

Published in *Philosophy in the Contemporary World* 13:1 (2006), pp. 48-55.

The Ethics of Incest

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Abstract

In this paper I challenge two common arguments against incest: the genetics argument (that incest is immoral because it might lead to the conception of a genetically deformed child), and the family argument (that incest is immoral because it undermines the family, the emotional center for the individual). These arguments, I claim, commit us to condemning not only incest, but also a wide range of behaviors that we currently permit. I thus present the reader with a dilemma: on pain of inconsistency, we must either accept certain forms of incest in order to maintain these other moral judgments, or reject these judgments in order to maintain our condemnation of incest. The reader is free to decide which alternative is preferable, but I suggest that the former is a much less radical shift in our moral system as a whole.

1. Introduction

On April 21, 2003, Senator Rick Santorum held an interview with the Associated Press at which he argued:

If the Supreme Court says that you have a right to consensual sex within your home, then you have the right to bigamy, you have the right to polygamy, you have the right to incest, you have the right to adultery. You have the right to anything.

Of course, we know that this is far from true. Consensual sex does not pave the way for polygamy, incest or adultery—let alone for anarchy. But what is interesting about this argument is not that it conflates consensual sex with these practices, but that it assumes that these practices are wrong. The case of incest is especially interesting. Given that incest is one of the most categorically denounced practices in the world, we rarely feel much need to defend our condemnation of it.

In this paper I will challenge this condemnation. First, I will examine two common arguments against incest: the argument that it is immoral because it causes genetic damage to the conceived child, and the argument that it is immoral because it damages relationships and undermines the family. Through a series of analogical arguments, I will contend that each argument is both under- and over-inclusive, entailing the moral permissibility of incestuous acts as well as the moral impermissibility of non-incestuous acts that we currently endorse. The implication of my argument will be that unless we are willing to alter our social lives in profound ways, we are committed to permitting certain forms of incest in society. I will then briefly examine how the incest taboo is reinforced in contemporary society, in institutions ranging from popular media to academic scholarship. This discussion, I hope, will have consequences not only

for sexual ethics, but also for other moral problems, such as abortion. I will conclude by arguing that there is no morality intrinsic to incest, and that our only means for evaluating incestuous acts are general moral rules that apply to other interpersonal acts as well.

2. The Genetics Argument

The genetics argument holds that incest is immoral because it might lead to the conception of a genetically deformed child. Obviously, this argument applies only to very narrow range of incest, namely vaginal intercourse between fertile partners of the opposite sex without sufficient contraception. Since the incest taboo is much broader in scope than that, we know that something else must be going on here. I will address more comprehensive arguments later on, but this one is important to consider first.

The genetics argument is based on evidence that incest increases the incidence of inherited genetic diseases by about three percent.¹ This may not seem significant, but one could argue that we should address questions of this sort by considering both probability of harm and potential level of harm, and that in the case of incest the small probability of harm is trumped by the severe potential level of harm. An analog would be an argument against nuclear power, according to which the clear benefits and small probability of harm are outweighed by the severe damages that could occur. I believe, however, that when this argument is used in opposition to incest, it commits us to an untenable set of corollaries, for the potential level of harm resulting from incest is similar to, if not less than, the potential level of harm resulting from sex between carriers of congenital disorders. After all, the supposed danger of incest is that it increases the probability that recessive genes will become dominant; and this is the same problem that allows

congenital disorders to emerge in the fetus.² Therefore, we should not condemn incest unless we are prepared to condemn sex among carriers of genetic disorders as well.

Such condemnation, of course, would be no small feat. There are over 4,000 known congenital diseases in the world, many of which are far more dangerous than incest is purported to be. Huntington Disease (HD), for instance, is a devastating, debilitating brain disorder that gradually diminishes the ability to walk, talk, and reason. If one of your parents has HD, you have a fifty percent chance of inheriting the fatal gene; and if you carry the gene, you *will* develop the disease. Presently HD afflicts over 250,000 Americans and, at present, there is no known treatment or cure. Indeed, when compared to the fatal, incapacitating effects of HD, as well as the high probability of these defects emerging in the fetus, the supposed³ genetic defects of incest are relatively minor. So, if we subscribe to the genetics argument, we are committed to treating HD carriers—as well as carriers of all genetic disorders—the same way we treat incestuous couples.

The question that remains, then, is: how should we treat people with genetic disorders? Should we prevent them from having children, or force them to take vows of celibacy? Not only would this commit millions of people to lives of abstinence, but according to health professionals, in most cases it is completely unnecessary. Thanks to recent advances in medical technology, people with genetic disorders can now research the potential dangers of implantation and select the best course of action based on individual circumstances.⁴

In addition, important advances in gene therapy have dramatically reduced the risk that congenital diseases will emerge in the fetus. Prenatal screening enables doctors to test for inherited diseases in the blood, amniotic fluid, or placenta of the womb early in the first trimester. Pre-implantation genetic diagnosis enables doctors to test the embryo for inherited

diseases before implantation even occurs.⁵ And if we are prepared to offer genetic counseling and gene therapy to carriers of traditional congenital disorders, then why not extend the same courtesy to incestuous couples?⁶ We have no reason to deny them this privilege other than arbitrary discrimination. Thus, we cannot consistently hold the genetics argument.

3. The Family Argument

The second commonly used argument against incest, and one with much broader application than the genetics argument, is what I call the family argument, which states that incest is immoral because it undermines the family, the emotional center for the individual.⁷ Notice that this argument rests on three premises: one, that incest undermines the family; two, that the family is the emotional center for the individual; and three, that it is immoral to undermine the emotional center for the individual. I believe that all three premises can be called to task. I will present my cases against premises one and two here, and then I will discuss premise three as it relates to a possible objection to my view later on.

First, premise one neglects situations where incest seems consistent with familial stability. Imagine, for example, the following scenario: Adam and Beth are two successful, independent adults who meet one night and hit things off. They begin to date, and over time, they start to have sex. Within two years, they are married. Then, four years after the birth of their second son, the unthinkable happens: DNA tests confirm that Adam and Beth are brother and sister, separated at birth. They now have two options: they can renounce their love, suppress their sexual desire, and file for divorce; or they can continue to live their lives as they always had, accepting and embracing their relationship as both brother-sister and husband-wife. In this

case, which solution would “undermine the family” more? If the first premise in the family argument is true, and all instances of incest undermine the family, then they had better select the first option. I suspect, however, that Adam and Beth would be inclined to select the second. And they would have just cause for doing so. After all, they never even met until adulthood, so their childhood bonds are not in peril; the only family in danger is their own. Thus, premise one of the family argument is not necessarily true: there may be cases in which incest is not only consistent with familial stability, but necessary for it.

Second, premise two demands that we draw a strict line between the family on one hand and all other relationships on the other. But this might prove difficult. The existence of godparents, in-laws, stepsiblings, and other such people show that any line of demarcation will have trouble capturing the complexity of contemporary family arrangements. But the problem goes beyond that. There are numerous important relationships in our lives—some of which are based on blood, others of which are not—and it is ridiculous to assume that our family members, whoever they may be, are necessarily our emotional centers. Our social lives are more interesting than that, and no relevant moral distinction neatly separates our family relations from the other relationships in our lives.

For example, we do not allow a brother and sister to have sex because, we say, the sibling relationship is simply too important to place in jeopardy. But now consider the case of the “girl next door.” Two children—we can call them Chris and Donna—grow up as neighbors and spend all their time together. They are so inseparable, in fact, that they might as well live in the same house; some people even jokingly refer to them as “brother and sister.” Then, something strange happens. Chris and Donna start to grow up, and the love they share for one another—which had once been so platonic—begins to blossom into something new. They begin to develop feelings

for one another, both romantic and sexual. At first, Chris and Donna are disconcerted, even frightened. And for good reason: they understand that a failed sexual relationship can severely harm their friendship. As a result, they need to make an important decision: do they risk their friendship by becoming sexually involved, or do they protect it by suppressing their sexual desire? It is a legitimate question, and a difficult decision. But for better or worse, the choice is theirs to make. So, if we are to maintain our condemnation of sex between siblings, we need to consider what distinguishes them from Chris and Donna.⁸ If friendships and familial relationships can be equally important to the individual, then the only factor separating the two cases is heredity; yet as I have argued, this variable has no moral currency.

As a result, sex between siblings collapses into the same moral domain that accommodates sex between close friends. For a brother and sister, the guiding question should be similar to that which Chris and Donna would consider: “Would the benefits of a successful sexual relationship outweigh the costs of a failed one? And what is the probability such that success will occur?” Of course, in weighing the pros and cons, they would have to consider not only themselves, but also all others who might be affected, including family and friends. Based on such considerations, they might decide not to have sex as adolescents because they would be ignoring an important familial obligation—the implicit pledge by which each member promises to care for and support every other member. But even if they were to reach this decision, it would not necessarily be a permanent one: the cost-benefit analysis might yield different results as time passes and relationships change. Accordingly, later in life, when the brother and sister are independent adults, they might reconsider their prior decision and conclude that a sexual relationship is now permissible. Of course, they would still consider familial bonds to be

important; but at the same time, they would recognize that they are not as dependent on one another as they were in childhood.

As an analogy, consider Eric and Felicia, two actors who have been hired as leads in a romantic comedy. According to the script, Eric and Felicia have to be intimate with each other every single day until the shooting wraps. And while they *are* professionals, their sexual chemistry is palpable; in fact, it is the very reason they were hired together for the film. Indeed, as the shooting progresses, their attraction blossoms into desire, and their desire into lust. Of course, Eric and Felicia have very good reason to suppress this lust: they signed legal contracts promising to do the work for which they are being paid, and they recognize that a failed sexual relationship might impede their performance on screen. Once their contracts end, however, they are certainly free to have sex if they want to, and no one would reprimand them for consummating their relationship. In fact, everyone would applaud their patience, as well as their dedication to the completion of their original goal.

Granted, there are significant differences between familial obligations and contractual agreements, but, at least within the confines of this discussion, they are differences of degree, not of kind. Both family members and actors are involved in something greater than mere sexual desire: in the former case, the support of other family members, and in the latter, the production of a film. In both cases, the goal is of paramount importance, and so any endogamous sexual urges ought to be suppressed until it is completed. In the former case, this might mean waiting until after high school, after college, or after all the children have left the house, depending on individual circumstances; while in the latter, it might mean waiting until after shooting wraps, after promotion ends, or after the sequel is filmed, again depending on individual circumstances.

The same reasoning, moreover, can be used to exonerate parent-offspring sex. I grant that a parent and child must never engage in sexual relations while the child is a minor, and I concede that this is a moral obligation, not a pragmatic decision. However, I wish to add that it does not necessarily hold later in life. Sex between parents and children is immoral not because it is incestuous, but because it is *rape*. Minors are not allowed to give consent because they are not prepared emotionally, physically, or psychologically to have sex with an adult. And this binding moral imperative extends not only to parents, but also to counselors, doctors, religious leaders, teachers, and other figures of authority. Between two consenting adults, sex can be a means for procreation, for the expression of love and intimacy, or for nothing more than the simple pleasure of touch. But it can also be a means for domination and manipulation, especially between an adult and a minor, and it is for *this* reason that adults—both parents and otherwise—should never have sex with children. Whether the act is incestuous is morally irrelevant.

The important question, then, is whether people in relationships with great power differentials can ever have sex. Our general evaluation of these cases is much less strict than the taboo on parent-offspring sex suggests. For example, imagine a church youth counselor named Greg. While Greg is in college, he works as an advisor for high school students, where he meets a young girl named Hilary. Over time, Greg and Hilary become very close with one another. Of course, they are never sexually involved at the time; he is a figure of authority for her, and she relies on him for advice and support. But eventually, Greg graduates from college and Hilary leaves the youth group. The two keep in touch, and seven years later, they are married. In such a situation, no one would claim that Greg is taking advantage of Hilary, or that their marriage is somehow tainted by their prior relationship. Such examples demonstrate that relationships that originate in circumstances with great power differentials do not always remain that way, and

consequently there is no need for a permanent prohibition of sex. So, if Greg and Hilary can have sex, why can a parent not have sex with a son or daughter who has moved out of the house? Disregarding heredity, there is no difference other than one of scale: the counselor-student relationship is less formative and influential than the parent-child relationship is (in most cases, at least). But once again, this is a difference of degree, not of kind. Therefore, when a child becomes an adult, capable of making responsible choices, and the relationship between parent and child inevitably changes, parent-offspring sex is no longer morally condemnable. Rather, the original moral obligation becomes a mere pragmatic recommendation (albeit a strong one), similar to the one by which colleagues, friends, roommates, and siblings mitigate endogamous sexual relationships.

One possible objection to the above point is that while the counselor-student relationship is temporary, the parent-child relationship is permanent. In other words, while a counselor can sleep with a former student, a daughter never becomes a former daughter; a parent is a parent for life. And while I grant this distinction, I believe that it is ultimately irrelevant, because while the biological relationship is permanent⁹, the psychological relationship is at best contingently so. As much as we all hate to admit it, there is a point at which a child becomes independent from his or her parents. Of course, the exact moment will differ from person to person. For some, it might come after high school; for others, college; for still others, it might never occur. But this decision must be made on an individual basis. Certainly, we have no reason to condemn incest across the board merely because emotional or psychological trauma might result in some cases; the same could be said about studying philosophy.

Finally, one could challenge my case against premise two in general by arguing that family and non-family relationships *are* different in kind, on the grounds that some differences in

degree are so great that they become differences in kind. For example, Darwinism entails that chimpanzees and humans are different in degree, but for classificatory purposes we accept them as different in kind. However, there is an important difference between the chimp-human example and the family-non-family example, which reinforces my case against premise two. Specifically, in the former example, we establish the labeling criteria in advance, defining chimps as organisms with chromosomes *abc* and humans as organisms with chromosomes *bcd*. As a result, we never have trouble identifying particular cases of chimps and humans, because they are coextensive with the chromosomes that signify them. Relationships, however, are not that simple. There is no property relevant to our discussion which is present only in family relationships (assuming that heredity is out). What matters, at least for the purposes of the family argument, is how important the relationship is to the individual, and family relationships are not necessarily more important than other relationships, unless we simply define them that way. In other words, unless we establish in advance that ‘family’ applies to the most important relationships an individual has, in the same way that we establish that ‘chimp’ applies to organisms with chromosomes *abc*, the analogy fails.

Furthermore, if we *were* to define ‘family’ that way, not only would its meaning be far removed from our agreed-upon use of it, but incest would simply be sex between two people in an important relationship, not sex between two people in a relationship independently identified as family. So, for example, if I were emotionally close to my counselor but distant from my mom, and having sex with both, then the former relationship would be incestuous while the latter would not be. Or, to put it another way, if I began a sexual relationship with a complete stranger that later blossomed into a serious romantic relationship, then that relationship would become increasingly incestuous over time. My point here is that we cannot determine in advance which

relationships will be important to the individual and which will not be, and so we cannot, in any moral sense, classify family relationships as different in kind from non-family relationships—at least not in the way that the family argument requires.

4. The General Prohibition of Incest

If I am right, then the distinction between ‘family’ and ‘non-family’ is artificial, and no account of the family will be consistent with our application of the incest taboo. But even if this is true, one could respond that the incest taboo is still justified for the same reason that, say, the taboo against adult-minor sex is justified. After all, we all recognize that there is a gray area when it comes to maturity, and that a person does not magically become an adult, except in the eyes of the law, at age eighteen. But we prohibit adult-minor sex anyway because we have to, even though the precise point at which we draw the line is arbitrary. (Consider that age-of-consent laws vary from state to state.) Therefore, one might argue, if the taboo against adult-minor sex is justified despite being based on an artificial distinction, then so too is the incest taboo, because both proscribe acts that, while not inherently wrong, turn out badly frequently enough to warrant a categorical ban.

There are two ways to interpret this argument. The first is as an equivalency thesis between incest and adult-minor sex, according to which we cannot, on pain of inconsistency, proscribe one without proscribing the other. I *could* respond to this argument simply by biting the bullet and accepting that adult-minor sex is permissible too. But I would rather not do that, because I do not want the permissibility of incest to rest on the permissibility of adult-minor sex. These are distinct issues that require distinct considerations, and I do not want to conflate them

here. Therefore, instead of arguing either for or against adult-minor sex in this paper, I will simply try to individuate it from incest so that we can place it to the side and move on.

I think that the taboo against adult-minor sex rests on two intuitions. The first is that there is a strong correlation between adult-minor sex and nonconsensual sex. Granted, this is not a one-to-one correlation, because not all adult-minor sex is nonconsensual (i.e. an eighteen-year old woman sleeping with her seventeen-year old boyfriend), and not all adult-adult sex is consensual (i.e. a thirty-year old man sleeping with a drugged thirty-year old woman). But we do not need a one-to-one correlation to know that adult-minor sex is a strong indicator for nonconsensual sex; and if we view the latter as immoral and deserving of condemnation, then we are justified in banning the former as a means to this end. Or so the argument goes.

The second intuition behind the prohibition of adult-minor sex is identical in form to the first, but different in content. It rests on the strong correlation between adult-minor sex and sex in the context of great power differentials. Again, this is not a one-to-one correlation, because not all adult-minor sex occurs in such a context (i.e. an eighteen-year old woman sleeping with her seventeen-year old boyfriend), and not all adult-adult sex occurs outside of it (i.e. a thirty-year old woman sleeping with her thirty-year old boss). But since adult-minor sex is a strong indicator for sex in the context of great power differentials, we are justified in banning the former as a means towards preventing the latter.

Whether this line of reasoning is sound is not important for our purposes. All that matters is whether it applies to incest, and I believe that it does not. The problem with the incest taboo is not merely that there is no one-to-one correlation between incest and important relationships; it is that we are not in the business of condemning sex in this context in the first place. If we were, then we would extend the obligation of celibacy to colleagues, friends, roommates, and anyone

else involved in a group or project in which a failed sexual relationship might impede progress towards an external goal.¹⁰ And not only would this condemnation leave us with very few options, but it would fly in the face of our general views on sexual ethics. For example, it would entail that prostitution and one-night stands are the paragon of permissible sexual behavior, and that marital sex is the exact opposite. Or, to put it more generally, it would entail that the permissibility of sex is inversely related to the strength of the bond between the people having it. And this concept is so foreign to us that we should immediately question using it as grounds for the incest taboo.

For the record, this is why I have reservations about premise three of the family argument. We simply do not prevent people who care for each other from having sex, even though we know that it may turn out badly for them. Yes, it is unfortunate when people take a chance and it ends up hurting them, but it is not immoral. It is just a fact of life, and part of what makes romance so exciting and scary and rewarding in the first place.

The second way to interpret the argument comparing incest to adult-minor sex is as a rule-utilitarian case against incest (in which case the comparison is simply an analogy meant to elucidate the argument, not part of the argument itself). According to this argument, even though incest is not inherently wrong and in some instances may produce more pleasure than pain, the general practice of it would produce *less* pleasure than would the general prohibition of it. Therefore, the incest taboo is justified.

Before responding to this argument, I should at least mention my general reservations with rule-utilitarianism. In straddling the line between deontology and consequentialism, it fails to meet the standards set by either. On one hand, deontologists believe that ethics is not reducible to the maximization of utility, and so the only important question is whether or not the act is

inherently immoral. This excludes rule-utilitarianism, because it is based on the assumption that a system of rules will maximize utility in the long run. On the other hand, most consequentialists believe that since no act is inherently immoral, rule-utilitarianism amounts to little more than rule fetishism. As J.J.C. Smart¹¹ argues:

[The act-utilitarian] regards moral rules as rules of thumb and as sociological facts that have to be taken into account when deciding what to do, just as facts of any other sort have to be taken into account. But in themselves they do not justify any action.¹²

Furthermore, rule-utilitarianism is self-defeating because, if properly applied, it collapses into act-utilitarianism. As Smart writes, “If ‘act optimifically’ is itself one of our rules then there will always be a conflict of rules whenever to keep a rule is not itself optimific”¹³. I find this position compelling enough to dismiss any argument based on rule-utilitarianism. But this is not a paper on ethical theory, so I will respond to the argument anyway.

I have two reasons to believe that rule-utilitarianism may not support the incest taboo. First, I question whether the general prohibition of incest would produce more pleasure than would the general practice of it. As is often the case when Kantian commentators test actions according to the Universal Law Formula of the Categorical Imperative, the outcome of our test will depend largely on how we run it, specifically on which maxim we select for the action, and on whether we test it theoretically (i.e. based on what would happen in a hypothetical world in which everyone practiced it) or practically (i.e. based on what would happen in this world if we were to permit it). For example, if we selected for our maxim the general practice of incest, according to which any combination of family members had sex in any number of situations, then the predictable outcome would be that incest does not maximize utility, because sex

requires a careful consideration of the rights and responsibilities of all parties involved—especially in the context of close relationships. But if, in selecting our maxim, we defined incest normatively, excluding cases in which people failed to meet basic standards of reason and responsibility, then the outcome of our test could be very different. I am not suggesting, of course, that we should test only utilituous instances of incest; that would be hopelessly circular. But I am suggesting that we should isolate incest by testing it apart from other variables such as, say, rape or adult-minor sex, since testing them together would yield a disutilituous outcome without ever speaking to the effects of incest. Likewise, if we tested our maxim in a possible world in which everyone practiced incest, then our outcome, whatever it may be, would be magnified in a way that it would not be if we tested it in this world, in which a statistically insignificant proportion of the population would practice incest even in the absence of a taboo. Therefore, it is at best unclear whether rule-utilitarian considerations support the incest taboo.

Second, even if we found a strong correlation between incest and, say, depression or suicide, I would question using it as evidence in support of the rule-utilitarian argument, because the correlation itself might be tainted with the byproducts of the incest taboo. This process through which this can happen is simple: those who breach the taboo are branded as outsiders, they suffer the effects of social ostracism, and since others misinterpret this suffering as caused by the act and not the label, they are used as evidence in support of the taboo.¹⁴ As John Corvino¹⁵ writes with respect to homosexuality:

Suppose you were told from a very early age that the romantic feelings that you experienced were sick, unnatural, and disgusting. Suppose further that expressing these feelings put you at risk of social ostracism or, worse yet, physical violence. Is it not plausible that you would, for instance, be more inclined to depression

than you would be without such obstacles? And that such depression could, in its extreme forms, lead to suicide or other self-destructive behaviors?¹⁶

It is not hard to imagine how these harms could result from the incest taboo. Sexual relationships are complicated enough to begin with; the problems only compound when society condemns them as perverted. And consider how society depicts incest: dirty, retarded children raised in loveless households with no education, no sense of social decorum, malformed from generations of inbreeding, rendered incapable of functioning as members of society. Books, movies, music, television shows, and other forms of media propagate this repulsive image of incest.¹⁷

Popular media is not alone, however, as academic scholarship promotes a negative image of incest too. Consider the abortion debate, where both camps generally agree upon one ideal: abortion is morally permissible in cases of rape and incest. Why exactly is incest included in this clause? Why should adult siblings be able to have an abortion, but not an unrelated couple? This distinction, I believe, is due to the fact that when we think of incest in the context of abortion, we think of two things. The first is rape. For example, we think of a father who has raped and impregnated his daughter. But in such a case, a rape clause, absent of any incest condition, would be sufficient grounds for abortion. The second thing we think of is the increased probability of congenital disorders. But then abortion would be permissible if the fetus demonstrated signs of genetic damage, not if it resulted from incest. In other words, the incest factor would once again be irrelevant, because not all incestuous sex results in genetic damage, and not all genetic damage results from incestuous sex. Consequently, the incest clause is misleading, and as long as it remains in the abortion literature, incest will continue to be demonized in the academic world.

The incest taboo finds strength in its ubiquity; it captures our imaginations by feeding into deeply ingrained notions of abnormality and perversion. We presume that because there is a

nearly¹⁸ universal taboo against incest, such relationships must be morally wrong. As Alan Goldman¹⁹ describes:

The evaluative connotations attaching to the term ‘perverted’ derive partly from the fact that most people consider perverted sex highly immoral. Many such acts are forbidden by long standing taboos, and it is sometimes difficult to distinguish what is forbidden from what is immoral.²⁰

It is a pernicious problem indeed: arguments that conflate abnormality and immorality have been used to legitimize discrimination in numerous moral arenas, especially in the realm of sexual ethics. But, as many philosophers have argued, we have good reason to resist grounding concrete moral conclusions on the mere fact that an act is unfashionable in society.²¹

As Goldman argues, the only legitimate means for distinguishing “normal” sex from “perverted” sex is through statistical analysis: if an act complies with the accepted social norm, it is considered normal; if it deviates from that norm, it is considered perverted. Yet this account of perversion does not entail any normative conclusions about deviant sexual behavior. In truth, no sex act is *inherently* immoral unless its moral character is stipulated in its terms. For example, rape is (arguably) inherently immoral because it is predicated on unwilling submission; absent of this condition it would no longer be rape.²² In contrast, we could not deem an act of incest immoral without considering an analysis of its context. As Goldman writes,

There is no morality intrinsic to sex, although general moral rules apply to the treatment of others in sex acts as they apply to all human relations. We can speak of a sexual ethic as we can speak of a business ethic, without implying that business in itself is either moral or immoral or that special rules are required to judge business practices which are not derived from rules that apply elsewhere as

well. Sex is not in itself a moral category, although like business it invariably places us into relations with others in which moral rules apply.²³

This point supports my earlier argument that the act of parent-offspring sex is immoral if it is rape, not because it is sexual or incestuous in nature. Therefore, we can grant that incest is abnormal—perhaps even unnatural—because such a concession would not imply that it is immoral.²⁴

As a result, the supposed harmful effects of incest may not be caused by incest at all; they may be caused by the feelings of guilt and shame that result, to varying degrees, from all acts of deviance. In this way, the incest taboo may be the source of tremendous harm: it demands that consenting adults accept the possibility, indeed, the inevitability, of social exclusion, and it forces victims of sexual abuse to suffer alone, too scared and ashamed to turn to others for help. Of course, we cannot conclude from this that incest would be safe without the taboo, but we can, and must, question our presumption that it is dangerous when, at the very least, the issue is unresolved. It is entirely possible that the taboo is self-sustaining²⁵, that the problems of incest are simply the problems of normal sexual relationships compounded by negative social labeling. Thus, a statistical correlation between incest and psychological harm (if indeed there is one) does not entail a causal relationship between the two.²⁶

5. Conclusion

In this paper, I have argued that we have no demonstrated basis for our condemnation of incest. The genetics argument is incompatible with our treatment of couples with inherited genetic disorders. The family argument also fails, because premise one is not unequivocally true,

premise two is a gross overgeneralization of the complexity of human relationships, and premise three is inconsistent with our evaluation of sex between unrelated people who share strong emotional bonds. Therefore, we have no reason to distinguish incestuous acts from other sorts of sexual acts, or to categorize family members apart from colleagues, friends, roommates, and so on (in moral terms, at least). Moreover, the fact that incest often turns out badly (if indeed this is a fact) does not warrant a comprehensive taboo, because these harms might in fact result from the feelings of guilt, shame and ostracism that accompany all forms of negative social labeling. Finally, we must make an effort to reject the misleading notion that abnormality and perversion have ethical implications. There is no sphere of ethics reserved exclusively for sex, and since incest is a subdivision of sex, the only way we can morally evaluate incest is by applying general moral rules to specific incestuous acts. Consequently, we should dismiss our prejudices against incest and come to view it not as a disgusting, harmful act deserving of moral censure, but rather as a subset of sex, neither moral nor immoral in itself.²⁷

¹ Bennett, R. L., A. G. Motulsky, A. Bittles, L. Hudgins, S. Uhrich, D. Lochner Doyle, K. R. D. Steiner, and D. Olson. "Genetic counseling and screening of consanguineous couples and their offspring: Recommendations of the National Society of Genetic Counselors." *Journal of Genetic Counseling* 11. 2002.

² The only difference between the two cases is that in an incestuous relationship, the statistical probability of genetic damage varies depending on how closely related the partners are. But then, a similar argument can be constructed against two lovers who share the same recessive gene for a congenital disorder.

³ It is worth mentioning that we do not yet fully understand the genetic effects of incest, as recent medical studies demonstrated by disproving the popular assumption that sex between primary cousins causes genetic harm to the conceived child ("Cousins: A New Theory of Relativity." *Time Magazine*. April 15, 2002). And if our presuppositions about sex between first cousins were refuted, it is at least possible that our convictions about incest in general might succumb to the same fate. Of course, I am not arguing here that incest is safe because no one has proven otherwise; I am only pointing out that the scientific evidence on the issue is inconclusive, and we should take care not to form resolute moral decisions based upon incomplete information.

Of course, one could argue that the burden of proof is on me and not my opposition, for I have to show that incest is safe before we can lift the taboo against it. But I believe that the burden of proof runs the other way. For example, if I declared that television causes cancer, would that warrant a categorical ban against television? Clearly it would not: the burden of proof would be on me, the abolitionist—even if I had valid reasons for believing that I might be right. In the end, speculation simply does not justify a prohibition as comprehensive as the incest taboo; compelling empirical evidence is necessary as well.

⁴ As WebMD, an online medical journal, describes:

Genetic counseling is guidance given by a health professional (genetic counselor or medical geneticist) who is trained to help people understand their risk of having a child with an inherited (genetic) disease ... Genetic counseling may involve:

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- (1) [Discussing] how a specific disease is inherited.
 - (2) Discussing what problems an inherited disease may cause.
 - (3) Discussing whether and how to test for an inherited disease before a woman becomes pregnant or before a child is born.
 - (4) Discussing the likelihood that the couple will have a child with an inherited disease, based on test results.

⁵ Granted, prenatal genetic testing raises significant questions about ethics and fairness that extend well beyond the scope of this paper. It is not my intention here to tackle such issues; I wish only to point out that if we do provide these options for people with genetic disorders who want to have children, then we should do the same for incestuous couples.

⁶ Of course, if an incestuous couple has vaginal intercourse without taking basic precautions to ensure that, if implantation does occur, their conceived child will develop in good health, then I can accept that they are morally culpable for any genetic damage caused unto the child. But I would add that a couple with recessive genetic disorders under similar circumstances would be equally culpable, so I maintain that the incest factor is morally irrelevant.

⁷ I am assuming a teleological account of the family, according to which the family is a group of people organized around a goal, namely the economic and emotional support of the individuals that comprise it. This is not an uncontroversial position, but I have two reasons for adopting it here. First, while no account of the family is accepted by every social scientist, teleological accounts are fast becoming popular. As sociologist Nijole Benokraitis describes in her book *Marriages and Families: Changes, Choices, and Constraints* (New Jersey: Pearson, 2005), the traditional definition of family—“a unit made up of two or more people who are related by blood, marriage, or adoption and who live together, form an economic unit, and bear and raise children”—excludes a number of groups who also consider themselves families, such as childless couples, cohabiting couples, foster parents and their charges, elderly sisters living together, gay and lesbian couples (with or without children), grandparents raising grandchildren, and so on (5). Other efforts to define the family according to its structure have proven equally problematic. As a result, Benokraitis explains, many social scientists now define the family not according to its structure but according to its function: “Although family structures differ, most contemporary families fulfill five important functions” (7). These functions include legitimizing and regulating sexual activity, bearing and raising children, providing economic security, offering emotional support, and determining social class placement (*ibid.*). I believe that the best way to interpret this definition is as a cluster concept, in which case each function is neither necessary nor sufficient, but when enough are present in a group, that group is considered a family. This account not only avoids many of the problems associated with structural accounts of the family, but, as a result, enjoys broad (though not categorical) support in the social science literature.

Second, and more importantly, I will assume this account of the family because it is charitable to my opposition. The family argument depends on the premise that incest both damages important relationships *and* eliminates, or at least contaminates, the refuge to which one retreats when such damages occur. This premise benefits from an account of the family that stresses the functional role the family plays as a social unit, because it suggests that incest will cause the individual to suffer not only emotionally, but perhaps even developmentally. By assuming this account of the family, then, I am accepting a more demanding burden of proof when presenting my case.

⁸ For the sake of argument, I will neglect certain atypical cases here, such as a brother and sister who live continents apart. Of course, such cases are friendly with my view, but I want to prove that my argument applies to the paradigmatic nuclear family as well.

⁹ I am disregarding the case of foster or step-parents here.

¹⁰ One might argue here that the military does in fact ban endogamous sexual relationships, but unless we want to live in an authoritarian society, I think it would be wise to avoid pointing to the military as the ideal example of how to formulate and enforce moral and legal obligations.

¹¹ Smart, J.J.C. “Extreme and Restricted Utilitarianism.” *The Philosophical Quarterly* VI: 25. 1956. Rpt. in *Ethical Theory*. Ed. Louis P. Pojman. California: Wadsworth, 2002. pp. 177-183.

¹² Smart, 180.

¹³ *ibid.*, 183

¹⁴ Howard S. Becker provides a thorough account of this process in his book *Outsiders* (New York: The Free Press, 1963).

¹⁵ Corvino, John. "Why Shouldn't Tommy and Jim Have Sex? A Defense of Homosexuality." *Same Sex: Debating the Ethics, Science, and Culture of Homosexuality*. Rowman and Littlefield Publishers, 1997. Rpt. in *Contemporary Moral Problems*. Ed. James E. White. California: Wadsworth, 2002. pp. 308-319.

¹⁶ Corvino, 312.

¹⁷ For example, I recall a marathon of the television program *The X-Files* in which viewers ranked the "scariest" episodes of the series in a countdown. For those unfamiliar with the show, *The X-Files* is a science-fiction program in which FBI agents fight aliens, demons, monsters, werewolves, zombies, and every other evil creature devised in human mythology. Yet, of all the horrific episodes the series has offered, the number one scariest episode (according to fans) is the one featuring an incestuous family in the southern United States. The family in this episode is the very personification of our nightmares: diseased, primeval brutes with slurred, indecipherable speech, living in a house booby-trapped such that all visitors are met with an exceedingly gruesome demise. Of course, that viewers selected this episode for a cable TV marathon is anecdotal evidence at best, and it does not provide conclusive sociological support for my argument. Nevertheless, one might argue that this episode could not have left such an imprint in its viewers had it not fed into prior fears they had regarding the practice of incest.

¹⁸ This is as good a place as any to point out that the incest taboo is not completely universal, as there have been numerous historical exceptions. Benokraitis lists some well-known examples in her book:

The rulers of the Incan empire, the native Hawaiian royalty, the ancient Persian rulers, and the Ptolemaic dynasty in Egypt practiced incest while it was forbidden to commoners. Cleopatra, for example, was purportedly the issue of at least 11 generations of incest and married her younger brother. Some anthropologists speculate that wealthy Egyptian families practiced sibling marriage to prevent losing or fragmenting their land. (7-8)

¹⁹ Goldman, Alan. "Plain Sex." *Philosophy & Public Affairs*, 6, 3. Princeton University Press, 1977. Rpt. in *Contemporary Moral Problems*. Ed. James E. White. California: Wadsworth, 2002. pp. 296-308.

²⁰ Goldman, 307.

²¹ It is worth noting that in the animal kingdom, incest, while rare, is much more commonplace than are other sexual practices that we not only accept, but endorse as well, such as monogamy.

²² One might argue that this claim begs the question against classical utilitarianism, according to which no act is inherently immoral. Of course, if classical utilitarianism is our ethical foundation of choice, then incest is not inherently immoral either, and so my argument succeeds by default.

²³ Goldman, 303.

²⁴ John Corvino (2002) makes a similar argument regarding the "unnatural" nature of homosexuality. He claims that one can distinguish five senses of the word "unnatural," and that none of them entails any normative conclusions about unnatural sexual practices. The forms of "unnatural" that Corvino attacks are as follows: "What is unusual or abnormal is unnatural"; "What is not practiced by other animals is unnatural"; "What does not proceed from innate desires is unnatural"; "What violates an organ's principal purpose is unnatural"; and "What is disgusting or offensive is unnatural." To cite just one example, Corvino responds to the notion that "what is unusual or abnormal is unnatural" by arguing that "relatively few people read Sanskrit, pilot ships, play the mandolin, breed goats, or write with both hands, yet none of these activities is immoral simply because it is unusual" (Corvino 310). He dispatches with the four remaining forms similarly, and, I think, persuasively. And while his arguments might not be sufficient to justify the moral permissibility of incest, they are certainly applicable.

Granted, Corvino writes that "there is no logical connection between homosexuality, on one hand, and incest, polygamy, and bestiality, on the other" (318). But he writes this not because his conclusion is incompatible with the justification of incest, but rather because his argument is insufficient for it. He believes that in order for one to accept incest, as well polygamy and bestiality, one must first confront issues that extend beyond the unnatural nature of the acts. For example, he notes that in the case of incest, "One might argue . . . that incestuous relationships threaten delicate familial bonds" (318). Therefore, even though his argument does not logically entail my conclusion, there is nothing contradictory or incompatible between our arguments; I simply have to supplement his argument with others that pertain directly to incest, which I have done by responding to the genetics, family, and rule-utilitarian arguments. So, I can map his argument about the moral nature of the term "unnatural" onto the issue of incest without fear of reproach.

²⁵ If, as I suggest, the incest taboo is self-sustaining (generating the harms it supposedly opposes), one might question how it came into existence in the first place. We can only speculate, but the reasons are ultimately irrelevant; all that matters is whether they still apply, and I believe that they do not. For example, perhaps the incest taboo originated because it was evolutionarily advantageous, and then produced additional benefits over time, such as the assurance that different families would band together in cooperative efforts, or, as Albert Ellis suggests in *The*

origins and the development of the incest taboo, the possibility that husbands could control their wives and prevent “doubt about the legitimacy of [their] offspring and their property rights, titles, or inheritance” (New York: Lyle Stuart, 1963.). Then, as the taboo became entrenched in society, our enforcement of it caused the general psychological effects of social ostracism, and the high correlation between these effects and incest led us to draw a causal connection between them. In this way, we came to believe that incest causes not only genetic harm, but psychological harm as well. Presently, however, the evolutionary, solidarity, and legitimacy arguments are obsolete, and so our only grounds for condemning incest are its supposed psychological effects. But these effects result from the enforcement of the taboo, not the act. Thus, even though the incest taboo did not self-generate, it is self-sustaining: it survives by virtue of the harms it brings about. Of course, I am not asserting that things necessarily happened this way; I am only describing how a taboo can become self-sustaining over time, even if it did not self-generate.

²⁶ To be explicit, I am not arguing here that the incest taboo can explain away *any* harm that we could correlate with incest. I am only pointing out that social labeling has been shown to produce many of the same harms that we currently correlate with incest (excluding those represented by the genetics argument), and so we need to be careful about grounding the taboo on spurious causal claims.

²⁷ Note that, as I have restricted this paper solely to the sphere of ethics, I do not pretend that my argument is sufficient for the legalization of incest. I do believe that in a liberal democracy, what is moral should also be legal, but since I am not prepared to offer a thorough examination of the legal issues surrounding incest, I will simply add the following point.

Many believe that laws against incest should be based on public conceptions of morality. Responding to this point, Martha Nussbaum argues in *Hiding from Humanity: Disgust, Shame and the Law* (Princeton: Princeton University Press, 2004) that public conceptions of shame and disgust should not impact criminal law. In fact, Nussbaum discusses the legal status of incest directly, arguing that if shame and disgust grounded the illegality of incest, then many forms of incest would thereby be legal:

[A]dult incest between first cousins or even brother and sister typically does not inspire disgust. Indeed, some of our most cherished cultural paradigms of romantic love ... rest on the profound seductiveness of the brother-sister relation. ... So if we want to find reasons to make that sort of adult consensual sex illegal, disgust will not help us. (81)

Granted, Nussbaum concludes that we should still deem incest illegal based on “arguments about health issues” (Ibid.) But as I have argued, this approach would require that we criminalize sex between carriers of genetic disorders as well, which would condemn millions to lives of celibacy. Thus, I am not convinced that we can criminalize incest on these grounds.

In fact, recent legal precedence is encouraging for the decriminalization of incest. In June 26, 2003, the Supreme Court ruled in a 6-3 decision that it is not constitutional for Texas and twelve other states to criminalize consensual homosexual sodomy. Now, I recognize that this decision does not directly impact the legal status of incest (as Senator Santorum claimed it would), but I believe that the language in both the majority and dissenting opinions is applicable to the issue. I will briefly mention several examples here. Justice Kennedy writes for the majority:

Liberty protects the person from unwarranted government intrusions into a dwelling or other private places. In our tradition the State is not omnipresent in the home. And there are other spheres of our lives and existence, outside the home, where the State should not be a dominant presence... When sexuality finds overt expression in intimate conduct with another person, the conduct can be but one element in a personal bond that is more enduring... The stigma this criminal statute imposes, moreover, is not trivial.

Furthermore, Justice Thomas writes in dissent, “Punishing someone for expressing his sexual preference through noncommercial consensual conduct with another adult does not appear to be a worthy way to expend valuable law enforcement resources.” Once again, I concede that such quotes do not entail the legalization of incest, as the primary reason for the majority decision is that the Texas sodomy law targeted only homosexuals and was thus biased, but I nevertheless believe that the precedent set by such language could prove legally pertinent for incest in the future.