'revulsion' is not the right word, it seems to me to be at least compatible with the evidence as presented that incest is universally viewed as dangerous, and is permitted only for other over-riding motives, or where other social structures exist to minimise the potential dangers involved. Thus, where 'incestuous' (in roughly British terms) relations are permitted, they are seen as a means towards safeguarding the purity of the royal lineage: or, the other structures defining and maintaining kinship relations are sufficiently clear that 'incestuous' relationships do not present any threat provided they remain within the limits. I would be inclined to think that incest has been so widely disapproved of because it has been seen
should say, on good grounds) as potentially threatening to the structure of family relationships. It is not surprising that what conduct has been considered incestuous varies with the nature of family structures; and I do not think it militates against this conclusion that incestuous behaviour can also express family breakdown as well as contribute to it.

Secondly, I think a great deal depends on precisely what changes in the law are contemplated. It makes a great difference whether one is proposing to abolish the criminal offence altogether; or to restrict its scope; or to alter the sentences which can be imposed when it is committed; or to allow marriages to be contracted which are at present excluded. We must consider both the educative function of the law, and assess precisely what harm has been done, if any, by the law as it now stands. I do not see that the paper has presented us with the evidence to judge on this last point, unless it is granted that incestuous conduct as such is harmless.

More generally, I feel that great caution should be observed in trying to alter social practices and institutions piecemeal. They form a very delicately balanced set of expectations, and we cannot lightly assume that some of these expectations can be altered while the rest remains unchanged. We can continue to expect one another not to molest minors, and not to commit sexual assault; but it is not clear to me that to remove the expectation that we should not behave incestuously even with a consenting adult would not tend to threaten the family relationships which we at present take for granted, and on which our happiness in part depends.

Commentary

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This paper raises a number of interesting issues about incest, but I will confine my comments to one particular aspect – the curious universality and strength of the incest taboo. Noble and Mason discuss the main explanations that have been put forward, finding each lacking in some respect. We are left, therefore, with a continuing sense of mystery.

I am not convinced that this enigma is justified. Providing that it is possible to recognise disadvantages from incestuous behaviour, then the occurrence of strong taboos becomes likely for reasons that I will try to explain.

It is perhaps easier to see the disadvantages of parent-child incest than sibling incest, and it may be relevant that the latter has the weakest taboo, and in some form is more readily accepted as a normal part of sexual development. Most of the disadvantages of the parent-child kind have been alluded to in this paper, though they can perhaps be more clearly stated.

There are two obvious issues which may be threatened. The first is the integrity of the nuclear family unit – the structure of which is based on the sexual pair-bond of the parents. When one considers the threat to this pair-bond that can ensue when either person is involved in extra-marital sex, it would be hardly surprising to find that intra-family sexual relationship would be equally or more threatening. It is important here to make the distinction between sexual intercourse and implied or even overt but minimal sexual behaviour, because of the powerful ‘symbolic’ significance that the former has for a relationship. Thus, in considering the point of view attributed to the National Council for Civil Liberties, I would say that, whatever the degree of intra-family disturbance that might precede incestuous behaviour, the occurrence of that behaviour may move the family conflict onto a different and perhaps relatively irretrievable plane. Their argument also overlooks the potential importance that the incest taboo may play in maintaining the healthy family group. Whilst agreeing that the law relating to incest needs appraisal, I consider the conclusion that incest should be regarded simply as a symptom to be a naïve over-simplification.

The second issue under threat is the ‘parent-child’ relationship. My point here is less easily made, but I would suggest the caring role of the parent, and the unique nature of the parent-child relationship that continues even into the child’s adulthood, would be undermined by the occurrence of parent-child incest.

There are other reasons that have been put forward involving the power structure of the family and social group, the complexity of material inheritance and so on, that may all contribute to the threat of intra-family sexuality. I simply need to establish that there are sufficient reasons for avoiding incestuous relationships, at least between parent and child.

Having said that, I come to the next crucial point. There is a natural and perhaps inevitable sexual component of the relationship between parent and child. The early physical contact between mother and infant, the continuing physical expression of affection, the ‘rehearsal of heterosexual relationships’ between child and opposite sex parent, are all, I would suggest, valuable influences on the child’s sexual development.

It is therefore the combination of these two factors – the need to avoid incestuous relationships, and the need to exploit the limited sexuality of the parent-child relationship for normal development that generates the need for the powerful and externalised constraint that we call the ‘incest taboo’. (Compare and consider here the special taboo on sex between doctor and patient.)