

A CASE ANALYSIS OF SELECTED SUPREME COURT RULINGS
ON INCESTUOUS RAPE: “CAUSES AND EFFECT
TO THE FAMILY SOLIDARITY”

A Thesis

Presented to the College Of Law
Central Philippines University
Jaro, Iloilo City

In Partial Fulfilment
of the Requirements for the
Degree of Juris Doctor (J.D.)



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April, 2016

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ABSTRACT

Over the past years, incest which is defined as sexual interaction between family members, has become rampant, some were reported but mostly are not.

When a father is involved with a minor daughter, incest is a crime which can result in a lengthy prison sentence. At present, treatment being provided by the government in cases of incestuous rape focuses on the effect alone but no study is being conducted to prevent the same from happening.

There are numerous Supreme Court rulings on incestuous rape between the years 2010-2015 that involved the father and his daughter.

This case analysis employed a qualitative research methodology where in the process of analysing Supreme Court cases and the data gathered therefrom was correlated with the theories, ideas and expert opinions in the study of incest and incestuous rape.

This study was not focused on Supreme Court cases on incestuous rape alone but it aimed to identify the issues surrounding such cases with the intention of formulating a

more in depth understanding about the causes of incestuous rape and its effect to the family solidarity.

This study aimed to determine the following:

1. The Supreme Court Rulings on incestuous rape cases and their ratio decidendi.
2. The defenses alleged by the offender to justify or deny his actions.
3. The trigger for the victim to finally speak up and report the sexual abuse.
4. The reason/justification of the victim to report only after many years of being sexually abused.
5. Common age of the victim to when the sexual abuse usually starts.
6. The surrounding factors or the circumstances which causes the commission of incestuous rape.
7. The effect (long-term/short-term) of the sexual abuse to the victim socially, emotionally and mentally.
8. Effect to the relationship of the victim and the family.

The result of this study showed that incest itself is complex in nature, incestuous rape, however, is much more perverted and appalling. Psychoanalysis explained the existence of an unconscious desire that children has to their opposite sexed parents. Moreover, it is also explained that the family dynamics plays a huge part in bringing such unconscious desires to consciousness and some overtly acts on it.

Furthermore, this study showed that the social inclination of the incestuous father is a huge factor in the “making” his persona and eventually committing the crime.

Alcoholism, for one, creates disinhibition which could push the father to act on his forbidden and unconscious sexual desires for his daughter.

In gathering the facts and antecedent comprising each incestuous rape cases decided by the Supreme Court, it showed that the different variables comprising the Psychoanalytic theory is present in some of the cases as well as the sociological variables discussed by Ron Langevin in his book *Sexual Strands: Understanding and Treating Sexual Anomalies in Men*.