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### Moral development and juvenile sex offending

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# **Chapter 1: General Introduction**



### 1.1 Moral development

Morality and delinquency are inextricably linked, in a sense that they are both related to behaviors that have consequences for the rights and welfare of others (Turiel, 1983). Whereas morality can be defined as “the aspect of human thought, feeling, and action that pertains to the distinction between right and wrong (Bauman, 1993; p. 4), delinquency refers to acts that are considered morally wrong and therefore have been codified in terms of criminal law. Although immoral behavior is not necessarily criminal behavior, moral norms and legal norms (codified laws) do, generally, overlap. For this reason, criminal law could be considered an objective instrument that regulates moral principles in society by referring to some behavior as criminal behavior, encouraging individuals to desist from these behaviors (see Boutellier, 1993).

Morality is a complex concept, as it involves both emotive and cognitive capacities. Aspects that have been prominent in the literature on moral psychology are respectively moral judgment, empathy, guilt and shame.

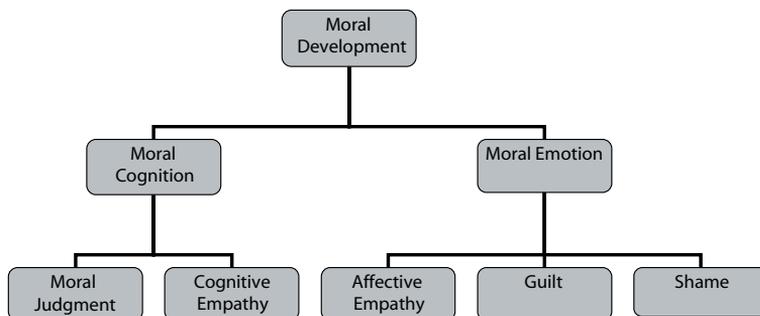


Figure 1: overview of cognitive and affective aspects of moral development

From these, the first two aspects, moral judgment and empathy, have been studied most (Jolliffe & Farrington, 2004; Tangney et al., 2007; Stams et al., 2006) and will occupy a central place in this dissertation (see figure 1).

Lawrence Kohlberg (1971), following Piaget (1936), was the first to provide the study of moral development with an empirical base in his famous essay "From is to ought: How to commit the naturalistic fallacy and get away with it in the study of moral development". Kohlberg (1984) proposed a model of moral development in terms of moral judgment consisting of six hierarchically ordered stages through which individuals progress by responding to moral issues from a more egocentric point of view at the lower immature stages to the needs of others and the needs of society at the higher more mature stages. As the cross-cultural validity of the stages 5 and 6 of Kohlberg's model of moral development has never been established, and these stages have only been found among individuals with a graduate education, Gibbs (1992) revised Kohlberg's model into a four-category model of sociomoral development. In this model stages 1 and 2 constitute immature moral judgment and stages 3 and 4 mature moral judgment. Although Kohlberg acknowledged the importance of social cognition in his model of moral development, it was Gibbs who examined how the content of social cognition, referred to as cognitive distortions, was related to an individual's moral judgment. Cognitive distortions are thoughts (e.g. arguments) that help to protect the self from blame or a negative self-concept facilitating aggressive, antisocial or delinquent behavior (Barriga & Gibbs, 1996; Barriga, Landau, Stinson, Liau, & Gibbs, 2000; Ward, Hudson & Marshall, 1995).

The models of moral development of Kohlberg and Gibbs have in common that they are justice oriented; meaning moral judgment is characterized by principles of justice and fairness instead of care<sup>1</sup> and empathy. In Gibbs' model, moral judgment refers to the reasons or justifications for moral decisions or values, and it is considered to be an aspect of moral cognition (Gibbs, 2010; p. 130). As moral judgment is dynamic in nature, under normal conditions, children and adolescents advance through stages of moral development assuming moral growth. Next to moral judgment, also cognitive empathy, the ability to understand and recognize other's emotions, is considered a moral cognitive capacity.

Moral emotions, unlike moral cognition, are less dynamic and already present in childhood. Aspects of moral emotions are affective empathy, guilt and shame. Affective empathy, the capacity to feel and share others' emotions, is together with

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1 Other researchers have argued that this justice orientation in moral reasoning is more found among males than females, whose moral reasoning is assumed to be care oriented. However, research on care oriented moral judgment so far has only focused on positive morality and prosocial moral behavior instead of delinquent behavior and thus its relationship with delinquent behavior is unknown (Eisenberg, 1986; Eisenberg, Carlo, Murphy & Van Court, 1995).

cognitive empathy an important ability for moral signaling. In addition, shame and guilt are considered self-conscious emotions “providing immediate and salient feedback on our social and moral acceptability (Tangney, 2007; 347). Whereas guilt centers on the wrong behavior in relation to the violation of a society’s moral values, shame, on the other hand, is more centered on the evaluation of the self in the situation (Lewis, 1971; Tangney et al., 1994).

### *1.2 Moral development and legal responsibility*

In particular the dynamic nature of moral cognition is important in relation to juvenile criminal law and the question of legal responsibility. As children are still developing, socially, morally and intellectually, and are often unable to oversee the consequences of their behavior, children under age 12 cannot be held legally responsible in the Netherlands. Adolescents between age 12 and 18 fall under the Dutch juvenile court jurisdiction, which indicates that developmental differences that exist between adolescents and adults should be taken into account for court procedures as well as for sentencing decisions (Ash, 2006; Bartels, 2007; Weijers, 2004). However, if juvenile delinquents do not fully understand society’s mores, meaning they are unable to discern right from wrong and are unable to share and understand emotional states in others, the question is whether they can be held accountable for the crimes they commit (Cohen & Strayer, 1996; Jolliffe & Farrington, 2004; 2006; Le Sage, 2005). This may in particular be the case for offenders with intellectual disabilities, who have difficulties understanding and coding complex social situations (Van Nieuwenhuijzen, Orobio de Castro, Wijnroks, Vermeer, & Matthys, 2004) and understanding others’ perspectives, abilities that both affect moral functioning (Sigman & Erdynast, 1988; Sigman, Ungerer & Russell, 1983). Also other offender groups, such as offenders with psychopathic traits, should possibly be held limited accountable for the crimes they commit (Le Sage, 2005), as they may be delayed in their moral development due to emotional and cognitive deficiencies (Blair, Jones, Clark, & Smith, 1995).

Psychopathic traits and intellectual disability<sup>2</sup> are associated with moral deficiencies, but have not been accepted as grounds for insanity (e.g a mental illness) and infancy (e.g developmental delay) defenses, respectively (De Ruiter & Hildebrand, 2000; Moonen, De Wit & Hoogeveen, 2011). Brand (2001; p. 60), following Anglo-American law, provides a new model for accountability that excuses an offender who does not “possess the cognitive capacity to distinguish between right and wrong”

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2 In the Netherlands, suspects with an intellectual disability are treated equally as suspects who are not intellectually disabled, as long as their equal position is not affected. In the latter case, when the offender’s position is affected as a result of the severity of their disorder, a trustee is assigned to them to monitor the trial and to ensure a fair trial (Haffmans, 1989; Corstens, 2008).

(Feld, 1998; 98). Altogether, examining an individual's moral development may more objectively answer the question to what degree an offender should be held accountable and consequently could be considered responsible for the crime that he or she has committed. As moral deficiencies may also affect the course and goals of treatment, they should also be considered in treatment decisions.

The important role of moral development in sentencing as well as treatment decisions requires adequate assessment. However, the assessment of moral development is not yet structured and, to date, largely relies on unstructured clinical judgment of professionals. Sole reliance on unstructured clinical judgment, based on subjective interpretations of information that clinicians consider important for the examination of moral development, has been shown to be less accurate (Grove, Zald, Lebow, Snitz, & Nelson, 2000) and prone to biases (Lichtenberg, 2009) and seems consequently not that suitable to be the basis for juvenile court decisions and treatment decisions. The importance of moral development in general and adequate assessment of moral development in particular thus asks for development of new instruments, translation and validation of existing instruments, and creation of awareness among clinicians that validated assessment instruments are available that can be used to inform their clinical judgment of moral development.

### *1.3 Heterogeneity of offender samples*

Offenders constitute a heterogeneous group. They can be adolescent and adult offenders, females and males, may commit a variety of offenses, such as shoplifting, robbery or assault, some only once, whereas others may repeatedly commit offenses. Studying large offender samples increases the possibility to detect significant relations because of increased statistical power. These relations, however, may be different or may not always be applicable to particular groups of offenders, such as sex offenders, and consequently of less use for the development of prevention and treatment programs that are responsive to the needs of specific groups. It is therefore important to also study specific offender groups, which are more or less comparable, such as sex offenders.

It is important to study juvenile sex offenders for at least two reasons. First of all, this group is treated differently from juvenile non-sex offenders with respect to sentencing decisions found in relatively harsher punishment of sex offenses and life-long exclusionary measures, such as registrations that prevent this group to occupy jobs that involve minors: e.g. teaching and childcare jobs (Hendriks, 2006). Secondly, as various subgroups of juvenile sex offenders have been identified based on differences in victim characteristics, personality traits, criminal history and recidivism patterns, this group receives specialized treatment.

The subgroups that have been theoretically and empirically distinguished among juvenile sex offenders are solo and group sex offenders, child and peer abusers, generalist and specialist offenders. Solo sex offenders commit their sexual offenses alone; group sex offenders on the other hand, perpetrate sexual offenses with at least one other offender. Additionally, a distinction is made between child and peer abusers. The child abuser's victim is at least five years younger than the offender, often pre-pubertal, whereas the victim of the peer abuser differs less than five years in age with the offender or, alternatively, the victim is older than the offender. Last, the generalist sex offender commits a variety of offenses, including sex offenses, whereas the specialist offender mainly commits sex offenses.

Although sexual offense recidivism rates have shown to be equally low for generalist and specialist offenders, general offense recidivism rates on the other hand tend to be much higher for both groups. Hissel, Bijleveld, Hendriks, Jansen and Collot d'Escury-Koenigs (2006) and Chu and Thomas (2010) showed in particular generalist offenders to have much higher recidivism rates. Moreover, generalist offenders were almost ten times more likely to engage in violent offense recidivism.

Research distinguishing between child and peer abusers showed peer abusers to have more prior nonsexual charges than child abusers (Kemper & Kistner, 2007). Child abusers compared to peer abusers frequently have both female and male victims and victimize within their family. Although sexual offense recidivism rates compared to non sexual offense recidivism rates were fairly low for the child (8.16%) and peer abuser group (1.32%), the percentages were significantly different from each other (Kemper & Kistner, 2007). To conclude, subgroup differences may warrant a different focus in treatment, in particular since the criminal careers of 'generalist' offenders and 'peer sexual abuse' offenders appear to have been affected by antisocial attitudes, whereas the criminal careers of 'child sexual abuse offenders' and 'specialist' offenders have been influenced by social-emotional problems (Hendriks & Bijleveld, 2008). It is therefore plausible to suggest that differences between these subgroups may also show in other characteristics, such as in moral functioning.

#### *1.4 Moral development and juvenile sex offending*

Most studies examining moral development of juvenile delinquents have focused on the delinquent group in its entirety. For instance, it has been shown that juvenile delinquents generally have a poorly developed moral conscience compared to their non-delinquents age mates. Juvenile delinquents do not only display lower stage moral judgment (Blasi, 1980; Smetana, 1990; Stams et al., 2006), but also show lower levels of empathy, in particular cognitive empathy compared to affective empathy

(Jolliffe & Farrington, 2004). Moreover, Tibbets (2003) showed guilt - but not shame - to be negatively related to self-reported delinquency.

Reviews and meta-analyses of moral development and delinquency have largely neglected the heterogeneity of offender populations. We therefore still have little knowledge about the moral development of many specific offender groups, including juvenile sex offenders. Research examining moral development of sex offenders has mainly focused on adult sex offenders, showing that moral functioning of sex offenders might be different from that of general offenders. For instance, Valliant, Pottier, Gauthier and Kosmyna (2000) showed adult rapists and child molesters not to be delayed in moral judgment compared to general offenders. In the case of empathy, Jolliffe and Farrington (2004) showed the relation between offending and empathy to be stronger for non-sex offenders than for sex offenders. A possible explanation for this weaker relation in sex offenders is to be found in specific rather than general moral deficits that are present in sex offenders (see Marshall, Hudson, Jones, & Fernandez, 1995). Fernandez, Marshall, Lightbody and O'sullivan (1999) and Fernandez and Marshall (2003), for instance, showed adult sex offenders to display lower levels of empathy in sexual situations and even lower levels when sex offenders had to consider their own abuse victims. No delays in general empathic responding were found. These deficiencies particularly occurred in the recognition and understanding of emotions of the victims, which suggests lack of cognitive empathic abilities (Marshall, Hamilton, & Fernandez, 2001). Further analyses indicated lower empathy scores to positively correlate with cognitive distortions, which are thoughts (e.g. arguments) that help to protect the self from blame or a negative self-concept facilitating aggressive, antisocial or delinquent behavior (Barriga & Gibbs, 1996; Barriga, Landau, Stinson, Liau, & Gibbs, 2000; Ward, Hudson & Marshall, 1995).

The question remains whether findings about moral judgment, empathy and cognitive distortions of adult sex offenders can be generalized to youngsters who are involved in sexual offenses. Because juveniles are still developing and are more capable of change, it is increasingly viewed as inadequate to employ theories for adults to explain juvenile sex offending. Thus, separate research is needed to understand and explain juvenile sex offending, and to verify to what extent theories that are valid for adults can also explain juvenile sex offending, or whether separate theorizing is necessary to adequately describe and explain the criminal careers of juvenile sex offenders.

For this reason the aim of this dissertation is to examine moral development of juvenile sex offenders. The dissertation comprises the following studies.

### *1.5 Outline of the research project*

The studies that are discussed below, correspond with the order of the chapters of this dissertation.

#### **Study 1**

There is abundant empirical evidence showing that offenders reason at lower stages of moral judgment than do non-offenders (Gibbs, Basinger, Grime & Snarey, 2007; Palmer, 2003; Stams & Rutten, 2006). Moral development, however, should only then be a treatment target when it predicts recidivism and thus can be considered a criminogenic risk factor (Andrews & Bonta, 2010). Therefore, the first study of this dissertation focuses on the relation between moral development and recidivism by means of a meta-analytic study. The meta-analysis of moral development and criminal offense recidivism examines the degree to which moral judgment, empathy, guilt and shame predict recidivism, identifying factors that may moderate the effect, including age and gender of the offender, different aspects of moral development, and different types of instruments. Such information on the relation between moral development and recidivism is needed to be able to adequately match the intensity and other qualities of an intervention program to the risk level of the offender.

#### **Study 2 & 3**

Most studies neglect that offender populations are heterogeneous and that theories explaining adult offending are not necessarily applicable to juvenile offenders. The second study of this dissertation therefore examines moral development of juvenile sex offenders compared to non-offenders, focusing on general and specific deficits in moral development (moral judgment and empathy). Juvenile sex offenders are questioned about general, sexual and own abuse victim situations. Furthermore, we examine to what extent cognitive distortions are related to moral development. As several subgroups of juvenile sex offenders have been identified, the third study is an extended replication of the second study by distinguishing between child and peer abusers. Next to examining cognitive distortions, this study also examines implicit theories in juvenile sex offenders, which are "statements enabling individuals to explain and understand aspects of their social environment, and to make predictions about future events" (Ward, 2000; p. 495). For the purpose of this study we examined two types of implicit theories, respectively implicit theories comprising statements in which the child is seen as an instigator of sexual contact with the offender, and in which sexual contact between the offender and the child is considered harmless.

## **Study 4**

There is an ongoing debate about the moral development of individuals with psychopathic traits. Where some claim psychopaths to have no moral conscience due to diminished emotional and cognitive capacities and deficiencies (Blair, Jones, Clark, & Smith, 1995), others argue that even psychopaths are able to make moral decisions and show empathic concern within particular contexts (Levy, 2008; Vargas & Nichols, 2008). It is important to establish whether psychopathic juvenile delinquents are able to make moral decisions, as the ability to do so may affect the extent to which they can be held accountable (Le Sage, 2005) as well as the course and goals of treatment. Most research on psychopathy in relation to moral development has focused on emotional problems (lack of empathy), whereas moral cognitive development (moral judgment) of psychopathic individuals is still an underresearched area, especially in the case of young delinquents. It is, however, important to study these two aspects in juveniles, as research indicates that they are interconnected in daily functioning (Gibbs, 2010).

The aim of the fourth study therefore is to examine the relation between psychopathy and moral development in young sex offenders, looking at both the relation between psychopathy and moral emotion, such as empathy, and psychopathy and moral cognition (moral judgment). As sex offenders are not deficient in empathic responding toward all people or in all situations, but lack empathy in sexual and own abuse victim situations (Fernandez, Marshall, Lightbody & O'Sullivan, 1999; Fernandez & Marshall, 2003), measures used in this study were extended with domain specific and context sensitive items that pertain to sexual situations and the offender's own abuse victim.

## **Study 5**

There is empirical evidence showing that people with intellectual disabilities (ID) are overrepresented in the criminal justice system (Cullen, 1993; Holland, 2004; Holland et al, 2002; Lindsay et al, 2002). In particular higher incidence of intellectual disability has been found among sex offenders (Cantor, Blanchard, Robichaud & Christensen, 2005; Lund, 1990; Walker & McCabe, 1973). Although cognitive impairments could set limits to the development of mature moral judgment, little research has focused on moral development of offenders with ID. It is important to examine moral development of offenders with ID, as it is questionable whether offenders who do not fully understand that certain behavior is against the rules and mores of society (Lindsay, 2002), can be held accountable for their delinquent behavior (Le Sage, 2005). Moreover, moral development of offenders with ID should be examined in order to establish whether efforts to enhance their level of moral judgment can be successful. For the fifth study we examined a group of young sex offenders with ID (IQ < 85) and without ID (IQ

>85). As it is suggested that sex offenders with ID also have poorer sexual knowledge than individual without ID (Clare, 1993), possibly affecting their sexual mores, we furthermore examine moral judgment in sexual situations. Last, as all respondents committed a sexual offense, we also question the offenders about their own abuse victim.

## **Study 6**

In the case of moral development few valid and reliable assessment instruments are available, and to our knowledge, these instruments are mostly used for scientific research rather than for clinical examination. Clinicians therefore mostly rely on subjective interpretations of information that they consider important for the examination of moral development. The aim of the sixth study is to examine whether unstructured clinical judgment and objective measurement of moral development are associated in a sample of young sex offenders, focusing on moral judgment and victim empathy. It seems important that clinicians can adequately judge moral development in young sex offenders, since it has been shown that (juvenile) sex offenders show lower levels of moral judgment when questioned about their victim and lack victim empathy (Fernandez & Marshall, 2003; Knight & Prentsky, 1993; Lakey, 1994; Marshall, Hudson, Jones, and Fernandez, 1995; Marshall, Hamilton, and Fernandez, 2001; Varker & Devilly, 2007, Van Vugt et al., 2008). Whereas a significant association between unstructured clinical judgment and independent objective measurement of moral development would support the adequacy of moral judgment, lack of an association would cast doubt on the adequacy of unstructured clinical judgment of moral development. Such lack of association would call for the use of well validated instruments to assess moral development in order to inform the clinical judgment of clinicians working with juvenile sex offenders. It is thus important to further study possible differences and commonalities between clinical judgment and test results, because referral decisions may have life-long consequences for clients, in particular in the case of forensic evaluations that concern sentencing decisions, such as length of incarceration and treatment type and duration.