INCEST IN IRAQ AND THE LEGAL VIEW OF THE ACT

a Lana Majid Hayder, b Asma Hakimah Ab Halim, c Noor Aziah Mohd Awal, d Fatimah Yusro Hashim

ABSTRACT

Objective: Shedding light on the dimensions of the crime of incest to contribute to developing solutions to combat this type of crime before it becomes a widespread phenomenon in society. Incest causes great harm to the individual and leads to an insult to the family entity with the consequent imbalance in the social structure.

Methodology: A descriptive and analytical study of a phenomenon that remained silent in a society. This article reviews the problem of incest, its impact on an important aspect of people's lives, and the most important factor in the disintegration of the family and the insult to its dignity. Highlighting the definition of the problem, explaining the reasons for falling into it, explaining the preventive means and its treatment, the legislative philosophy of a group of Arab countries, with some cases existing in society, all of which would contribute to reaching success.

Result and discussion: The law criminalized the perpetrator of this crime by setting punitive laws against the perpetrators and placing it in the category of crimes against public morals. However, most of the perpetrators of these crimes do not receive the necessary and deterrent punishment because they hide for fear of scandal, shame and stigmatization of society. Society may unconsciously contribute to these crimes, by stigmatizing the victim socially and blaming her for what happened to her, making the matter of complaining or revealing the truth about these deviations very difficult.

Conclusions: These issues must be addressed socially, by imposing the law and passing deterrent laws, to get rid of these phenomena that destroy society. The need to enact new legislation or amend existing legislation is represented in the Penal Code No. 111 of 1969. In Articles 393/2b, Article 369 Paragraph 2, and Article 397, the law stipulates that incest crimes are considered criminal offenses like all other crimes. Without allocating a specific chapter for them, and that the law added only two years or more to the punishment, and this is considered a defective treatment of a sensitive and serious.

Keywords: adultery, fornication, incest, rape, sexual prohibitions.
RESUMO

Objetivo: esclarecer as dimensões do crime de incesto para contribuir para o desenvolvimento de soluções para combater este tipo de crime antes que ele se torne um fenômeno generalizado na sociedade. O incesto provoca grande dano ao indivíduo e leva a um insulto à entidade familiar com o consequente desequilíbrio na estrutura social.

Metodologia: Estudo descritivo e analítico de um fenômeno que permaneceu em silêncio em uma sociedade. Este artigo revisa o problema do incesto, seu impacto em um aspecto importante da vida das pessoas, e o fator mais importante na desintegração da família e o insulto à sua dignidade. Destacando a definição do problema, explicando as razões para cair nele, explicando os meios preventivos e seu tratamento, a filosofia legislativa de um grupo de países árabes, com alguns casos existentes na sociedade, todos os quais contribuiriam para alcançar o sucesso.

Resultado e discussão: A lei criminalizou o autor deste crime, estabelecendo leis punitivas contra os autores e colocando-o na categoria de crimes contra a moral pública. No entanto, a maioria dos autores destes crimes não recebe a punição necessária e dissuasiva porque se escondem por medo de escândalo, vergonha e estigmatização da sociedade. A sociedade pode inconscientemente contribuir para esses crimes, estigmatizando a vítima socialmente e culpando-a pelo que aconteceu com ela, tornando muito difícil a questão de reclamar ou revelar a verdade sobre esses desvios.

Conclusões: Estas questões devem ser abordadas socialmente, impondo a lei e aprovando leis de dissuasão, para se livrar destes fenômenos que destroem a sociedade. A necessidade de promulgar nova legislação ou alterar a legislação existente está representada no Código Penal nº 111 de 1969. Nos artigos 393/2b, 369 Parágrafo 2, e 397, a lei estipula que crimes de incesto são considerados crimes como todos os outros crimes. Sem alocar um capítulo específico para eles, e que a lei acrescentou apenas dois anos ou mais para a punição, e isso é considerado um tratamento defeituoso de um sensível e grave.

Palavras-chave: adultério, fornicação, incesto, estupro, proibições sexuais.

1 INTRODUCTION

The act of incest is an anomaly from the rules of human nature and a departure from human instinct, and one of the worst types of violence within the family. It is an animal act, and even some animals disdain themselves to perform this act (Gibson et al., 2023). Today, incestuous adultery has become more expansion in the body of society than ever before, because of the means motivating this act the advanced means of communication and techniques that can be exploited to find a fertile ground for incest. We need to cooperate efforts so that society does not turn into a fragile society, morally penetrating, as is the case in most Western societies (Adegboyega, Ajiboye and...
Incest spreads silently in society without signs or connotations. This is the dangerous thing about it, so how can one deal with something that is not tangible on the ground? Many inputs play an important role in keeping incest in the dark. Including fear of scandal and shame on the family, fear of the power of the perpetrator, and social traditions and norms that refuse to acknowledge the existence of this type of adultery, because it contradicts the constants of society (Renvoize, 2023).

Here lies the importance of the article in shedding light on the dimensions of this issue in order to contribute to developing solutions to combat the phenomenon.

The crime of incest is considered one of the serious immoral acts committed by a person who is against his mahram and since this crime repels the sound nature, because whoever has a sound instinct does not think of that crime, only those who lacked his faith commit this crime (Bojnordi, Sadati and Alashti, 2023).

This article will review the problem of incest, its impact on an important aspect of people's lives, and the most important factor in the breakdown of the family and the humiliation of its dignity. Highlighting the definition of the problem, explaining the reasons for falling into it, explaining the preventive means and treatment, and clarifying the punishment for the offender, will contribute to reaching success. Providing solutions and making useful recommendations in this area does not in all cases mean solving the problem or eliminating it.

This article concludes with a descriptive and analytical study of a phenomenon that has remained silent in a society on the verge of eroding its infrastructure and destroying society and family.

1.1 THE CONCEPT OF INCEST

In the general concept, any sexual activity between two people from the same family, two people who have a close family relationship, or any sexual activity between two people, who are related by consanguinity that prevents sexual relations between them according to cultural or religious standards. Accordingly, the relationship between the Stepfather and his wife's daughter is considered a forbidden relationship even though there is no blood relationship between them (Chandra, Copen and Mosher, 2013) (Kolková, 2023).

Incest stories are classified into romantic relationships with the consent of both parties and others practiced by force from one of the parties, they include rape, and often...
the man is the rapist (Block, 2006). “The cases before the courts constitute a small percentage compared to the stories that are kept silent because of social customs, many of which end in clan settlements or with murder”. Many officers advise the complainant of incest to resort to clan settlements and stay away from the judiciary, and the death penalty set by the law helps them convince him, in addition to reminding him of the stigma that will remain with him for life and affect his reputation and the future of his family (Long, 2009) (Baneen Elias, 2022).

This practice was very common among the ancient royal families, to maintain the purity of blood in the ruling dynasty (Bixler, 1982). Inbreeding disappeared from Europe about 600 years ago. Currently, some US states do not allow the marriage of children of uncles and aunts (Wray, 2009).

Incest is great harm to the individual and degrades the family entity with the consequent imbalance in the social structure. We cannot explain the factors and causes leading to the occurrence of such a phenomenon as incest adultery except in the light of the family system, given that the family is inseparable from the general social context, and it also represents the first and basic framework for interaction between individuals, as the general social context cannot be isolated from others. This interaction is one of the most influencing factors in the behavior of children, especially in the stages of infancy.

1.2 INTERNATIONAL CONVENTIONS AND COVENANTS THAT CONDEMN SEXUAL VIOLATIONS THAT OCCUR WITHIN THE FAMILY

• The Universal Declaration on the Elimination of Violence against Women in 1993: The declaration considered that violence against women is a manifestation of unequal power relations between men and women that led to the dominance of masculinity over femininity and practices of discrimination against it by society without working on the development and advancement of women. This declaration affirmed women's right to life, equality, and personal security. This declaration also obligated states to take all procedures and measures that seek to achieve these goals, preserve them, and prohibit their violation by any means (Adedeji, 2023) (Bizhan, Parmenbayovna and Ilyaskhanovich, 2023).
• The Universal Declaration of Human Rights issued by the United Nations General Assembly 1948: It was adopted by the United Nations General Assembly in accordance with its resolution 52/86, dated December 12, 1997 “Model
Strategies and Practical Measures to Eliminate Violence against Women in the Field of Prevention crime and criminal justice”, where she urged states to provide encouraging ways for women to enable them to file complaints in the event of any domestic or other violence (Godoy, 2023) (Women, 2020).

Despite the existence of agreements that prevent violations within the family, there are some legislations and regulations that did not prohibit or criminalize incest, including France, where it did not take the element of kinship as one of the elements of incest, but rather made it an aggravating element (Green, 2019).

2 METHODOLOGY

A descriptive and analytical study of a phenomenon that remained silent in a society. This article reviews the problem of incest, its impact on an important aspect of people's lives, and the most important factor in the disintegration of the family and the insult to its dignity. Highlighting the definition of the problem, explaining the reasons for falling into it, explaining the preventive means and its treatment, the legislative philosophy of a group of Arab countries, with some cases existing in society, all of which would contribute to reaching success.

3 RESULT AND DISCUSSION

3.1 REASONS LEADING TO INCEST

Crime in general is a social phenomenon that arises because of many individual factors related to the person of the offender or social environmental factors related to the environment in which the offender lives (Brantingham and Brantingham, 2017). As a result of the combination of individual, environmental, and social factors, crime crystallizes on the ground.

Incest, like criminal phenomena in general, arises from multiple factors. As it is known that incest often takes place within the same family, whether the family consists of the father, mother, and children, or it is extended and consists addition to these of the grandparents and grandchildren, or it is a family consisting of some people, often relatives living in the same place.(Clementsson, 2020)

The most important reasons that led to this work are mentioned.
3.1.1 Individual factors

These factors relate to the person of the perpetrator, and they are relative and differ from one person to another

a) Weak religious and moral scruples

Weakness of faith does not refrain from committing sins and falling into it. Its weakness results in the lack of a sense of the presence of a censor over the actions and behavior of the individual and this weakness leads to the obliteration of the instinct, with which man was born and corrupts it (Bousaq, 2002). As the result, religious and moral teachings have a great role in eradicating crime factors in the human psyche, as they enjoin good and forbid evil (Ghazi and Khashan, 2020).

b) The weakness of the moral side of the family

Manifestations of foreplay between spouses or the exercise of sexual rights in front of children. As the young child's view of this, it leaves a deep impact on the mind of the son or daughter, and the desire to imitate at the first opportunity given to him, and the victim may be his sister or one of his relatives (Ahmad et al., 2012).

Watching various erotic films also leads to falling into obscenity, and such films lead to falling into the crime of adultery, so a family that looks at porn movies is most likely to fall into incest. This is due to the frequent viewing of adulterous and deviant relationships, which strips away the modesty of individuals and touches this thinking to practice it (Aulia and Rizqi, 2023) (Phuong, 2023).

c) Addiction to drugs and intoxicants

The abuse of alcohol and drugs is one of the strongest factors that lead to incest, as these substances lead to a state of disturbance of consciousness to the extent that it facilitates the violation of taboos (Collins and Bachmann, 2023). The abuse of alcohol and drugs is a manifestation of dysfunction in the family system and thus facilitates the occurrence of the crime of incest. The relationship of drug and alcohol abuse with crime weakens the resistance of the sex drive, as these substances work to stimulate and stir the latent instincts of the individual (Leidenfrost, Leonard and Antonius, 2017).

Some studies have shown that the drug increases the sexual desire of the user by 80% and that it facilitates sexual arousal by 60% (Meston, Freihart and Stanton, 2023).

d) Psychological factors
For example, if one of the family members suffers from a mental illness such as schizophrenia, mania, personality disorder, mental retardation, or an organic brain injury (Meiselman, 1978).

e) Spinsterhood

Spinsterhood means that the age of marriage is late for both men and women, which means that a person lives for many years without marriage far from satisfying his sexual instinct through the legitimate way, so some weak souls resort to satisfying them by any means, even though incest (O’Connell, 2023).

3.1.2 Environmental factors

These factors are represented by the influence of the external environment on the criminal behavior of the offender, the most important of which are:

a. Family disintegration

Family disintegration has a significant impact on deviating the behavior of individuals, especially juveniles. Family disintegration takes many forms, including divorce, death of the parents or one of them, continuous disputes between the parents, bad examples, disgraceful influence of the parents or one of them, harmful habits within the family (such as pornography, intoxicants, gambling, wrong upbringing in general, and extravagance in harsh treatment in particular) (Zaini, Ahmad and Jalil, 2022).

b. Poverty

Poverty plays a major role in preparing for the criminal behavior of incest. The poorest families are forced to live in one room. The smallness of the dwelling leads to a decline in privacy within the family. For example, residents get used to sharing bathrooms, which reduces the modesty between family members. As a result, they are used to seeing each other in exciting situations. Poverty also leads to leniency in separating boys and girls in beds during sleep (Zaini, Ahmad and Jalil, 2022).

c. Bad friends

A bad friend plays a major role in influencing his companions, whether this friend is male or female. Whoever mixes with someone, who has fallen into incest, will undoubtedly be affected by that in one way or another. Then he will fall into what his friend fell into prohibitions out of curiosity, imitation, or love of appearance (Ackerman, Kenrick and Schaller, 2007).

d. The media
There is a clear relationship between the media and moral corruption. The downward satellite channels, corrupting films, erotic readings, vulgar printed stories, porn sites that promote different stories, and films and pictures of incest that can be easily accessed, all of that we find popular with a wide segment of young people, they are attracted to them. They subconsciously rush to imitate and simulate it in an actual way (Tripathi and Kaur, 2018).

e. Cell phone

Instead of mobile phones becoming a means of social communication, they have become a means of spreading vice and pornographic clips of all kinds, and people have begun to exchange pornographic clips easily (Al Mamun and Bhuiyan, 2023).

One of the girls tells about the relationship between her and her nephew, who is three years younger than her; "That the relationship lasted for two years, at its beginning was rape, and after a while her nephew sent her a group of channels on the Telegram application, on which hundreds of incest stories were circulated, with all their classifications, which made her accept the matter greatly" (Al-Khalaila, 2023).

f. Free time

Leisure time permeates the life of the individual, especially in the stage of boyhood and youth. Leisure times synchronized with energy and vitality. If these times are not properly organized and utilized to develop the value side of the individual, it can lead to straying away from values (Jackson et al., 1990).

Enriching leisure time with purposeful and useful topics, such as practicing sports, and general scientific and social activities, is necessary to unload the vital energies of young people, refine their sexual orientation, and develop their personalities and mental abilities as required (Rodríguez-Bravo, De-Juanas and García-Castilla, 2020).

g. Certain religions and trends

Such as “Zoroastrianism”. It allows the marriage of a father to his daughter, the son to his mother, and the brother to his sister (Razavi Jarrah, Mokhtarpour and Zare, 2023).

The phenomenon of "Mahdism" has become common in the regions of southern Iraq, and its followers are accused of committing unfamiliar and illegal acts that sometimes lead to social crises (Hosseini and Alinejad, 2023). Such actions have become a cause for concern and surprise, amid calls for government security services to confront
this phenomenon and arrest those responsible for it, especially since this group enjoys the support of extremist parties that have spread in Najaf, Baghdad, and Basra (Filiu, 2009).

The members of this sect believe that by doing this they can help the emergence of the Imam Mahdi, who they say will save humanity from the grave injustice that befell it, especially the followers of the family of the Prophet (Hourani, 2013). This group is spreading in many cities in southern Iraq, taking advantage of the poor and their simple understanding of religion and their weak understanding of its purposes, and it is also spreading mostly among the ignorant and extremists and among young people who are looking for pleasure and find in this cover a way to achieve that (Metelits, 2009).

Evidence indicates (an Iranian role) in the growth of this phenomenon in the cities of southern Iraq, and the existence of evidence indicates that clerics who came from Iran in the wake of the American occupation stood up and promoted this theory, and they also secured funding to spread these ideas among Iraqi society known for its traditions and customs (Khavarian-Garmsir et al., 2019).

h. Sex Education (sexual culture)

Which is considered prohibited in some families, which may cause children psychological distress because of that family repression and abstention. So it requires him to search for an alternative to understanding what he wants to know, so, he turns to illegal ways to satisfy his curiosity, he learns from what is published in the various media of pornographic programs and films, deviant sexual behaviors, and these behaviors vary from prostitution and adultery, the most dangerous of which is adultery that takes place between people of the same blood (Raychouni, 2022) (Bany-Yasin et al., 2023).

3.2 THE LEGAL VIEW OF INCEST

Penal laws recognize the legal value of the victim's consent, in permitting certain sexual acts coupled with consent. This is a reflection of its recognition of the individual's certain degree of sexual freedom, exercises it with his consent and within the limits of the law. This affected the position of the legislator on the punishment of incest, as the legislator took three directions regarding the punishment for incest (Hanna, 2000) (Tidefors et al., 2010).

The first opinion believes that the punishment for incest is the same punishment for adultery in general, with emphasis on the event that it occurs from persons who are
exclusively specified by the legal text, and of course, the identification of these persons differs according to the legislative philosophy of each country.

One of the proponents of this trend is the Egyptian legislator in Article 267 Penalties, as it punishes life or temporary imprisonment for having sex with a female without her consent, and increases the penalty to life imprisonment if the offender is one of the victim’s ancestors or those responsible for her upbringing or observation. It is clear from the aforementioned text that incest, if it is committed with consent, there is no punishment for it even if the perpetrator is of the victim’s ancestors. What is strange about the matter is that the text limits the punishment too severely against people from the victim’s ancestors, without the branches or the rest of the relatives, and thus the text has excluded a large group of incest punishment without legal justification (Tadros, 2013) (Heif and Helo, 2022).

The Qatari Penal Code No. 11 of 2004 followed the same course as the Egyptian law, as it stipulated in Article 279 the death penalty for anyone who had intercourse with a female without her consent, and the perpetrator was one of the victim’s ancestors or those responsible for her upbringing or care (Al-Rawashdeh, 2022).

Omani Penal Code No. 7 of 1974, according to the third paragraph of Article 218, he shall be punished with imprisonment from five to fifteen years, if the aggressor is an ascendant of the victim or those responsible for her upbringing or care. The text stipulated that the punishment be inflicted on the offender even if there was consent by the victim if, she was a minor "under fifteen years of age" or was afflicted with a mental or physical illness. Therefore, it is concluded, that the consent of the sane adult victim negates the criminal character of the act (Hirst, 1992).

The laws that advanced, restricted incest to ascendants only, to the exclusion of other relatives, in addition to the fact that the punishment is temporary imprisonment, which is light and does not commensurate with the gravity and ugliness of this type of crime.

The second opinion believes that it is necessary to deal with incestuous adultery by including a special text in the Penal Code that shows its provisions and the penalties for committing it and among the proponents of this trend. The Sudanese Penal Code No. 1 of 1991, as the text of Article 150, is singled out under the section of incest, and according to this text, whoever has sex with one of his family (incest) is punished by death, but if the nature of the act deserves a penalty other than death “obscene or indecent
acts that do not reach the level of the incest", the penalty shall be imprisonment (not exceeding five years) and according to the details of the text of the Article (Medani, 2016).

Also from this direction is the Syrian Penal Code No. 148 of 1949 in Article 476, as incestuous adultery is called incest between the ascendants and the descendants, despite its attempt to detail the incest. However, the penalty imposed under this article, represented by imprisonment from one to three years, was disproportionate to the gravity and heinousness of the act committed. It is also noted that the Syrian law did not grant the right to initiate a criminal case, but stipulated in Article 477, that this matter be based on a complaint unless the matter leads to a scandal, this legislative approach of the Syrian legislator is somewhat surprising, especially as we are facing an act that needs to be highlighted and exposing those who carried it out, for its contradiction to the principles of religion and morals, the concealing it is a major reason for its spread and difficulty of developing effective remedies to eradicate its roots from society (Rodenhäuser, 2018)

The penalty is increased according to the first paragraph of Article 493, to temporary hard labor for "nine years", if the victim was a minor who reached fifteen years of age and did not reach eighteen, and the perpetrator was one of her legal or illegitimate ascendants, or one of her in-laws in terms of assets, and every person who had sex with her, have a Legitimate or actual authority, or one of the aforementioned persons’ servants (Nasir, 2002).

The Lebanese Penal Code No. 340 of 1943, as it seemed completely similar to the Syrian Penal Code, as the text of Article 490 was completely similar in terms of wording and content to the text of Article 476 Syrian Penalties, except for the penalty in the first paragraph of it, as the Lebanese law made it from "two months to two years", and thus it is lighter of punishment in the Syrian text, as well the punishment in the second paragraph of this article is from "one year to three years". As for Article 491, it was an exact copy of the text of Article 477, Syrian (Gill, Strange and Roberts, 2014).

The penalty is increased according to the first paragraph of Article 506, to temporary hard labor if the victim is a minor who has reached the age of "fifteen and has not reached the age of eighteen", and the perpetrator is one of her legal or illegitimate ascendants, or one of her in-laws in terms of assets, and every person who exercised legal authority over her or actual, or one of the aforementioned persons served. It is noticeable that the text of the aforementioned article is completely compatible with the Syrian text
of Article 493, except for the penalty, which in Syrian law is defined as "nine years" of hard labor, while it came in general in Lebanese law. Meaning that the Lebanese legislator granted the judge a discretionary power in ruling the penalty of temporary hard labor between its, maximum and minimum limits without restriction.

The Jordanian Penal Code No. 16 of 1960 followed in the footsteps of its Syrian and Lebanese predecessors in terms of legislative drafting, as it punished in Article 285 with imprisonment from "two to three years" for incestuous adultery, according to the text of the article detail. Then, in Article 286, he stipulated that the complaint may not be moved except by a relative or son-in-law of one of the criminals up to the fourth degree, thus deviating from his Syrian and Lebanese predecessors, by not allowing the complaint to be moved automatically, even if the matter leads to a scandal. The penalty is increased to temporary hard labor under Article 295 if the victim is a minor who has completed "fifteen years of age and has not yet completed eighteen", and the perpetrator is one of her legal or illegitimate ascendants, her mother’s husband, or her paternal grandmother’s husband, or he is entrusted with raising or supervising her (Arnold, 2000).

The last opinion is represented by the position of the Iraqi Penal Code 111 of 1969, which tried to combine the two previous trends, intended to include a provision for incest in Article 385, and he was punished with imprisonment for a period not exceeding "ten years", or with imprisonment for having sexual intercourse with one of his female relatives, with her consent, and she had completed "eighteen years" of age, considered as an aggravating circumstance “the pregnancy of the victim, the removal of her virginity, or the perpetrator was one of those responsible for her upbringing or observation.” It is impermissible to file a case for this act or take any action in it except based on the complaint of the victim, her ascendants, descendants, siblings, or her sisters. The same criticism is directed at the Syrian legislator directed at the Iraqi legislator, for the same reasons (Mahdi, 2019).

In another text, the Iraqi law made incest an aggravating circumstance for the penalty of adultery, as it stipulated in the first paragraph of Article 393 the penalty of life or temporary imprisonment if the act occurred without consent, and according to the second paragraph of the same article, it was considered an aggravating circumstance that the offender is a relative of the victim to the third degree or Those who are responsible for raising or observing them (Mahdi, 2019).
In the first paragraph of Article 394, it stipulated a penalty of "seven years" imprisonment or confinement in the event that the act occurred with consent, and the person against whom the crime was committed had completed "fifteen years" of age and had not completed "eighteen years" of age, and imprisonment for a period not exceeding "ten years" if the victim was a minor under the age of "fifteen", and according to the second paragraph of the same article, it was considered an aggravating circumstance that the perpetrator was a relative of the victim to the third degree or one of those responsible for her upbringing or observation (Mahdi, 2019).

From extrapolating the position of the Iraqi legislator, it can be seen that he dealt with three cases, the first in Article 385 is the case of incest, the victim is an adult and with her consent, while the second case is dealt with according to Article 394 the case of incest and the victim is a minor, whether she is between fifteen and eighteen years or has not completed fifteen years with her consent. The third case is according to Article 393 incest and the victim does not consent whether she is an adult or a minor.

In this description, incest is converged with another characterization of the act, which is rape. If the victim is a stranger to the perpetrator, the act is rape, while incest is in the event of forbidden kinship ties between her and the perpetrator.

Consequently, the Iraqi legislator tried to avoid weaknesses in the legislative treatment of incest, introducing more laws deterring this action. The dissolved Revolutionary Command Council issued a resolution (No. 488 of 1978/4/11) stipulating that incest without the consent of the victim is punishable by death if she has not completed the "eighteen "of age, and by life imprisonment for both parties if the act is committed with their consent and they have completed the "eighteen" of age.

Conclude, the majority of punitive laws rely on the victim's consent if she is an adult and of sound mind, which decriminalizes the act of incest. foreign laws that believe in individual sexual freedom may have an impact.

3.3 LEGISLATIVE REASON FOR THE CRIMINALIZATION

This act affects and threatens the entity of the family, which is the basic building block in building society, as it is the first institution with an active role in building the human personality, integrating value and moral development. They guide his behavior in the early stages of his life (Nammor, 2021).
Specialists in the field of psychiatry refer to this matter by emphasizing the foundations of the family and its basic role in building society, which is represented by the presence of specific and clear roles for each of the father, mother, sons, daughters, grandfathers, grandmothers, uncles, aunts, and the like. Within the framework of a value and moral system surmounted by sympathy, tenderness, respect, and reverence, which ensures that each member of the family plays their role in the best way, towards building a healthy and harmonious physical, psychological, and social level for this basic building block of society. If incestuous adultery befalls the family, it will lead to overlapping and distortion of the roles, so that the daughter becomes like a wife to her father, the son becomes a husband to his mother, and the brother a husband to his sister. Thus, the roles are blurred. The meanings of sympathy, compassion, affection, and altruism are absent with it and replaced by obsession, hatred, disgust, and contradiction, and as a result the disruption of the family system, its disintegration, its downfall, and the collapse of its moral and value balance. If the infection of this matter spreads to a number of families, incest adultery becomes rampant and society collapses morally and socially (Johnson and Sergie, 2014)(Hammad and Zulfahmi, 2023).

3.4 LEGAL CONSEQUENCES FACED BY THE VICTIM

The law requires the presence of sufficient evidence to proceed with this type of lawsuit. "The medical examination, the testimony of witnesses, the filming of cameras or any recording proving the occurrence of the assault, the examination of the semen if there was rape, the statement of the complainant and its matching with the evidence, and then comes the role of the investigation to study that evidence"(Hanoon and Kharabet, 2017). Girls who have been harassed are ignorant of the necessity of such evidence.

The availability of evidence to prove harassment is one of the most important problems and obstacles that prevent filing a complaint, in addition to the fear of being killed if she is not believed under the pretext of bringing shame to her family.

3.5 THERAPEUTIC MEANS AFTER FALLING INTO THE CRIME OF INCEST

There are remedies after falling into the crime of incest, mention them as follows:

1) Disclosure: The first and most important step in treating incest is to encourage the victim to disclose, this is done through a reassuring therapeutic relationship supported by a psychiatrist, psychologist, or social worker, it was
found that disclosing the matter leads in most cases to its complete cessation. Because the offender is deterred for fear of scandal or punishment. In addition to this disclosure provides for protection measures for the victim at the family, professional and legal levels.

2) Protection for the victim: As soon as the victim discloses the issue of incest or harassment, the therapist must create a safe environment for her to protect her from the recurrence of sexual, physical, or psychological abuse. This could be done in cooperation with some normal family members, and if this is not available, then it is through the available government agencies. In other cases, it works to isolate the perpetrator away from the family, especially when there is fear of repeating his attacks on other members of the family, or if he has a disease that requires treatment.

3) Individual Psychotherapy: It is provided to the victim to heal the problems and wounds she suffered as a result of the sexual assaults. The treatment begins with catharsis, then clairvoyance, then the decision to change, then implementation. The abuser may also need such treatment, especially if he has a psychological disorder, personality disorder, or unsatisfied needs.

4) Parents: The parents' condition is assessed psychologically and socially by a specialized team, in order to find out the extent of their ability to carry out their parental duties, if there is a defect in this matter, they are subjected to a rehabilitation program so that they are able to carry out their duties towards their children. If this goal cannot be reached, a third party will take care of the children, so that they are not victims of their parents' disturbances.

5) Family therapy: Since incest leads to the disruption of roles and relationships within the family, therefore, it is necessary to restore the atmosphere of safety and reassurance, redraw borders, and arrange roles and relationships with healing the wounds that arose as a result of that forbidden relationship. This requires frequent family therapy sessions in which the therapist helps family members express their thoughts, feelings, struggles, and difficulties, and then helps them try to re-adapt again at better levels.

6) Pharmacotherapy: Pharmaceutical treatment provided to cases affected by mental disorders such as anxiety, depression, addiction, schizophrenia, or mania.
This treatment can be directed toward the victim or the aggressor, according to the need of each.

7) Considering the needs of family members and how to satisfy them in the right ways: The presence of family members who suffer from sexual deprivation for long periods and who do not have sufficient relationships or activities that absorb their energy is considered a risk factor that can lead to sexual problems within the family. Hence the encouragement for the marriage of unmarried family members, repairing the relationship between married couples who are far away, opening horizons for successful social relations, or directing energy towards practical successes or satisfying hobbies.

3.6 SOME CASES OF INCEST

The Iraqi Al-Amal Association, a non-governmental organization, recorded five cases of incest in 2021, all of which were divorced women. The uncle assaulted two of them when he was visiting them at home and he was trying to be alone with each one of them, taking advantage of the father's absence. A case of a third divorced woman who was assaulted by her brother, who was drinking alcohol. As for the other two divorced women, they were assaulted by the father, one of them was her father putting sleeping pills in a glass of juice for her, only to be surprised in the morning with his body next to her. (She turned to the association to ask for help, but when was asked to file a complaint against her father, she did not agree for fear of him). In the second case, her father assaulted her when he expelled his wife from the house, and he was alone with her, forcing her to have sex with him permanently. The daughter was afraid and did not know what to do but to surrender and acquiesce in his desires (Shukhan Omar Muhammad, 1992).

One of the most difficult cases, received by the organization during the years 2020-2021 is the case of a young girl of ten years of age who was assaulted by her father by putting sleeping pills in her juice, and when she woke up early in the morning, she saw her bed full of blood and her father beside her groping her innocent body (Shukhan Omar Muhammad, 1992).

Likewise, the story of a 10-year-old girl, who was raped by her uncle. Who used to have anal sex with her so that the girl would not lose her virginity, and this was repeated dozens of times until she went and told her mother about the matter, but the mother did nothing but remain silent, for fear of the father, family, and scandal. Many of the victims
prefer silence than reveal what they experienced, for fear of not being believed by their family and community (Shukhan Omar Muhammad, 1992).

The perpetrators often go unpunished with complete silence, and the concerned government agencies and civil society organizations evade their responsibility. It also happened with a 17-year-old girl when her brother handcuffed her hands and feet while she was asleep, and then assaulted her. She told her mother what happened to her, she did not believe her brother did it again, but this time with the participation of two of his friends. After that, she was assaulted by her other brother, and the matter was repeated several times, and next, the two brothers used their sister for brokerage and to earn money. She ran away from home and went to the Anti-Crime Directorate for the purpose of filing a complaint against her two brothers and parents, who covered them up, but everyone was released after the investigation, and she was placed in one of the juvenile homes designated for young women (Al-Zubaidi’s, 2017).

The most difficult thing a victim can face is the disbelief of the closest person to her, her mother. The 15-year-old suffered from her brother’s continuous harassment and her mother’s refusal to believe the matter, so she had to file a case at the police station against her brother and then fled for fear of being killed after she deviated from norms and traditions. And she says: "When I informed my mother of what I was going through, she threatened me and accused me of having an affair with another person. I had no choice but to complain to the police, but they did not consider it important, and here it was necessary to flee because returning means killing, because in the eyes of my clan out of bounds" (Al-Zubaidi’s, 2017). The social researcher, Shukhan Muhammad, narrates about a case she came across from outside Kirkuk governorate, concerning an 8-year-old girl who was sexually assaulted by her brother. When she told her mother about it, she threatened to force her to remain silent, and she did not reprimand her son for what he did. This caused the girl's fear, so she ran away from home after reaching the age of 16 and came to the Iraqi Al-Amal Association. The girl filed a case against her brother because of the harassment, but the family asked her to concede and resolve the issue as a family, but she did not drop the case, the brother was imprisoned after tests proved that he had assaulted her. The girl is currently in one of the shelters affiliated with the Kurdistan region. She refuses to return to her family for fear of being killed (Shno Daoudi, 2022).
Among the strangest cases that can come to court, a bride was subjected to an attempted physical assault by her husband’s brother, and if she had not resisted him, she would not have gotten rid of him, and the worst was the reaction of the husband who simply asked her to accept the matter until his brother’s marriage and the need to comply with the wishes of his four brothers, until the coming to another wife to help her in the matter (Baneen Elias, 2022).

4 CONCLUSION

The crime of incest is one of the crimes that affect the morals, honor, and virtue of society. The legislator is keen to protect society from evil, restore the rights of its companions, and punish anyone who tempts himself to violate the sanctity.

The law criminalized the perpetrator of this crime by stipulating punitive laws against the perpetrators and placed it in the category of crimes that violate morals. However, most of the perpetrators of these crimes do not receive the necessary and deterrent punishment because they are kept secret for fear of scandal and disgrace, and stigmatization of society. Those familiar with it, whether active or acquainted with it, prefer to remain silent in order to preserve the family’s existence and reputation.

Women’s ignorance of their legal rights and their lack of awareness makes them submissive and subject to clan power, and their lack of financial and intellectual independence, as many women live in isolation from the outside community. They do not have any contact with a legal entity or governmental organization that encourages and educates them to file lawsuits or complaints and protect themselves from harm from parents and harassers.

Society may be unconsciously contributing to these crimes, by stigmatizing the victim socially and blaming her for what happened to her, which makes the issue of complaining or disclosing the truth about these deviations very difficult. Therefore, society must stop stigmatizing the victims of incest, and help the victim to maintain self-esteem and avoid blame, reprimand, and feelings of guilt.

Among the most important recommendations to limit a problem such as incest, although it does not rise to the level of a phenomenon, it can only be faced by acknowledging its existence, in the absence of an estimate of its true size. formation of special secret committees in state institutions, schools, and universities, to investigate these cases and turn them into specialized centers to follow up on what is happening.
behind the walls of homes without revealing it, under the cover of shame and traditions. Spreading awareness among women by educators through training workshops and social networking sites is one of the factors that help spread awareness methods for personal protection in an easier way, and urge them to file complaints in the centers. And focus on the need for children not to sleep with their parents in the same bed, and work to isolate boys from girls in the bedroom, just as parents should avoid having sexual relations in front of their children.

It is advised to deal with victims of incest through psychological counseling, giving them solutions to the problem they face, and finding a suitable environment for them when their presence near the perpetrator threatens their lives and poses a threat to them, in addition to psychological sessions and supervision by specialized doctors.

These issues must be addressed societally, by imposing the law and passing deterrent laws, to get rid of these phenomena that are destroying society. The need to enact new legislation or amend the current legislation is represented in Penal Code No. 111 of 1969. In Articles 393/2b, Article 369 paragraph 2, and Article 397, the law stipulates that incest crimes are considered criminal offenses like the rest of the offenses, without dedicating a specific chapter to it, and that the law only added two years or more to the penalty, and this is considered a defective treatment of a sensitive and serious issue such as incest cases that affect the nucleus of society and whose penalties are supposed to be a deterrent.
REFERENCES


Shno Daoudi (2022) Incest in Kirkuk: Victims Forced to Silence in the Absence of a
Shukhan Omar Muhammad (1992) *The social researcher, Shukhan Omar Muhammad of the Iraqi Al-Amal Association, a non-governmental organization concerned with family counselling established in 1992, says that her association continuously receives cases of incest in which the aggressor is.* Available at: https://iraqi-alamal.org.


