CRIMINAL LAW ANALYSIS THE CRIME OF INCEST AND THE PSYCHOLOGICAL EFFECT OF THE VICTIM.

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**Article Abstract**

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Incest refers to sexual or marital relationships between family members that are prohibited by law. Incest cases are often considered taboo and illegal, and can have serious psychological and legal repercussions. The most common perpetrators of sexual violence, including incest, are fathers and uncles. Such as the case that occurred in Banyumas, Purwokerto in March 2023 last year. This is sad, because many of the perpetrators of violence in the personal sphere are considered and expected to be protectors such as fathers, uncles, and husbands. Criminal responsibility for the perpetrators of incest can be charged with Article 287 of the Criminal Code or Article 419 of Law No.1 of 2023. Meanwhile, the formulation of incest against children can be charged using Article 294 paragraph (1) of the Criminal Code or Article 418 paragraph (1) of Law No.1 of 2023. In addition, the social psychological impressions obtained by victims who experience incest will experience prolonged trauma. Social impressions are typical, namely that the child will be ostracized by his family, and discriminated against by the community. This article is written using normative and qualitative research methods that begin with an approach that focuses on analyzing applicable legal norms or regulations. The aim is to understand, explain, and interpret the written law. This research aims to assess the effectiveness of criminal law liability and child protection law in the decision and analyze the social sanctions obtained by the victim.

**1. INTRODUCTION**

Sexual violence is one case that has always been important and in the spotlight in Indonesia. Sexual violence is an act or behavior that involves sexual coercion and harassment...
of a person without their consent. It includes various forms, such as rape, sexual harassment, sexual exploitation, and other elements that harm the victim's sexual integrity.

It is important to understand that sexual violence is not just physical acts, it can also include threats, pressure, or situations where the victim is unable to give their consent freely. Sexual violence is not only physically harmful, but it can also have serious psychological impacts on its victims, including long-term trauma.

Acts of sexual violence can occur in a variety of places, including at home, at work, in public places, and in digital media. Responses to incidents of sexual violence include legal procedures and psychological support for victims, as well as preventive efforts to prevent similar incidents from happening in the future.

The Indonesian Child Protection Commission (KPAI) found that the most dominant cases of sexual violence against children occurred in 2023. As of December 31, 2023, there were 3,000 cases of violence against children. The deputy chairman of KPAI said that, "So in the KPAI report, December 31 (2023), at 3,000 cases, the same as in the last period. (Children) were hit by sexual, psychological violence, this is what was reported," (Jasra Putra 2024).

One example of sexual violence that has become quite popular in Indonesia in recent years is incest. Incest broadly refers to marriage or sexual relations between individuals who are closely related by blood, such as between family members who are too close genetically. Incest cases are disturbing societal crimes because they violate custom, law and religion. The scope of incest includes sexual intercourse or marriage between individuals who are closely related by blood, this may include:

1) **Parent and Child Relationship:**
   - Marriage or sexual relations between parents and children.

2) **Siblings:**
   - The relationship between siblings, whether true or half.

3) **Genetically Close Family Relationships:**
   - Involves individuals who have greater genetic closeness than is socially acceptable, such as between cousins or uncle-nephews.

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Based on the scope of incest above, Parental Incest, which is a sexual relationship committed by close relatives, especially parents against their biological children, is the main object of research. Incest is a violence that is difficult to disclose, because it occurs in family relationships and the victim has been placed under the obligation to be obedient and devoted and not to open the family's disgrace. The disclosure of incest cases needs to be followed up by providing a comprehensive recovery mechanism and punishing the perpetrators. oriented towards behavioral change, so that the perpetrator does not repeat the crime.

Incest cases in Indonesia The National Commission on Violence Against Women (Komnas Perempuan) reports incest as a severe human rights violation, where victims experience helplessness because they have to deal with their own father or family. Victims also experience fears of marital dissolution/conflict, so incest is generally only discovered after a long period of time or an unwanted pregnancy and loss of child development and other basic rights.2

Based on the last 4 years of data from CATAHU 2021 Komnas Perempuan, incest cases in 2017 amounted to 1,210 cases, in 2018 there were 1,017 cases, in 2019 there were 822 cases, and in 2020 there was a decrease to 215 cases, but it still needs to be a big concern. This attention is needed seeing that the biggest perpetrator of incest is the biological father, totaling 425 people.3

According to Iva in her interview on the Liputan 6 page published on June 30, 2023, there are two disorders that are at risk for victims of incest. The first disorder is physical, where the victim experiences bleeding from the vagina, pain in the vagina, infection of the genitals, vaginal discharge, infection with sexually transmitted diseases, unwanted pregnancy. While the second disorder is in the form of psychological disorders that occur in the form of post-traumatic stress disorder (PTSD), insomnia, depression, withdrawal from the environment, to suicide attempts.4

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3 Raida Nabila Fatin Yanti Pagayo, skripsi: “Pelayanan UPTD Pemberdayaan Perempuan dan Perlindungan anak terhadap kasus kekerasan seksual (ines) pada anak di provinsi Lampung.”, (Lampung; Universitas Lampung, 2023), [3].
One of the incest cases that caught the public's attention in early 2023 was the incest case that was revealed in the Banyumas area, Purwokerto. The forbidden relationship that has been going on since 2013 was just revealed in early 2023. Precisely in March, 2023 and had shocked local residents as well as news in Indonesia. The case was not only a case of inbreeding between son and father, but also a murder case. A total of 7 babies were murdered during the 10-year period, with 6 baby skeletons found in the backyard of the house, while 1 other skeleton is still being searched.

2. RESEARCH METHODOLOGY

Normative law research, which uses normative law case studies in the form of legal behavior products, for example examining draft laws. The subject of study is law which is conceptualized as norms or rules that apply in society and become a reference for everyone's behavior. So that this type of research focuses on the inventory of positive law, legal principles and doctrines, legal discovery in cases in concreto, legal systematics, the level of legal synchronization, legal comparison, and legal history.\(^5\)

The research methodology used is qualitative normative legal method, which means that it uses secondary data obtained from the library and because this research is only aimed at written regulations, therefore this research is closely related to the library because it requires secondary data normative juridical approach which is carried out by examining legal principles, laws and regulations, or other documents related to this research to gain knowledge for researchers and readers and research conclusions.

This normative method research uses descriptive qualitative research analysis, namely the data collected is in the form of words, pictures, and not numbers, even if there are numbers only as data reinforcement is not the main focus of data analysis. The purpose of research using normative qualitative methods provides an interpretation of positive law on specific cases or issues.

Secondary data has a crucial position or task in normative qualitative research methods. The existence of data plays a very important role in a study. The data source is the subject

from which the data is obtained. In this study there are two types of data sources, namely primary data sources and secondary data sources.

This method helps researchers thoroughly analyze the legal aspects of criminal cases of incest cases of fathers of children and infanticide that occurred in Purwokerto in analyzing this case researchers used secondary data such as applicable laws and regulations. and take from legal journals, research results, internet related to research to take appropriate information that supports this research.

3. DISCUSSIONS

3.1 Factors that lead to the crime of incest

Incest has various causes and triggers. The roots and causes are nothing but structural aspects, namely the influence of situations that cause individuals to feel helpless. Especially if he is a man (in reality men are seen as more powerful and tend to think of themselves as more powerful), he will be very anxious, experience mental and psychological disorders, so that it can lead to balance. In this helplessness, without belief in an inner/spiritual power, one is dominated by primitive urges: sexual urges and aggression. In addition, there are also several factors behind the occurrence of incestuous relationships, including:

1) Economic and educational factors

According to Aristotle, poverty gives rise to the crime of rebellion; great crimes are not committed to obtain what is necessary for life, but for luxury. Actually, economic factors cannot be the only factor that causes the crime of incest, but economic factors can be a factor that influences and contributes to the occurrence of these cases.

Meanwhile, the low level of formal education in a person can have an impact on society and the person concerned is easily influenced to commit a crime without thinking about the consequences of his actions. One of the offenses that is related because the perpetrators have low formal education is the crime of decency, especially incest. Because they have a low level of education, the perpetrators do not think that committing these acts can damage the family of the perpetrator and the character of the child who is the victim. Because of

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6 Desilasidea Cahya Zalzabella, Faktor-faktor penyebab terjadinya pemerkesaan inses, (Yogyakarta; IJCLC, 2020), [5].
the low level of education, it is related to the economic level, where the economy is also one of the causes of a person committing an act that violates legal norms.\(^7\)

2) Environmental and residential factors

Incest between a child and a father can occur because of the environment and the place they live in. This is influenced by unhealthy family dynamics, children who feel isolated from their social circles, lack of support from their surroundings and education about sexual education, and complex psychological problems experienced by the father.

3) Alcohol Factor

Incest cases also occur due to stimulation such as the effects of alcohol. People under the influence of alcohol are very dangerous because it causes a sudden loss of restraint in the drinker. Despite the fact that there are some cases where the drinker loses restraint, the use of alcohol is harmful to the weakest of the first human beings. This is the case for someone who has disorders in their sexuality, where the alcoholic drinks to such an extent that they can no longer restrain their lust, and will seek sexual gratification, even by raping their own children or family members.\(^8\)

4) The role of the victim

The role of the victim or the attitude of the victim determines whether a person commits a crime against them, including immoral crimes. As stated by Von Henting that "It is the victim who often stimulates a person to commit a crime and makes a person a criminal."\(^9\)

The rise of incest cases shows that the situation of children makes them vulnerable to sexual violence, especially when the perpetrators are people who are supposed to be guardians. The home is no longer considered the safest place and many cases occur within the family. It is difficult for the perpetrator to believe that rape occurs within the family, and because the perpetrator is the sister or brother of the parents, he or she carries out the law smoothly as if there are no obstacles. It is shocking that rape occurs in the home.

\(^7\)Ibid.
\(^8\)Ibid. [6].
3.1. Incest crime cases that occurred in Banyumas, Purwokerto

This case stems from the discovery of a number of baby skeletons in an empty garden that was recognized as belonging to a woman with the initials E. The baby skeletons found were the skeletons of babies from an illicit relationship between the woman with the initials E and her own biological father.

A man with the initials R (57 years old), who is the biological father of the woman who owns the baby skeleton, was named as a suspect in this case. R is known to have killed and buried the baby from his incestuous relationship with his biological daughter since 2012. R did this heinous act from the birth of the first baby in 2013 to the seventh baby in 2021.10

This crime was first revealed when two workers named Slamet and Purwanto found objects suspected of being human bones on Thursday, June 15, 2023. They were in the middle of leveling the ground of a former pond that had just been purchased by Prasetyo Utomo, 42, South Purwokerto District, Banyumas, about three months ago.11

Based on what is described above, the perpetrator with the initials R clearly committed a crime of decency by committing incest with his child, who was still underage the first time R committed his depraved actions in 2013. The article that intersects with incest if the act is committed against a child, stepchild, who is immature or underage as a victim of obscene acts from his parents as regulated in Article 294 paragraph (1) of the Criminal Code. The acts formulated in Article 294 paragraph (1) of the Criminal Code are only limited to obscene acts, in fact in society there is also a special form of these acts, namely intercourse.12

Article 294 of the Criminal Code contains the elements and criminal sanctions for the perpetrators of the crime of child sexual abuse, with article 294 which reads, "Whoever commits obscene acts with his child, stepchild, adopted child, child under his supervision who is not yet an adult, or with a minor in whose care, education or custody he is not yet an adult, shall be punished by a maximum imprisonment of 7 years.”13


11Ibid.

12Vifi Swarianata, dkk. “Kriminalisasi inses (hubungan sedarah) dalam perspektif pembaharuan hukum pidana”, (Universitas Brawijaya, 2021), [3].


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In addition, R, who works as a traditional healer, admitted that the four skeletons found by the police from June 15-21, 2023 were babies he killed. He said that the seven skeletons were the children of the inbreeding relationship between R and E, who were murdered from 2013 to 2021. The newborn babies were killed by R by smothering them and wrapping them in cloth to bury them in a former pond near the river.

The above actions are clearly unlawful because murder is considered an act that takes away a person's life. Laden Marpaung argues that intentional homicide is an act of killing someone's life by making a plan beforehand, make a plan in advance. The perpetrator can realize his actions if the perpetrator have time to think beforehand. (Marpaung, 2002).14

This of course also violates Law 340 of the Criminal Code on premeditated murder which states, "Whoever deliberately and with premeditation takes the life of another person, shall, being guilty of murder with premeditation, be punished by death or life imprisonment or a maximum imprisonment of 20 years".15

Premeditated murder is a premeditated and deliberate act committed with the intention of taking the life of another person and is therefore categorized as an illegal act. The act of premeditated murder is punishable by death or life imprisonment or a maximum of 20 years imprisonment.

3.2 Judges and court decisions in cases involving Banyumas, Purwokerto

Rudianto, 57, the defendant in the premeditated murder of seven babies from an incestuous relationship with his daughter, was sentenced to life imprisonment under Article 340 of the Criminal Code on premeditated murder.16

In addition, Rudianto was also suspected of coercing his daughter, who was underage at the time in 2013, to have sex. Because of this, Rudianto was also caught by the Indonesian Law NO. 23 Year 2002 on child protection.17

14Jeane Neltje Selly, dkk, “Pelaksanaan sila pertama pancasila dalam pembunuhan janin di Purwokerto dalam kolerasi undang-undang 340 KUHP”, (UNES LAW REVIEW, 2023), [2236-2237].
17Ibid.
The sentence was commuted, after Rudianto's legal counsel, Sudiro, appealed the first sentence decided by the Public Prosecutor charging Rudi with article 340 of the Criminal Code in the form of the death penalty. After the trial, Rudi then returned to the detention cell with his hands handcuffed. The decision to appeal, according to Sudiro, was because the article charged to his client was not appropriate.¹⁸

The decision was also made based on the evidence attached to the reports filed by the two public prosecutors, which included:

1) 1 (one) hoe made of iron with a wooden handle with a length of 70 cm.
2) 1 (one) piece of dark color skirt cloth in damaged condition.
3) 1 (one) piece of white t-shirt.
4) 1 (one) piece of red long sleeve t-shirt.
5) 1 (one) piece of green bed sheet in torn condition.
6) 6 (six) pieces of red bed sheet fabric.
7) 1 (one) white plastic sack with red and green stripes.
8) 1 (one) piece of red bed sheet with torn pattern.
9) 1 (one) piece of brown color sarong with gingham pattern.
10) 1 (one) piece of brown female singlet.

While the evidence is confiscated for destruction:

1) 2 (two) leg bones (right and left femur bones).
2) 2 (two) leg bones (right and left tibia bones).
3) 2 (two) hand bones (right and left radius bones).
4) 2 (two) pieces dry leg bones (right and left tibia).
5) 2 (two) pieces of right and left femur.
6) 2 (two) pieces of leg bones (right and left femur bones).
7) 2 (two) pieces of leg bones (right and left femur bones).

The evidence mentioned above was returned to the victim witness, Endah Rahayuningtyas.¹⁹


3.2 Mental health conditions that occur in Incest Crime Victims

The crime of incest is one of the many crimes of sexual violence that inevitably causes a series of psychological disorders in victims who experience the crime. This was also felt by E, who was a victim of an incest crime committed by her own biological father, Rudianto, in Banyumas sub-district, Purwokerto.

There are several psychological disorders experienced by E, as a victim of an incest crime committed by her father, including:

1) Betrayal
   This is the traumatizing effect of a child's trust being abused by parents through their authority in the household.

2) Traumatic Sexualization
   The adverse effect of this trauma is that incest victims become inclined to choose same-sex partners due to the trauma of sexual relations with the opposite sex.

3) Powerlessness
   The fear and phobia that afflicts victims of incest after the incident, making victims feel incapable and 'useless' in carrying out their normal daily activities.

4) Stigmatization
   Incest victims will always feel guilty and bad when comparing themselves to others around them. If not treated by experts, this psychiatric impact is very detrimental to the long-term sustainability of the victim's social life.²⁰

In addition, the victim will also always experience social impressions that are typical, namely that the child will be ostracized by his family, discriminated against by the community, the social construction of the family will be damaged, because the community recognizes blood relations as a unit, but if an incest case occurs, then the status becomes double. The destruction of family elements can also be influenced by incest cases, as the stigma of the community towards the perpetrator or victim of incest will be bad.

4. CONCLUSION

Throughout life, the relationship between father and son is one of the most important and powerful. It is an irreplaceable bond born from small moments of playing, learning and supporting each other, no matter the challenges. In every cycle of life, the role of fathers is a solid foundation for children's growth and development. From financial support to moral guidance, fathers are the stable pillars of the family. However, it is also important to remember that this relationship does not always run smoothly. Challenges and conflicts may arise in the process.

However, with open communication, understanding and a willingness to learn from each other, fathers and children can overcome these obstacles. In this way, they deepen the relationship and strengthen the bond that was established in the first place. Fathers are more than just caregivers and educators; they are living examples for their children. They demonstrate values such as perseverance, integrity and courage through their daily actions. In turn, children learn empathy, humility and responsibility from their relationship with their fathers.

From these incest cases, it can be seen that there are a lot of bad effects on the victim, not only for mental health but the mental health of the victim is also very disturbed here. With the revelation of this case, we know that sexual violence can be committed against anyone, including one's own family. In addition, victims of sexual violence can be severely traumatized.

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