

THE MORAL DUTY TO REDUCE THE RISK OF CHILD SEXUAL ABUSE¹

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Abstract: Child sexual abuse and paedophilia are ethically loaded public health issues. This paper looks at whether there are any specific moral duties related to paedophilia. I argue that the moral duty not to commit child sex abuse is universal and that the duty to reduce the individual risk of child sex abuse is specific to paedophiles. A paedophile is a person who is sexually attracted to children. Some paedophiles commit child sex abuse offences, but others are able to refrain from doing so and have the rational capacity to take adequate preventive measures. The risk of committing child sex abuse and the ability to reduce that risk are a moral duty pertaining specifically to paedophiles. I further argue that society has a moral duty to help paedophiles to fulfil that duty. Unfortunately, societies rarely provide such opportunities and hence fail in their moral duty towards paedophiles and children.

Key words: moral duty; ethics; child protection; paedophilia; child sex abuse; utilitarianism

Introduction

Paedophiles are human beings who face moral choices throughout their lives, but philosophers have rarely been concerned about the ethical issues of the lives of people with paedophilia. Some philosophical works have appraised arguments against sexual contact between adults and children (Benatar, 2002; Ehman, 2000; Kershner, 2015; Moen, 2015; Primoratz, 1999; Spiecker & Steutel, 1997). Nonetheless, they have not focused on the ethical challenges faced by individuals who are sexually interested in children. One exception is Dennis Cooley's (2006) 'Crimina Carnis and Morally Obligatory Suicide'. Cooley (2006) discussed a Kantian moral recipe for compulsive paedophiles, which I examine later in the paper. The question of what paedophiles must do is not typically asked; the standard public question is how to catch them. Paedophiles are moral agents who have relevant knowledge of right and wrong and can control their actions. The status of a moral agent presumes moral duties—what one must do or avoid doing. A paedophile has many moral duties that are universal, for example, no one should steal. The interesting question is whether any

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additional moral duties emerge for an agent with paedophilia. The obvious duty is to resist the sexual attraction with the full force of will, but that answer is incomplete. My reasoning is concerned with the search for ethically justified and feasible rules for paedophiles and society. Therefore, I intentionally avoid engaging in the debates on moral theory. Instead, I take empirical findings into account and develop an argument based on Jeremy Bentham's notion of moral duty. I have chosen Bentham's notion of moral duty because it allows me to propose a practical solution in a concise and straightforward manner. Consistent with Bentham (1823), I lay out a solution that some would call a rule utilitarian solution. I propose two rules related to paedophilia and I argue that both increase the total amount of happiness. First, every person with paedophilia must reduce his individual risk of committing child sex abuse (CSA). Second, society must help paedophiles in this regard.

The paper is organised as follows. 'CSA vs paedophilia' outlines the crucial distinction between paedophiles and child sex offenders. 'The argument for moral duty' defends my central thesis that paedophiles must reduce their risk of committing CSA. Its first premise, that people ought to minimise harm to others, is normative; the remaining premises are factual and supported by up-to-date research on the topic. 'Reducing the risk of CSA in the long term' explains what it means to have a forward-looking duty and how it is possible to reduce an individual's risk of committing CSA. 'Society and paedophiles' concludes that society has a moral duty to help paedophiles fulfil their moral duty.

CSA vs paedophilia

An ethical inquiry into the matter of paedophilia must be especially careful regarding its factual premises because there are many myths and misconceptions about the topic. One of the misconceptions is the widespread confusion between the diagnosis of paedophilia and CSA. The former is a medical term, and the latter is forensic. Paedophilia is an ongoing sexual attraction to prepubescent children. The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) contains detailed criteria for reaching a diagnosis of paedophilic disorder and its specifications (being sexually attracted to males, females, or both). The DSM-5 distinguishes between paedophilic disorder and paedophilic sexual interest. The former is a sexual attraction to children that causes psychosocial difficulties and/or leads to actual acts of CSA. The latter is sexual attraction to children without committing CSA and without experiencing psychosocial difficulties because of the attraction (American Psychiatric Association, 2013). There is an ongoing discussion as to the correct medical definition of paedophilia in the DSM (Berlin, 2014). In this paper, paedophiles are defined as adults with a sexual attraction to prepubescent children.

The actual act of CSA is not a necessary condition for a diagnosis of paedophilia. CSA, roughly speaking, is sexual activity towards a minor under the age of consent, including contact and non-contact sexual offences and sexual exploitation offences (Vandiver, Braithwaite, & Stafford, 2017). An individual who commits CSA is a sex offender or child molester. Paedophiles are often identified as sex offenders, but it is not necessarily the case. In self-report interviews, half of the respondents said they had never acted on their urges. It is possible to be a paedophile without committing sex crimes (Cantor & McPhail, 2016). The opposite is also true: not all child molesters are paedophiles (Hall & Hall,

2007). The lack of data about non-offending paedophiles prevents us from forming any definite conclusions about paedophilia and CSA. Some non-offending paedophiles self-report CSA, and some do not (Houtepen, Sijtsema, & Bogaerts, 2016).

Various hypotheses about the causes of paedophilia exist, but none seems to refer to the fault of the agent. A popular abused-abuser theory (Freund, Watson, & Dickey, 1990) posits that paedophiles and sex offenders were previously victims of CSA. Further research found that sex offences are generally related not to CSA but to paedophilia among sex offenders (Freund & Kuban, 1994). Even if CSA did contribute to the development of paedophilia, children do not choose to be victims of CSA. Therefore, people are not responsible for paedophilia if it is the result of CSA.

Typically, paedophiles discover their sexual interest gradually during puberty (Houtepen et al., 2016; Seto, 2008). Researchers consider the aetiology of paedophilia to be a complex and multifactorial phenomenon. Genetic influences, stressful life events, and specific learning processes as well as perturbations in the structural integrity of 'paedophilic' brains may generate this specific phenotype of sexual preference (Tenbergen et al., 2015, p. 7). The aetiology of paedophilia is still uncertain. Whether it is a frontal lobe or temporal lobe anomaly, a lack of white matter in the brain, people do not choose to acquire these anomalies or to be born with them. Therefore, people are not morally responsible for their diagnosis of paedophilia. The conclusion of this section is not new to those familiar with the topic. Nevertheless, any discussion of what a moral agent should do about being a paedophile and why is pretty much absent in the field of applied ethics.

The argument for moral duty

A person who discovers that he (or, in rare cases, she) has a paedophilic interest is unfortunate. Acting on this sexual attraction is a direct transgression of common morality and is punishable by law. Nevertheless, paedophiles should choose how to proceed with their lives. Isolated paedophilia does not strip the agent of his cognitive and moral abilities. A paedophile can ask himself what he should do about his unusual sexual desire. In other words, what is the moral duty of a paedophile?

Moral duty is the required course of action from an ethical point of view—action anyone must take, whether he likes it or not. The issue is finding a general rule, not a solution to any particular case. To find this rule I draw on the utilitarian ethical perspective. Utilitarianism is not widely associated with the term 'moral duty', but Jeremy Bentham did use the term. According to Bentham (1823, p. 234), ethics is 'the art of directing men's actions to the production of the greatest possible quantity of happiness, on the part of those whose interest is in view'. From the general definition of ethics, Bentham derives three distinct categories for the rules of moral duty: 'rules of prudence' (duty to oneself), 'rules of probity' (duty to not harm others), and 'rules of beneficence' (duty to help others) (Bentham, 1823, pp. 237-255). The agent must care for his happiness, and he must not reduce, but should increase, other people's happiness. I address all these duties in the course of this paper, and I begin the following argument with a reformulation of the duty not to harm others. Harm reduces happiness, but it is impossible not to harm anyone; therefore, we ought to minimise harm to others.

1. People ought to minimise harm to other people.
2. CSA is generally harmful to children.
3. Therefore, everyone ought to avoid CSA. (From (1) and (2))
4. Paedophilia significantly increases the risk of committing CSA.
5. Therefore, a person with paedophilia ought to reduce his risk of committing CSA. (From (3) and (4))

Proving (1) is far beyond the scope of this article. However, premise (1) seems to be sufficiently intuitive for us to accept it as the starting point of the argument.

(2) is the empirical premise. CSA can result in direct physical injuries, and the long-term consequences of CSA frequently include psychiatric and social diseases and disorders (Irish, Kobayashi, & Delahanty, 2010; Wilson, 2010). The word 'generally' is needed to cover possible cases in which victims of CSA do not suffer or report damaging consequences (McGloin & Widom, 2001) and even view the experience as positive (Rind, Tromovitch, & Bauserman, 1998). Moen proposed an argument against CSA in terms of risk of harm (Moen, 2015). CSA exposes children to the risk of harm without meeting their needs. Therefore, everyone must always avoid CSA. However, (3) is not enough. Avoiding CSA is the right and proper thing for potential perpetrators to do, and it benefits everyone. However, this duty is not specific to paedophiles, and it is incomplete. The moral prohibition against CSA applies to everyone because paedophiles are not the only ones who commit CSA. Thus, (3) is relevant to paedophiles but is not specific only to them. Moreover, avoiding CSA alone does not eliminate the future risk of CSA.

(4) is also empirical. The association of CSA with paedophilia is not baseless. After all, paedophiles are sexually attracted to minors, and people tend to pursue their desires. The prevalence of paedophilia is estimated to be approximately 1% among the male population (Stephens, Leroux, Skilling, Cantor, & Seto, 2017, p. 1115) and up to 50% among child molesters of victims under the age of 14 (Blanchard, Klassen, Dickey, Kuban, & Blak, 2001; Blanchard et al., 2006; Seto & Lalumière, 2001; Seto, Murphy, Page, & Ennis, 2003). The disproportionate percentage of paedophiles among people sentenced for CSA is a strong argument for the supposition that paedophilia increases the probability the person may commit CSA.

In addition, paedophilia is one of the major risk factors for recidivism in sex crimes (Hanson & Morton-Bourgon, 2005). Paedophiles tend to have more victims than non-paedophilic sex offenders. Criminologists divide sex offenders into two categories: situational and preferential. There is no clear boundary between the categories; instead, they represent the polar extremes of the continuum. Situational offenders tend to be people who act based on a 'situation', and they usually do not have paraphilic tendencies. Preferential offenders often have paraphilic tendencies (including paedophilia), and their sexual preferences guide their behaviour. They have the potential to abuse a large number of child victims (Lanning, 2010). Consequently, (4) means that a person with paedophilia has a higher-than-average chance of committing CSA and reoffending in the future and probably would have more victims than a non-paedophilic sex offender.

Finally, (5) follows from the conjunction of (3) and (4). A person with paedophilia must reduce his risk of committing CSA. The analogy here is with a contagious disease. An infected person has a moral duty related to his disease, even if he has done nothing to

acquire the disease. A moral agent must take precautionary action against spreading the disease. In the same manner, paedophiles are not responsible for their condition, but it is up to them to take precautions so that other people do not suffer. Reducing the individual risk of CSA is also a personal duty concerning paedophilia. Perpetrators may be subjected to criminal punishment and tend to receive long sentences—the quality of their life in prison can be awful (Ievins & Crewe, 2015)—and they also suffer various legal and social consequences after their release from prison (Horowitz, 2015; Rickard, 2016). CSA could dramatically decrease the well-being not only of the victim, but also of the offender. Therefore, it is an additional reason to reduce the risk of it.

Reducing the risk of CSA in the long term

The moral duty to reduce the risk of CSA is a long-term, forward-looking duty. The duty consists of making a CSA act less likely. Without recognising this duty, the morally virtuous paedophile would just acknowledge the presence of a sexual interest in minors and hope that his will was strong enough. Paedophilia is a condition that no one chooses, but a paedophile must nonetheless do something about it.

Let us examine an imaginary case. A man named Karl loves to watch suffering. He did not choose to be a sadist, and he has never acted on his desires:

Karl has had fantasies about watching others when they are in pain since he was a little boy. During his early years, there was almost nothing which gave him more pleasure than kicking cats and boiling frogs. When he grew up, he realised that these actions are morally reprehensible – and, being a living argument for the power of moral judgment, this allowed him to refrain in adulthood from doing anything nasty to his fellow creatures (Vierkant, 2014, p. 58).

The first intuition is that Karl is not responsible for his nasty character because he could not stop his sadistic inclinations through any deliberate action of his own. However, what if there were a cognitive therapy that would allow him to change? Tillmann Vierkant (2014, p. 59) suggests that Karl is responsible for having the sadistic trait if it is reasonable to expect that he knows such therapies exist and prefers not to undergo them.

This story provides an excellent illustration of the idea that the moral agent could be responsible not only for the immediate consequences but also for the long term consequences. It is Karl's moral duty to undergo the therapy, especially if there is a risk that he would act on his sadistic preference given suitable circumstances. A similar rationale applies to paedophiles, but requires significant adjustment. There is no error-free therapy for paedophiles so far. That is why the moral duty for paedophiles involves not an on-off action but a continuum of efforts to reduce the risk.

If a moral duty implies the ability to fulfil it, then the moral duty for paedophiles must be in their power. In other words, to be morally obliged to reduce the risk of committing CSA, the moral agent must be able to do so. Here, again, the normative question about the existence of a moral duty depends on the empirical fact of whether paedophiles have the capability to reduce the risk of committing CSA.

The spectrum of precautions against CSA is wide. The best option, however, seems to be a request for professional assistance. Some programmes² specifically focus on helping people with paedophilia, and participation is voluntary and anonymous. These programmes present a novel approach to targeting those who are sexually attracted to children outside the legal environment. There are also treatment programmes for sex offenders who are in prison or on probation. These latter treatment programmes also serve as a precaution because even if an individual is already a sex offender, his moral duty to prevent future crime does not disappear under temporal constraints. Eventually, most paedophiles convicted of a sex offence will leave prison and again face the same attraction.

Paedophiles possess the willpower to apply for treatment and to undergo it. People with paedophilia can ask for external help and attend the treatment programmes (Beier et al., 2009a; Beier et al., 2009b; Houtepen et al., 2016). In other words, paedophiles possess the cognitive ability to take measures against the risk of committing CSA. Consequently, there are reasons to blame or praise those who sign up for treatment or fail to do so.

Strictly speaking, none of the existing programmes 'cure' paedophilia; for the moment, there is no way of changing people's sexual interest. The treatment programmes aim to reduce the risk of offending through psychosocial and biological measures (Camilleri & Quinsey, 2008). The effectiveness of treatment is still the subject of debate (Seto, 2008). The available data provide grounds for cautious optimism. Sentenced child molesters who receive good treatment have a lower risk of recidivism than those who do not (Beggs & Grace, 2011; Lösel & Schmucker, 2005; Maletzky, 2016). The treatment of non-offending paedophiles is a new approach; nonetheless, the initial results of the Prevention Project Dunkelfeld are promising (Beier et al., 2009a).

Professional help is not the only option. There are other measures to reduce the individual risk of committing CSA. Paedophiles can seek moral support and assistance from like-minded others and non-paedophilic individuals (Houtepen et al., 2016). Paedophiles can devise their own non-criminal ways of coping with their sexual interest or adopt somebody else's effective self-management techniques. Presumably, many non-offending paedophiles manage to avoid committing CSA without attending a treatment programme. One of the complications for non-offending paedophiles is that they must assess the permissibility of actions that may seem problematic in light of their interest. It is obviously a bad idea to have a job that mainly consists of interaction with children, such as a school football coach or a youth leader. Meanwhile, some forms of non-sexual contact with children are morally permissible if they do not increase the risk of CSA and the paedophilic individual has good self-control. There is nothing wrong with hugging children or playing with them as long as it stays non-sexual and within socially accepted boundaries.

In the end, the agent bears responsibility for the adequacy of the measures that he chooses. The agent who applies inadequate means to reduce the risk is morally responsible

² The Prevention Project Dunkelfeld, <https://www.dont-offend.org>; Specialist Treatment Organisation for the Prevention of Sexual Offending, <https://www.stopso.org.uk>; Stop It Now, <http://www.stopitnow.org>

if better options are available. The accuracy of self-diagnosis and the effectiveness of self-treatment are most likely to be inferior than is the case with high-quality professional help.

One extreme possible precaution for the paedophile is suicide. Cooley (2006) argues that according to Kant, some crimes are so morally repugnant that the moral agent who is not able to control himself should commit suicide rather than commit them. CSA is one such crime. Is suicide a morally obligatory measure for a paedophile from Bentham's point of view? After all, death eliminates the risk of committing CSA. There could be a conceivable scenario in which no other means is available.

But on closer examination, the suicide option is not appropriate in most real-life situations and contradicts what we know about paedophilia. First, there are non-offending paedophiles, and there are people who report that treatment has helped them. If better alternatives exist, suicide would go against one's duty to oneself, as it deprives the person of future happiness. Second, suicide requires a great deal of willpower. If the agent were capable of taking his life to prevent a crime, he would probably be capable of taking less radical self-management measures or seeking professional help. Therefore, suicide could be a last resort, but not among the first things to consider. Adjusting one's lifestyle, disclosing to a trusted friend, medication, restraint, therapy, anything other than death would be a moral duty before the person should consider suicide. The same logic applies to other extreme measures like self-isolation or (chemical or physical) castration, which, while still a relatively high cost for the individual, could help keep children safe. Using extreme measures in the presence of less radical options would be a violation of the duty to oneself. Within the utilitarian ethical framework, a paedophile is not only a moral agent but also a person of moral worth, as he can feel pain and experience pleasure. Therefore, a paedophile must take into account his own interests while calculating the most efficient ways of reducing the risk of CSA.

Society and paedophiles

In the previous sections, I have argued that paedophiles have the same moral duties that other people have and an extra moral duty to reduce their individual risk of committing CSA. In this section, I explore whether society treats paedophiles as moral agents and what moral duties it has towards them. It could be a duty shared by all members of society, only by people with relevant status (lawmakers, health care professionals, etc.), or even by society as a whole if one accepts the existence of collective agents (List & Spiekermann, 2013).

The punishment for CSA presupposes that sex offenders are moral agents. The problem is that current policies and public attitudes do not provide paedophiles with the opportunity to fulfil their moral duty reasonably. Therefore, society does not treat paedophiles as full-value moral agents because it limits their opportunity to perform their moral duty.

Policymakers and the public in developed countries have access to the information needed for an evidence-based policy of CSA prevention. However, policies worldwide appear to be concentrated on punishment rather than prevention. Paedophiles in most countries are on their own in the struggle against their inclinations. Currently, anonymous help for paedophiles is rare and reporting policies additionally complicate it (McPhail, Stephens, & Heasman, 2018). Sometimes there is simply no treatment available. Healthcare

professionals sometimes reject or avoid working with paedophiles and sex offenders (Jahnke, Philipp, & Hoyer, 2015; Killman, 2010). The story of the paedophile who received no adequate help in his youth when he explicitly requested it is very telling (Oliver, 2005). On the one hand, society demands that paedophiles avoid CSA; on the other hand, almost everywhere, paedophiles are deprived of access to prevention initiatives. It is up to the paedophile to exert immediate control over his actions, but long-term prevention is substantially dependent on external factors. Access to treatment programmes, circles of support and adequate public health policy would help paedophiles fulfil their moral duty on a regular basis.

The fact that paedophiles have a moral duty creates a moral duty for society to help them realise that moral duty. First, the obligation is an indirect way to fulfil the duty not to harm others, as it helps keep children safe and spares their suffering and the suffering of those close to them. Second, the moral duty of society to paedophiles is a way to fulfil the duty to help others. Adequate social and medical support would presumably prevent many paedophiles from committing CSA. Assisting paedophiles in their prevention efforts is not the only solution to the problem of CSA. Nevertheless, it is a necessary element of ethically justified and effective policy for the issue. The exact calculation of the utility of different strategies is up to the researchers in the field, but it is already evident that establishing prevention programmes is a cost-effective way of significantly reducing the risk of CSA (Letourneau, Schaeffer, Bradshaw, & Feder, 2017; Levine & Dandamudi, 2016). Therefore, it is a moral duty for society to implement such programmes.

Even if one disagrees that society owes paedophiles active support, almost everyone would agree that society should not increase their risk of CSA. Unfortunately, the latter is the case. Public attitudes and sex offender policies increase the paedophile's risk of offending and reoffending.

The first problem is the public stigma regarding people with paedophilia (Imhoff, 2015; Jahnke & Hoyer, 2013; Jahnke, Imhoff, & Hoyer, 2015). The stigma has a negative impact on paedophiles' emotional, social and cognitive characteristics that become risk factors for CSA; it may also prevent paedophiles from seeking therapy (Jahnke, 2018; Jahnke, Schmidt, Geradt, & Hoyer, 2015). Put simply, society rejects paedophiles and that additionally nudges paedophiles into CSA.

If a paedophile is convicted for a sex crime against minors, it does not relieve him of the duty to reduce the risk of CSA, but it makes it more difficult for him to do so. The sex offender laws put a lot of emphasis on punishment and make it harder for sex offenders to reintegrate into society (Horowitz, 2015; Levenson, D'Amora, & Hern, 2007), which in turn is a risk factor for recidivism (Willis & Grace, 2009). Sex offender laws and the criminal justice system create an uneasy environment for reducing the individual risk of CSA. Dealing with such general issues is a moral duty for society in the same way that paedophiles have a moral duty to deal with their own risks.

Conclusion

In this paper, I have highlighted two moral duties related to paedophilia. One is for paedophiles to reduce their risk of committing CSA. The other is society's duty to help

paedophiles in that. If reliable treatment programmes for paedophiles were generally available, their existence would create the moral duty for everyone with a notable sexual attraction to children to seek such treatment. Currently, such treatment programmes are rare, and to perform their moral duty, paedophiles must engage in a personal struggle against their sexual desire in an extremely hostile social environment. There are not enough data to reveal how many paedophiles manage to uphold their moral duty, but it is evident that most societies fail to perform their moral duty to paedophiles and consequently to children.

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