



The French used to be astoundingly tolerant of incest, but times are changing. Cover of the 1984 single [Lemon Incest](#), a song featuring Serge Gainsbourg with his daughter Charlotte. [Videoclip here](#).

Mutually consensual incest is a classic puzzle for moral psychologists : on the one hand, it harms neither the lovers nor society, on the other hand, most people think there is something seriously wrong about it. That's what Jonathan Haidt illustrates with a famous scenario of brother-sister incest, [the story of Mark and Julie](#).

"Julie and Mark are brother and sister. They are traveling together in France on summer vacation from college. One night they are staying alone in a cabin near the beach. They decide that it would be interesting and fun if they tried making love. At the very least, it would be a new experience for each of them. Julie was already taking birth control pills, but Mark uses a condom too, just to be safe. They both enjoy making love, but they decide never to do it again. They keep that night as a special secret, which makes them feel even closer to each other."

Haidt famously found that most people strongly rejected Mark and Julie's behaviour, even though the scenario carefully forestalls any bad consequences that might result from it. But, unlike Haidt's subjects, the French authorities (on whose territory the scenario takes place) do not consider that Mark and Julie's behaviour deserves punishment. In Virginia where Jon Haidt teaches and (I guess) hired his subjects, incest is a Class One Misdemeanour, punishable by one year of jail (see [here](#)). In France (and in many other countries where brotherly cuddling is seen with a friendly eye, such as the Netherlands, Luxembourg, Belgium, Portugal, Turkey, Japan, Argentina and Brazil), Mark and Julie risk nothing. So far.

In March of this year, a group of right-wing deputies submitted a very strange [proposition to outlaw incest](#) when (at least) one of the participants is under legal age. The text stands good chances of being adopted.

What is strange about the proposition is that incest is not made a specific offense, but rather assimilated to rape. In other words, mutually consensual sexual intercourse between a 15-years old girl and her 13 years-old nephew would count as rape. Oddly enough, it seems that it even counts, unless something eludes me, as mutual rape - a strange kind of crime indeed.

The text obviously aims at fighting the prototypical form of incest - rape committed upon a child by her father - but it does not look very efficient in that respect. Coercive sex with any child is, of course, already an aggravated form of rape. If a person has some kind of authority over a child

(being a parent or a step-parent obviously qualifies), then this aggravates any sexual offense that may have been committed. None of this is new or controversial, so the project adds very little to the [judge's toolkit](#). On the other hand, the law turns its back on two centuries of secular liberalism regarding incest, a legacy of the 1789 Revolution. Many in the right-wing majority recognize that the text does not bring much that is new, to the point that they almost let it down to make room in the Parliament's agenda for a law on Internet regulation (itself not a top-priority topic). So why vote such a law?

For symbol's sake, of course. But that answer doesn't even begin to solve the major issue. France was once astoundingly tolerant of incest, and today, [against anthropological odds](#), the tide is turning. Father-daughter incest, an untasty joke - or a family secret - in 1984, is now taken quite seriously and publicly denounced. What is happening ? I have a few hunches, but they're really too whacky to be exposed here.

Let me just make one remark : if moral cognition is any close to the rest of human cognition, then, most of the time, we do not judge our fellow humans' behaviours according to necessary and sufficient rules, but rather by placing them in fuzzy categories based on prototypes. When we have to judge an action, what the prototypical exemplar of this action looks like matters to us. It matters whether the prototype of incest is Mark and Julie having fun on their holiday in France, or forced sexual intercourse between father and daughter. Today, as the deputies' project eloquently shows, incest is unambiguously associated with rape and coercion, which was not necessarily the case in the past - in 1924, [Colette](#) wrote about the famous love-story with her husband's 16-years-old son. The funny thing about this change in view is that politicians should take it so seriously as to vote a law that does nothing useful, short of making the prototype official.

Another short observation : I don't know what the anthropologists who read this blog might think of this, but I am slightly puzzled by the total lack of pattern in the European laws concerning incest. On the face of it, there does not seem to be any good predictor of whether or not a country will outlaw incest. Catholic Italy is somehow less severe than Germany and Denmark (mutually consensual incest between adults is punished in Germany, Denmark and Italy, but the Italian law punishes it only if it is a notorious "public scandal"). Portugal and Spain are much more tolerant than Northern protestant countries. On top of it, the laws are changing rapidly in unexpected directions.

Meanwhile, France still welcomes the Marks and Julies of this world, and will continue to do so (provided they're above 15). Maybe tour operators should consider setting up special Mark-and-Julie tours for brother-sister couples considering elopement, as a way to boost the tourism industry.

(Olivier Morin's website is [here](#).)