

Incest Laws and Absent Taboos in Roman Egypt

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For at least two hundred and fifty years, many men in the Roman province of Egypt married their full sisters and raised families with them. During the same era, Roman law firmly banned close-kin marriages and denounced them both as *nefas*, or sacrilegious, and against the *ius gentium*, the laws shared by all civilized peoples. In Egypt, however, Roman officials deliberately chose not to enforce the relevant marriage laws among the Greek metic, hybrid, and native Egyptian populations; the bureaucracy also created loopholes within new laws which tolerated the practice. This policy created a gap between the absolute theoretical ban in Roman law and the reality of common incestuous unions in Egypt. Since Roman Egypt was both an important and a dangerous province, Rome needed both to pacify its people and to weaken Egypt's status with its neighbors. By permitting incestuous marriages among non-Romans in Egypt, the Roman governors simultaneously pleased the local population while causing Jews and North Africans to hold their neighbor in contempt.

Careful studies of Roman census records and other papyri indicate that almost twenty percent of marriages in Roman Egypt were unions between full siblings.¹ Societal preference towards extreme endogamy may have been even stronger, since Keith Hopkins estimates that only 40% of all the families recorded in the census returns had a son and daughter of simultaneous marriageable age. Thus, at least one-third and perhaps more of all such families featured incestuous marriages, often in multiple generations.² The vast majority of such evidence dates between 31 BCE, when Egypt became a Roman province, and 212 CE, when Caracalla established near-universal citizenship; the insufficiency of records from other eras prevents firm conclusions about their marital customs. Most of this data establishes unions between people of Greek ancestry or mixed Greek and native Egyptian ancestry within a small number of districts in the Delta, rather than among either the native Egyptian peasantry in Upper Egypt or the few Roman Egyptian citizens in Alexandria. This may be due more to a lack of evidence than to a strongly localized custom, however. This particular group of non-Alexandrian Greeks in Egypt was ranked third in social and legal status, after Roman citizens and the privileged Greek citizens of major cities; preserving their community and superiority over the local native population may have been a particular priority for them.³ Before the Roman conquest in 31 BCE, the Greek metics held much higher social status and dominated the native population. We do not have good evidence as to the nature of their marriages

¹ Hopkins (1980) 304.

² Ibid.

³ Shaw (1992) 292.

during the Ptolemaic period, although the Ptolemies themselves did practice brother-sister marriage.

The Greek Egyptians did not try to hide or deny these marriages; they were publicly proclaimed, announced in wedding invitations and wills, and duly noted on Roman census tallies by Roman tax-collectors. The internal societal reasons for such a high percentage of incestuous marriages in Egypt lie beyond the scope of this paper. Various hypotheses include J. Goody's theory of economic motivations and Brent Shaw's proposal that Greek racism and societal paranoia lie behind the close-kin unions; Sherman Parker's combination of these theories with the economic collapse in the late 1st century CE in Egypt is particularly tempting, although it does not explain the earlier prevalence.⁴

In Roman law, meanwhile, marrying a close relative was not only sacrilegious to the gods but also illegal. The Roman jurist Paul considered parent-child unions and deliberate fraternal unions to be against the *ius gentium*, the common set of moral and legal doctrines that bound not only Roman citizens but all civilized peoples.⁵ Several Roman prosecutions for cases of incest survive, including a case brought before the Roman Prefect in Egypt which involved two Roman citizens.⁶ Such accusations, whether true or false, also form a frequent source of political invective in Roman speeches and writings; these range from Cicero's denunciation of young Publius Clodius' habits of sharing a bed with his older sisters to Tacitus' suggestions that Agrippina the Younger tried to seduce her son Nero. For the Romans, such close-kin relationships fell into the category of disgusting and unacceptable behavior, together with other social taboos like human sacrifice.

The question remains why Roman government officials allowed such incestuous marriages to take place in Egypt. Since Roman census records form a major basis of our own evidence, it cannot be claimed that the officials were ignorant. Nor was incest in Egypt peculiarly acceptable; Roman and other foreign diatribes against Egypt show a general contempt for their marital practices. Some scholars argue that the Romans were cultural relativists, willing to let each conquered nation practice its own bizarre traditions as long as they received the appropriate amount of taxes. Naphthali Lewis describes "the usual pattern of Roman provincial government" in Egypt as "based on a policy of easy toleration of local custom where it posed no threat to or offered no interference with the superimposed Roman administrative apparatus." He asserts that the Roman mission was simply "to ensure internal tranquility and to deter attack from without."⁷

In this theory, Roman laws were only for Roman citizens, negating any need to enforce the incest litigation against non-citizen Egyptians. However, contemporary Roman administrators went to significant lengths to root out the local Gallic and

⁴ Shaw (1992), Goody (1990), Parker (1996).

⁵ Justinian *Digest* 23.68, Paul *Senatus Consultum Turpilianum*.

⁶ *BGU* 4.1024.

⁷ Lewis (1984) 1077-84.

Britannic religious customs of human sacrifice of slaves; they also interfered in various other private social customs, especially religious ones like the practice of Judaism and Christianity or magical practices like astrology. Lewis's theory fails to address the deliberate and subjective decisions which Roman governors made about which provincial *mores* might be tolerated. These decisions are key to any understanding of the relationship between Rome and its subjects.

Some may argue that Roman law did not meaningfully affect private family affairs, particularly in the provinces. Yet Roman jurists and emperors were most definitely interested in who was sleeping with whom, no matter where the relationship was taking place. Roman law of the early Empire, beginning with Augustus' well known *leges Iuliae* on marriage and adultery, demonstrates a profound interest in governmental control over family life. The government directly interfered in dictating appropriate marriages and punishing those who defied its strictures. While these laws may have initially been intended at promoting the marriages and fecundity of the Roman senatorial class, it is also clear that relatively non-elite members of society were aware of them and responded to these laws. For instance, Aurelia Thaisus, a Greek Egyptian woman (and Roman citizen through Caracalla's universal grant) submitted a petition in 263 CE to the praetorian prefect of Egypt asking for the privileges granted by the *leges Iuliae* to women with three children.⁸

Appropriate marriages were rewarded, but incest was also used as a political excuse when senators or emperors desired to charge their enemies with suitably horrific crimes. The 1st century CE emperors Tiberius and Nero both executed Roman citizens on the charge of incest. Tacitus and Cassius Dio describe Tiberius' execution of Sextus Marius and Marius's daughter for the crime of incest. This accusation was apparently motivated by Marius's refusal to allow Tiberius to seduce the young woman himself.⁹ Whether or not there was any actual incest in this case, it was publicly prosecuted and deemed worthy of a death sentence, showing the emphasis Romans purported to place on such crimes. Nero similarly accused Lepida, the aunt of Silanus, of incest with her nephew and the relevant parties were exiled or executed.¹⁰ While neither of these cases featured brother-sister liaisons, we may infer that such relationships would also have been harshly prosecuted in Rome itself.

In Ovid's *Metamorphoses*, the character of Myrrha laments her incestuous passion for her father and refers to the contrast between Roman law and Egyptian custom:

Jealous men have established spiteful laws; and what nature allows,
jealous judgments deny. Nevertheless it is said that there are peoples
(*gentes*) in which the mother is joined to her son and the daughter to her

⁸ Oxy. 1467.G

⁹ Tacitus 6.19 and Dio 58.22.4

¹⁰ Tacitus *Annals* 16.8-9.

father, and through this filial affection increases in a double bond.
Wretched me, since I was not born in such a place!”¹¹

Ovid is almost certainly referring either to Egypt or to Persia here, since no other nations at the time practiced incest so frequently, and the Persian Magi were particularly noted for mother-son incest. Myrrha strikingly assumes that the jealous Roman laws will not apply for other peoples, which may imply knowledge of Roman toleration of Egyptian practices.

Philo, an Alexandrian Jewish writer, lavishes vitriol on Egyptian marital practices: “The lawgiver of the Egyptians...bestowed on bodies and souls an evil promiscuity and gave full liberty to marry sisters of every degree, whether they belonged to one of their brother’s parents or to both....These practices our most holy Moses rejected with abhorrence as alien and hateful to a government free from reproach and as encouragements and enticements towards the most shameful of customs.”¹² Philo lived among Greek and native Egyptians; he certainly had regular contact with or at least sight of brother-sister couples. He views the Egyptian permission of incest as not only against Jewish law but the law of human decency. At the same time, he places the blame on an unnamed Egyptian lawgiver; thus, incest becomes enshrined as an official part of Egyptian society, inseparable from any concept of the Egyptians themselves.

Various types of close-kin marriage did exist elsewhere in the Mediterranean, although none appear to have been as widespread or to offer the historian as detailed evidence as the Egyptian instances. Walter Scheidel is currently working on a definitive collection of Zoroastrian texts which advocate or describe both sibling and cross-generational incest, at least for the nobility and royal families of Parthia. This appears to be an instance of incest as a means of preserving a particular bloodline, as it was used in the earlier Pharaonic cases.¹³ Strabo accuses the Magi, the Zoroastrian Persian priest-class, of sleeping with their mothers “according to ancestral custom.”¹⁴ Philo of Alexandria echoes Strabo, again distinguishing Jewish and Roman custom from that of barbaric cultures.¹⁵ In any case, most of the alleged practitioners would have fallen under the jurisdiction of Rome’s greatest enemy, the Parthians, rather than under Roman law. While they form another instance of explicit Roman anti-incest prejudice, the Persian cases are therefore not immediately relevant for a legal study.

Various ancient authors, including Plutarch and the Jewish writer Philo of Alexandria, mention that Greek law allowed certain types of marriages between half-brothers and half-sisters. The most famous historical case is that of the supposed

¹¹ Ovid *Metamorphoses* 10.330-5

¹² Philo *De specialibus legibus* 3.22-25

¹³ Scheidel (1996) 9

¹⁴ Strabo *Geographica* 15.3.20

¹⁵ Philo *De specialibus legibus* 3.13.

relationship between the Athenian statesman Cimon and his half-sister Elpinice, with whom he shared a father.¹⁶ However, such relationships were extremely uncommon and subject to public ridicule.¹⁷ The Romans were certainly aware of this custom; Seneca informs his readers that “you can go halfway (*dimidium*) at Athens, all the way (*totum*) in Alexandria.”¹⁸ There is a temptation to interpret Seneca’s line as implying common brother sister-marriages within Alexandria itself, rather than just the Delta, but it is at least as likely that Alexandria simply serves here as synecdoche for “Egypt.” None of the other cultures within the Roman Empire during the first few centuries C.E. appear to have had general cultural traditions of extreme close-kin marriage, although there are numerous stories of various royal dynasties perpetuating their lineage through such matches.

Roman law was the first of the two forces which collided in this conflict of cultural *mores*; its details and loopholes, whether deliberate or accidental, must be examined. In the *Institutes*, the jurist Gaius begins his discussion of incestuous marriages by limiting them to an analysis of Roman law marriages (those with *conubium*); he informs the reader that “There are certain women whom we must refrain from marrying.”¹⁹ He then lists a number of parent-child and grandparent-grandchild relationships which are *nefarias et incestas nuptias* and then proceeds to the category of marriages *ex transverso gradu cognatione iunguntur*, joined through a collateral blood relationship rather than an ascendant or descendant tie. While these are considered less horrific, marriages between any type of brother and sister are still “*sane prohibita*,” clearly forbidden.²⁰

The Emperor Diocletian, invoked the issue of religious sacrilege in the late 3rd century CE to explain his strong position against incestuous marriages. Inappropriate marriages are specifically described as part of a “*barbaricae immanitatis ritu*.”²¹ Crucially, Diocletian refers to the earlier indulgence of Roman emperors on this topic and to their former *clementia* for incestuous couples. In future, he proclaims, those who are carried away by “unbridled passions” will be duly punished and their children will not be allowed to inherit or regarded as illegitimate. Diocletian does not distinguish between brother-sister marriage and parent-child marriage in his edicts.²²

Despite his initial strong condemnation, Diocletian promulgates a version of Paul’s earlier edict, which distinguishes strongly between accidental incestuous marriages and those made deliberately. Diocletian decrees that unknowing incest which is ended upon the realization of its criminality will not be punished. This is a legal loophole surely

¹⁶ Plutarch *Cimon* 14.7.1; Philo 3.22-25.

¹⁷ Just (1989) 79.

¹⁸ Seneca the Younger *Apology* 8.3.

¹⁹ Gaius *Institutes* 1.58.

²⁰ Gaius *Institutes* 1.61.

²¹ Diocletian *Lex Dei sive Mosaicarum et Romanarum legum collatio* 6.4.

²² Diocletian 6.4.5.

designed specifically for the Egyptians, for, even given adoptions, how many men can there be who could marry their sisters accidentally? In nearly all other provinces, full brother-sister marriages were already illegal and against social custom, so this cannot be intended for illiterate Gauls or Dacians. Rather, the exception represents a deliberate “don’t ask, don’t tell” policy on the part of the Roman government towards the Egyptians. The earlier emperor Domitian, in a letter questionably attributed to him, strongly condemns “inappropriate marriages” and similarly threatens an end to previous indulgences, suggesting a common pattern of vague and unfulfilled threats which allowed the Roman Emperors to maintain their moral high ground.²³ In a possible reference to the Egyptian custom, the late jurist Papinian mentions that previously incestuous marriages were held sacred among “*rudibus populis*” because of divine approval, but that now both divine and human opinion condemn them “with one voice.”²⁴

Diocletian was emperor well after Caracalla’s edict of 212 CE, in which all free inhabitants of the Empire became Roman citizens; thus, the distinction between Roman laws and the *ius gentium* had ceased within the empire. While most Egyptian demographers claim that the popularity of close-kin marriage faded in Egypt after 212 CE, there is insufficient statistical evidence to accurately establish this.²⁵ Diocletian, writing two generations later, views incestuous marriage as an active and continuing problem, and Roger Bagnall cites a certain set of papyri which indicate a quiet continuation of one brother-sister marriage, although they cease to formally refer to each other as spouses.²⁶

Egypt is the only possible source of a disparity between Roman marriage law and an actual large-scale practice of close-kin marriage. The argument that Roman laws are for Romans rather than Egyptians breaks down here, as close-kin marriage is a problem both before and after universal citizenship. Furthermore, Alan Bowman and Dominic Rathbone have shown that, while many of the Greek and local Egyptian *nomoi* persisted after Roman rule, Roman law affected and infiltrated many aspects of Greek Egyptian life and in numerous cases superseded local customs.²⁷ However, there was a reluctance on the part of Roman officials to enforce the provisions of Roman law, whether *ius civile* or *ius gentium*, as they related to incestuous marriages among the Greek metic or native Egyptian population. Diocletian and other Roman jurists wrestle with the conflict between traditional customs and an apparent desire not to upset the bread basket of Egypt.

The *Gnomon of the Idios Logos* is a particularly relevant document in any scrutiny of Roman incest legislation. This set of rules, initially promulgated by Augustus, details

²³ Mourgues (1987) 78-87.

²⁴ Papinianus *de adulteris*, Lex Dei 6.7.1

²⁵ Bagnall and Frier (1998) 127 n.63.

²⁶ *ibid.*

²⁷ Bowman and Rathbone (1992) 113.

how Roman officials should govern Egypt. The *Gnomon* persisted as a handbook of Roman Egyptian law through at least the second century. Many of the surviving clauses concern marriage and inheritance legislation, particularly among people of different social and ethnic status. A number of these rules pertain to non-citizens; two examples are “Freedwomen of Greek towns are not allowed to make wills,” and “If an Egyptian takes from the dung-heap a child and adopts it, he is after death fined one quarter (of his property).”²⁸ Romans thus had no difficulty justifying the enforcement of these laws against non-citizens or interfering in private family affairs.

Regarding incest, the *Gnomon* offers the following: “Romans cannot marry their sisters or their aunts, but it is granted to them to marry their brothers’ daughters.” The text comments that, “Pardalas, [a former administrator of the Private Account], indeed, confiscated the property of siblings who had married.”²⁹ Unfortunately, we possess no other details about how frequent this confiscation was. Here, the Egyptian laws regarding close-kin marriages are restricted both in terms of those whom they affect and their scope. Whereas Gaius lists a large category of inappropriate marriages, the *Gnomon* restricts it to sisters and aunts. While the illegality of parent-child incest may have been so obvious that it did not require particular mention, it may also simply have been less of an active issue – the Egyptians did not practice such marriages in great numbers. The special grant of marrying a brother’s daughter dates from the wedding of the Emperor Claudius and his niece Agrippina; if an emperor did it, it had to be legal.

The mention of Pardalas’ confiscation of property suggests that incestuous marriages were both a reasonably common practice and an active worry. His penalty, however, does not match that of traditional Roman law. According to Gaius, incestuous marriages are regarded as non-existent; the children are illegitimate and the wives are at best concubines. In many cases, the incestuous partners were exiled to separate islands or even thrown off the Tarpeian Rock.³⁰ Pardalas’ punishment is designed to maintain an existing marriage while discouraging such unions heavily through financial means. This special law, restricted to Roman Egyptian citizens, implies an active awareness and tacit permission of the Greek and Egyptian close-kin marriages which must have constantly intruded on the vision of Roman magistrates. While no moral judgment is made within these laws, they do not apply even the fullest extent of Roman law to Roman Egyptian citizens, let alone Greeks and native Egyptians. While the *Gnomon* formalizes many details about the possible available marriages for Greek and native Egyptians, the topic of their close-kin marriages remains a highlighted void.

In a court case brought before the Roman prefect Flavius Titianus in June 128 CE, a man of unrecorded status or ethnic origin, Antonius son of Apollonios, threatened to charge his father-in-law Sempronius with incest.³¹ The specific type of incest is not recorded. Sempronius reacts to this charge by “refusing to bear the insult” and attempting

²⁸ Selections from *Gnomon of the Idios Logos* in Rowlandson (1998) 176.-7.

²⁹ *ibid.*

³⁰ Gaius *Institutes* 1.64; cf. also *lex Iuliae de adulteriis*.

³¹ P. Oxy. II. 237 coll. VI.4-VIII.7, in Rowlandson (1998) 186-7.

to forcibly divorce his daughter from Antonius. This particular incest is seen as shameful and given the nature of the relationship between the two men, it appears most likely that Antonius is accusing Sempronius of having debauched his daughter before marrying her. In any case, the Prefect refuses to hear the charge of incest and deals only with the issue of the forcible divorce, suggesting either a deliberate policy of avoiding such cases or else a dismissal of the particular accusation as based on personal animosity.

One possible explanation of the Roman government's "see no incest" policy is that it extended generally to social customs which were antithetical to Roman culture but which formed a central part of provincial life. However, the Roman intolerance of human sacrifice among the Gauls and Britons argues against such a view. According to Suetonius, Augustus initially banned human sacrifice only among Roman citizens. Tiberius or possibly Claudius later extended that ban to all people living within the Roman Empire.³² Claudius' generals in Britannia then went to extensive lengths to exterminate the Druidic religion on the specific grounds that it practiced human sacrifice. While there were undoubtedly external political motivations, this is not a case of "live and let live." Strabo comments that "the Romans put a stop both to these customs and to the ones connected with sacrifice and divination, as they were in conflict with our own ways."³³ This suggests that the reason for the ban on sacrifice is specifically cultural difference and a moral judgment on the part of Roman administrators.

Human sacrifice and incest are obviously distinct in that incest does not necessarily perpetrate other crimes such as homicide, which may have been the source of such disparate treatment. However, the Gallic Druids generally sacrificed slaves or prisoners, people whom Roman law considered to be under the complete control of their masters until at least the 2nd century CE. Indeed, one of the key components of Gaius' *ius gentium* is the right to own slaves. Thus, the Druids did not commit any crime in Roman law (at least at the time of Claudius) except for human sacrifice, just as the Greek Egyptians committed no crime except for incest. The situations are parallel in being morally despicable while legally punishable only by a specific ban; however, they were prosecuted very differently.

Why then are the Gauls and their peculiar institutions treated one way and the Egyptians another? The Egyptians, in the Roman literary conception (which did not consistently distinguish between local and immigrant populations) were a deeply strange and perverse society; they were also an ancient and well-respected nation, one of the cradles of civilization. The Gauls, in contrast, were viewed as uncouth barbarians with little to teach the proud Romans. While the Romans undoubtedly held Egyptian incest in disdain, there was nonetheless respect for Pharaonic Egypt's history and culture. On an economic level, Egypt's enormous tax revenues and wheat surpluses were key to the functioning of the Empire. Gaul and Britannia were barely profitable.

The Roman emperors' view of Egypt's role as a province was also driven by fear. Since Egypt was powerful enough to serve as a base for revolution, Augustus placed it

³² Suetonius *Claudius* 25.

³³ Strabo *Geography* 4.1.13

under direct imperial control. According to Tacitus, Augustus “kept Egypt isolated (*seposuit*), in order that Italy might not be subjected to starvation by anyone who contrived...to occupy the province.”³⁴ Besides the threat from Roman conspirators, Ptolemaic Egypt had once controlled its own substantial empire stretching up the eastern coast of the Mediterranean and towards the *Provincia* of Africa; it had the potential to do so again.

Egypt both needed to be pacified, particularly since the Alexandrians had a tradition of revolt against authority, and kept weak in regard to its neighbors. By not forcibly divorcing twenty percent of the Greek Egyptian population from each other, the Roman government undoubtedly eliminated some of the potential tensions of life under Roman rule. At the same time, the provinces which bordered Egypt, such as Judaea, scorned Egypt’s well-known practices of close-kin marriage, as demonstrated by Philo’s contempt. By allowing close-kin marriages to quietly continue, Rome both appeased the Greek Egyptians and ensured that their neighbors would hold them in social disdain and be unlikely to ally with them.

The Roman prefects of Egypt were not blind to the census reports indicating that their Greek metic subjects publicly defied Roman *mores* and concepts of appropriate marriage. Rather, they studiously avoided the issue, by banning such marriages for Roman citizens, allowing exceptions for ignorance, and even refusing to hear cases addressing the topic. All this evidence suggests an active, deliberate policy of non-enforcement. Diocletian’s weak assertion that someday soon the Roman government would start punishing people for incestuous unions demonstrates the inherent flaws in this system.

This examination of the Roman treatment of Greek Egyptian close-kin marriage sheds light on the murky area between the formality of legal codes and their actual effect on everyday lives. In Egypt, the apparently irreconcilable gulf between the proud announcements of brother-sister unions and the strict laws condemning such marriages lasted for over two centuries. While historians are often inclined to portray Roman imperial officials as rigid and inflexible, such a dichotomy reveals a Roman bureaucracy more than willing to ignore traditional Roman morals in favor of practical advantage.

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³⁴ Tacitus *Annals* 2.59.

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