

## Awareness of the offense and perception of the victim among juvenile sex offenders

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### Abstract

**Introduction.** The present work presents data on research into adolescents who committed sex offenses, carried out in the Apulia Region of southern Italy and focused in particular on the perpetrators' perception of the peculiar profile of the criminal act committed.

**Materials and Methods.** Three University sections of the School of Medicine, Bari University, took part in this research: Criminology and Forensic Psychopathology, Psychiatry and Juvenile Neuropsychiatry, working in collaboration with the Department for Juvenile Justice and the Community, and the Center for Juvenile Justice in Apulia. In total, 31 subjects were included in the study, all Juvenile Sex Offenders. A detailed questionnaire was employed to obtain all the relevant information of criminological concern.

**Discussion.** Among most of the minors considered, a very poor awareness emerged of the peculiar type of offense committed, and of its consequences on the victims and the social context.

**Results.** This finding highlights an evident contradiction and confusion between legislative provisions in the area of sex offenses and rape, and the perspectives of juveniles and adolescents.

**Conclusions.** There is an evident need for legislative norms to adopt registers that are more accessible to the complex juvenile world, that cannot be assimilated to the adult world. *Clin Ter 2018; 169(4):e155-164. doi: 10.7417/CT.2018.2072*

**Key words:** Adolescents, Crimes, Sex offenses, Sexual Abuse, Victims, Awareness

### Introduction

The population of Juvenile Sex Offenders (hereafter denominated JSO) is complex and heterogeneous, and therefore difficult to define and describe using empirically validated models. In the United States, in the year 2009, about 5% of subjects arrested for rape were minors, while more than one third (35.6%) of sex offenses against minors (1) were committed by 18-year-olds. In Europe, about one third of the sex offenses committed in the United Kingdom and in Germany were committed by adolescents (2). In Italy, in 2015, 845 juveniles were accused of sex offenses and of

these, 115, or 13.6%, had committed sex offenses against other minors. In 2015, JSO accounted for approximately 2.3% of all minors committed to the Italian Juvenile Justice Services (Data provided by the Italian Center for Juvenile Justice).

Many attempts have been made to classify these offenders, and different theories have been advanced to explain their acts. However, the whole approach is based on Adult Sex Offender data.

The *general delinquency explanation* considers JSO to be a manifestation of a general antisocial tendency, that can therefore be explained on the basis of the same risk factors and processes that have been fruitfully employed in research into juvenile delinquency (3-4). The overall risk factors for delinquency include antisocial personality traits, impulsiveness and *sensation seeking*, *pro-criminal* beliefs and attitudes, affiliation to groups of delinquent peers, substance abuse, a history of non sexual offenses, early behavioral problems. Various points of evidence provide empirical confirmation of these associations:

1. most adolescent JSO have also committed non sex offenses, so this is not a "specialized" crime;
2. recidivism is usually of violent non sexual, or general violence type (5);
3. analysis of the crime trend shows that sex offenses tend to be committed after an escalation of previous non sex offenses;
4. the above variables associated with the risk of juvenile delinquency are the same as those found for sex offense recidivism, not for JSO (6-7-8-9-10-11-12-13-14).

In opposition to the previous theory, the *Special Explanation for Adolescent Sexual Offenses* claims that JSO are a distinct group of offenders (with the exception of a small proportion of adolescents that commit sex offenses within a pattern of a wider delinquency scenario), whose crime can be explained by *offense-specific* factors that are therefore considered as causal of sex offenses and hence distinctive as compared to those of other juvenile delinquents (15). These factors include: a history of sexual abuse, childhood affective problems, deficient social skills, atypical sexual arousal, experiences and interests.

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The aspects defining and classifying JSO are even more complex in view of the different scientific and cultural traditions involved in the different geographic areas, and also of the different legal systems in the different nations and contexts. For example, in Anglo-Saxon nations there is a legal distinction between *offenders*, *perpetrators* and *abusers*, based on the legal age limits for accountability: over the age of 10 years – that in these nations is the threshold of accountability – those committing sex offenses are defined as *offenders*, whereas younger children committing sexual abuse of other children (that are not subject to true penal justice) are more commonly defined as *abusers* or *perpetrators* (16-17-18-19). Unlike the forensic psychology and psychiatry viewpoints, the definitions vary according to the characteristics of the abuser, the victim, or else depending on the multiple phenomena underlying the manifestation of deviant sexual behaviors (ranging from small children with persistent hypersexual aggressive behavior to adolescents with complex sexual behavioral characteristics from the criminology standpoint, that may choose either children or adults as their victims (20).

#### *Paradigms for interpreting the phenomena*

Some important paradigms for interpreting the Juvenile Sex Offenders phenomena at the criminological level are: classification of the various deviant sexual behaviors adopted, age of the victim, age of onset of the deviant sexual behavior, some clinical and criminological characteristics.

#### *Classification of deviant sexual behaviors*

- Precocious sexual behavior involving sexual contacts without violence or coercion. These may sometimes be a response to victimization experiences or to exposure to sexually explicit advances;
- Inappropriate sexual behavior, including compulsive masturbation, excessive interest in sexual matters, overtly sexual games. These children show an incipient development of deviant sexual arousal;
- Coercive sexual acts refer to acts using force and/or threats and entail a significant disparity between the parties. Such sexually aggressive behavior can be associated with other antisocial activities. The sexual behavior may reflect anger and hostility rather than an attempt to seek gratification (21).

#### *Age of the victim*

The idea that those who abuse children (*Child Molesters*) are a distinct group compared to those who rape peers and/or adults (*Rapists*) has received considerable support in the literature (22-35). Child Molesters prefer subjects younger than 12 years old: there is a slight prevalence of victimization of the female sex, and the victims are often related to the abuser; there is a strong predilection for younger minors. The offenders rarely adopt aggression or violence when committing the crime, and more often rely on cunning. At the intrapsychic level, they show poor self-esteem, reduced social skills, symptoms of anxiety and depression, a stronger dependence on adults.

By contrast, Rapists prefer minors over the age of 12; again they more commonly abuse females, the victims are strangers to them and are very rarely related. They generally have a history of previous non sexual offenses, a clinical history of substance abuse and violence, and they will generally adopt aggressive, violent behavior while committing the crime. They feature disturbed antisocial or deviant behavior and the sexual offense is committed in the context of other non sexual crimes.

#### *Age of onset of deviant sexual behavior*

In a study made of 280 children a distinction was made between the *Early Onset Group* and the *Late Onset Group* depending on the age when the Sexually Abusive Behavior first manifested, before or after the age of 11 years, respectively.

Minors belonging to the *Early Onset Group* featured *higher levels of perinatal complications*, probably implying forms of neuropsychological damage (aggressiveness and impulsiveness, for instance), mental health problems, traits of indifference and insensitivity as well as a precocious aversion to their own family.

The juveniles belonging to the *Late Onset Group* showed different psychosocial and behavioral profiles, and their antisocial behavior was less influenced by factors occurring in early childhood. The same Authors made a comparison between the *Early Onset Group* and the *Late Onset Group* according to the presence of severe personality disorders. A greater risk emerged in the late onset group of sex offenders, who showed more aggressive abusive sexual behavior (a greater frequency of rape, abuse of unknown victims, the use of physical force, for example).

#### *Clinical and criminological characteristics*

Worling (36) individuated four subgroups: two relatively healthy profiles (*Overcontrolled/Reserved* and *Confident/Aggressive*), characterized by pro social attitudes, and two more pathological profiles (*Unusual/Isolated* and *Antisocial/Impulsive*), who featured social isolation and difficulties in interpersonal relationships in the first case and delinquent, impulsive personality traits in the second. The latter two groups had a higher rate of recidivism both of violent crimes (sexual and non sexual) and non violent offenses.

Richardson et al. identified 5 prototypes, one normal including adolescents with less severe personality problems, while the others were the *Antisocial Prototype*, characterized by impulsiveness, indifference to other people's feelings and wellbeing, lack of respect for societal rules and other people's rights; the *Submissive Prototype*, showing dependence on others, excessive obedience of the rules, remission, high levels of social and generalized anxiety; the *Dysthymic/Inhibited Prototype*, featuring apathy, dysthymic moods, social anxiety, withdrawal and isolation; the *Dysthymic/Negativistic Prototype*, characterized by a severe psychopathological profile with dysthymia, antisocial personality traits, a negative self-perception, low self-esteem, poor self-control, sometimes linked to the abuse of alcohol or drugs.

Oxnam and Vess (37) identified three subcategories of *sexual offenders*: The *Inadequate group* characterized by

a reserved attitude, social inadequacy and a self-critical image; the *Antisocial group* featuring a hostile, aggressive approach; the *Normal Range group*, showing few symptoms of clinical concern. Subjects belonging to the latter subtype more frequently commit minor sex offenses (not involving penetration) and according to some researchers and clinicians (38) are really adolescents motivated by sexual curiosity and confused sexual orientation, rather than antisocial or psychopathological subjects.

Recidivism of JSO is another problem that has aroused concern in the fields of forensic criminology and psychiatry, as well as among clinicians. In general, a series of factors has been explored, ranging from cognitive and intellectual problems to poor social and relational skills, together with cognitive distortions and deviant sexual fantasies and experiences. All these components may be important risk factors for recidivism.

The study of recidivism of sex offenses committed by juveniles has important implications both on the therapeutic prospects of JSO, and on determining the social hazard they pose, as well as helping to predict reiteration and so institute preventive measures. After an analysis of the existing literature on this subject, Worling e Långström subdivided the known risk factors for reiteration of sex offenses into four categories, assigning a higher or lower risk on the basis of empirical evidence:

#### *Evidence-based Risk Factors*

- Deviant sexual interests;
- Previous penal sentences for sexual assault;
- Previous sexual assaults of several victims;
- Selecting unknown victims;
- A lack of close relationships with peers/social isolation;
- Failure to complete specific treatment.

#### *Likely Risk Factors*

- Difficult parent-adolescent relations;
- Cognitive distortions supporting the convictions of JSO.

#### *Possible Risk Factors*

- A highly stressful family background;
- Obsessive sexual interests and curiosity, compulsive sexual behavior;
- Impulsiveness;
- Selecting victims of the male sex;
- Negative peer influence;
- An environment that favors reiteration of the crime;
- Previous sexual assaults of children;
- The use of violence or arms in the sexual assault;
- An indiscriminate selection of victims;
- Refusal to modify deviant sexual interest/attitudes;
- Aggressive interpersonal behavior;
- An antisocial interpersonal relational attitude;
- A recent escalation of anger or negative affectivity and reiteration of the crime.

#### *Unlikely Risk Factors*

- Denial of sexual assaults;
- Lack of empathy/remorse/awareness of the victim;
- A previous history of non sexual offenses;
- Sexual aggression with penetration;
- A history of child sexual abuse.

#### **Materialis and Methods**

The research was conducted in collaboration among three University sections of the School of Medicine, Bari University: Criminology and Forensic Psychopathology, Psychiatry and Juvenile Neuropsychiatry, working in close collaboration with the Department for Juvenile Justice and the Community, and the Center for Juvenile Justice in Apulia.

In total, 31 subjects (age range 14-20 years, all regular attenders of school) sentenced for sex offenses were included in the study, all Juvenile Sex Offenders. A detailed questionnaire was employed to obtain all the relevant information of criminological concern, and written informed consent to the study was obtained from the parents of all the minors examined.

Our case series comes under the category of violence committed by minors against other minors (as shown in the data reported above, this is less common than violence committed by minors against adults; in 2015, of 845 juveniles reported to the judicial authorities, only 115, or 13.6%, had committed violence and sexual abuse against other minors).

In our series, most of the acts of violence occurred outside the family, only 87, or 10% of the episodes, being intrafamilial. This demonstrates that our series largely concerns sexual abuse among adolescents, occurring outside the home (39), clearly distinguishing this sexual abuse among adolescents from the sexual assaults committed by adults against juveniles or against other adults, where the family setting and prior acquaintance, as well as the home as the site of the crime, seem to be constant factors (40). On the contrary, our series confirms the form in which the adolescents were often victims of sexual abuse committed by subjects they knew only superficially rather than by acquaintances or family friends/relatives. In short, there was no previous proximity of any importance, and the violence was committed by adolescents encountered when frequenting other contexts (41-42) (Tab.1).

Table 1. Characteristics of the offense

Setting	%	N
extrafamilial	84	26
intrafamilial	16	5
Method		
Individual	36	11
Group	55	17
Both	6	2
Not considered	3	1
Reiteration		
Reiterated	48	15
Single	48	15
Not considered	4	1
Physical violence		
without physical trauma	48	15
with lesions	4	1
Not considered	48	15

As regards reiteration of the crime (Tab.1), the percentages in our sample demonstrate a significant proportion of recidivism, equal to 48%, while the subjects who had an active role in the sexual violence account for 64% of the total, spectators and group members accounting for another 28% (Tab. 2). In line with data in the literature, the recidivists we examined had also committed other types of crimes. In fact, JSO with more complex and varied criminal records, including not only sexual assault, are more likely to reiterate sexual crimes ( 43-46) (Tab.2).

Analysis of table 2 illustrates a known truth, in the criminological ambit, namely that the characteristics of the victim are an important element when defining the type of offender. Our research showed that most of the victims were female (62% versus 38% of males). All the victims were minors, and 44% of them were under the age of 14, 52% were older, while in 4% of cases the age was not specified. These data underline the point that offenders in our group are interested in, and select almost exclusively victims under the age of consent, mostly peers and mostly female. In general, JSO who assault adults have more marked and evident psychopathological problems than JSO who only attack minors. However, the latter tend to have lower social and relational skills. The latter finding is consistent with the clinical histories and personal data of abusers described in our previous research where, despite no relevant

Table 2. Characteristics of the offender and the victim

Role of offender	%	N
Active	64	20
Group member	4	1
Spectator	24	7
Not considered	8	3
Age of offender		
Over 14	100	31
Sex of victim		
Male	38	12
Female	62	19
Victim affected by a handicap		
Yes	24	8
No	68	21
Not considered	8	2
Acquaintance with the victim		
Known	84	27
Unknown	16	4
Offense classified by victim age		
'Rapist'	52	16
'Child molester'	44	15
Not considered	4	1

psychopathological problems, they tended to have limited social and relational capacities. The victim and perpetrator had had previous occasional superficial contacts in 84% of cases (47-48).

The type of sexual crime committed did not consist of a complete sexual act with penetration, but most often featured groping/peeing and fellatio, in more than two thirds of cases, demonstrating that impulsiveness, arousal, and unpremeditated action also at the sexual level are among the characteristics of JSO. This is also confirmed by the site of the crime, that was mostly on the streets or at school (40%), and the time of day (morning and afternoon in 70% of cases)( 49-50-51-52-53) (Fig 1).

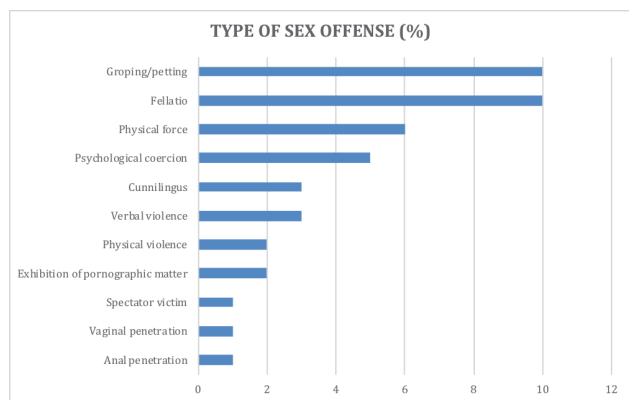


Fig 1.

The origin of crimes committed by JSO, not ascribable to a particular psychopathological profile or a long criminal record, is shown to fit into a complex relational order, being difficult to place within a clearly definable framework. The confused, typically adolescent attitude of the juvenile perpetrators of sexual abuse interviewed in our series was revealed by the fact that they described the attitude of the victim as consenting in 60% of cases, and when questioned more closely, 75% of them declared that the victim was “willing”, or “seductive”, “inviting and challenging/provocative”(Tab.3).

About 70% of the JSO we interviewed claimed that their motive for committing sexual abuse was to “try out a new experience”. This finding, that is clearly limited to the juveniles in this study and cannot therefore be generalized, must be considered with some care. It illustrates a criminological scenario that we have come to realize is rather different from the usual JSO scene. This is perhaps the central and most original contribution of our research into this particular criminological profile, namely that besides sexual assaults that are classified as abuse - based on the *modus operandi*, their repetitive or compulsive or forcible and violent nature - in the age of development there can also be forms of behaviour that, although they share many of the characteristics of the former, can better be seen as sexual exploration practices. As such, they may lead to inappropriate or unwanted approaches but they are not necessarily signs of a psychopathological condition, or indicating a risk of a deviant criminal record, or a criminal profile of a seriously worrying nature (54).

Confirming this point, only in 6 of the 31 cases had there been recourse to physical violence and threats, while in the others the strategies employed with the victims ranged from “presenting what was happening as a game”, to using misrepresentative language in a typically confounding adolescent style that confuses friendship, demonstrations of affection or games with messages with sexual undertones leading to acts that are ultimately perceived by the victim as violent (Tab.3).

Further confirmation derives from the moral distancing and disengagement mechanisms (55) that we discerned during the interviews: of 31 subjects sentenced for sexual abuse, no less than 23 showed attitudes ranging from assigning the blame for the offense to the victim (9 subjects),

Table 3. Perception of the attitudes and state of mind of the victim

	%
View of the willingness of the Victim	
Consenting	60
Non consenting	16
Not considered	24
Perceived attitude of victim	
Willing	29
Seductive	19
Weak	16
Inviting	16
Challenging/Provocative	13
Nothing in particular	10
Other	10
Friendly	6
Vulnerable	6
Opposing	6
Insecure	3
Suggestionable	0
Uninhibited due to alcohol/drugs	0
Strategies used against the Victim	
Violent	52
Non violent	18
Not specified	30
Perception of the Victim's state of mind	
Fear	23
Pleasure	23
Other	22
None	16
Anguish	10
Expressing sexuality	6
Feeling love	0

through denying responsibility (7 subjects), to a tendency to shrug off the event, minimizing its importance or attributing blame to other people and the circumstances for the act (6 subjects). This demonstrates a ‘distorted’ interpretation of the episode, attempting to avoid blame, pretend ignorance of the consequences of particular behavior and acts and, above all, shows a true ignorance of the law in terms of sexual acts and abuse, and what constitutes transgression of these laws. This latter is an important point that we shall look at more closely in the conclusions to the present work (Tab.4).

Table 4. Psychological factors linked to sexual abuse

	%	N
Reaction mechanisms		
Blaming the victim	29	9
Accepting responsibility	26	8
Denying responsibility	23	7
Shrugging-off the act	6	2
Minimizing the importance of the act	6	2
Involving others in the responsibility	6	2
Distorting the consequences	4	1
Mental status after the act		
Sense of guilt	33	10
Other	16	5
Anxiety	16	5
Fear of consequences	13	4
Need to talk about it	10	3
Sense of wellbeing	3	1
Desire to repeat the act	3	1
Need to justify the act	3	1
Satisfaction	3	1

All the above is also confirmed by the fact that at the time of the research, 52% of the juveniles we interviewed, all in the charge of the Social Services Offices of the Juvenile Court of Justice for the Apulia Region, still had not fully realized that they had committed an offense (Fig.2) and only 10 of the 31 subjects had “some feeling of guilt” for what they had done to the victims, associated with fear and anguish about the consequences of their acts (Tab.4).

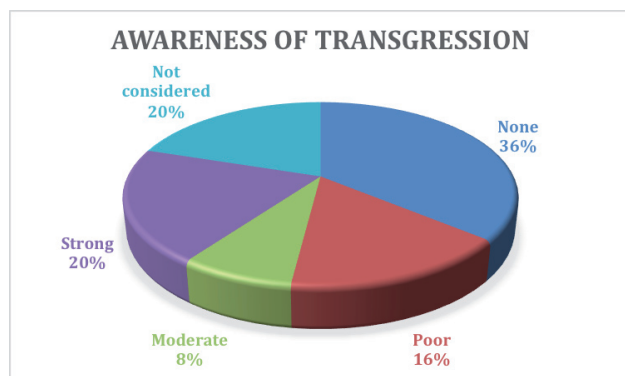


Fig. 2

## Discussion

The data we present prompt considerable reflection when considered in the framework of forensic criminology and psychiatry profiles. In fact, the prerequisite for sentencing to alternative measures to detention, aimed at instituting treatment to deflate potential criminal tendencies, such as a period on trial in community care (art.28 DPR 448/88), the measure adopted with all the JSO we examined, is that the subject should be aware of the offense committed and of its consequences on the victims and the social context. Thus, the poor or entirely lacking awareness of the gravity of the offense that we observed in the great majority of the juveniles we interviewed, ‘marks’ in a certain sense the communication distance between legislative dictates, ‘contradictory and paradoxical in some senses’ in terms of sexual abuse and violence, and the world and language of adolescent minors.

The aim of this research was to gain data on the criminological profile of the JSO examined, and we will examine in greater depth the reasons for this strong focus on the peculiar criminological aspects of our case series below. Much of the above-reported literature, when describing and analyzing the phenomenon of adolescent perpetrators of sex offenses, addresses in particular elements such as the method whereby the offense is committed, the importance of various risk factors and also preventive measures, socio-demographic aspects, the circumstances and the relational and interpersonal characteristics of JSO. From the criminogenic standpoint, unlawful sexual acts committed by juveniles are the result of a complex interaction of predisposing factors of individual and familial origin, and contingent triggering factors of both internal and external type. According to Sabatello, Di Cori, (56); Di Cori, Fedeli, Sabatello, Nicolini; Di Cori and Fedeli, Greco, Curci, Grattagliano (57); Marvelli et al (58); Margari et al.; Di Cori et al. (59) it is at the intersection point between ‘unresolved’ factors lying in the subject’s past and ‘mental block’ problems in the present that the psychic ‘impasse’ in minors can be activated or revived, and generate the deviant act. For many juveniles the sex offense may be seen as an attempt to ‘unblock’ and transform past developmental problems, and the sequence of the sexual assault represents a failed attempt on the part of the subject to restore a sense of self.

In addition, in the evaluation of the phenomenon of minors committing this particular type of offense, that involves so many peculiar, complex and delicate aspects, a correct medico-legal, forensic psychology and psychiatry methodological approach must also make a close study of the method adopted by the minor to achieve the criminal intent. It is fundamental to gain an in-depth understanding of the perpetrator-victim relationship, the circumstances and time and place where the offense is committed, both to ascertain the degree of maturity and so the extent of liability of the perpetrator (this point is even more essential in the case of sexual assaults, where the circumstantial, relational and emotional aspects are obviously of extreme importance). Finally, the clinical aspects must then be interpreted and applied in the legal context. In this scenario, when analyzing the behavior of JSO, it is vital to assess the subject’s level of executive intelligence (that is not the original intelligence

quotient, but refers to the ability to use the intelligence to cope with the problems of existence in an adequately adaptive manner), in particular as related to the behavior adopted to accomplish the sexual assault.

Evaluation of the deep-seated reasons for the criminal conduct, as well as of the executive dynamics, in order to gain an understanding and trace back to the genesis of the sexual violence, must explore the entire life history of the subjects involved by means of a thorough criminological analysis. The reasons for the crime very often lie in the nature of the victim-perpetrator link itself, and underlying cultural, anthropological and symbolic aspects. In the case of sexual offenses in particular, only by reconstructing the personal history of the offender and the victim, how their relationship developed, and how the violence unfolded and in what context, is it possible to discern the roots of the crime. In clinical-forensic medicine it is essential to gain an understanding and explain the genesis of the crime. As pointed out by Fornari (60), in forensic psychiatry and psychology, the process of “*understanding and/or explaining*” (this exercise is based on the whole range of psychological and psychiatric assessment tools) must be kept distinct from that of “*classifying*” that is, instead, based on demonstrable clinical evidence of a precise, codified nature, as only this can provide a scientific foundation for the legal, criminological and forensic psychiatry assessment of the crime. The process of “*assessment*” then pertains to yet other planes, even if they are consequentially linked, that may allow the demonstration – not the mere presumption – of a particular mental status in a given moment during the commission of the offense. In other words, although some individuals may not show pathological symptoms but only pathological “functioning”, there can be no doubt that it is always necessary to demonstrate – for the purposes of ascribing penal liability – not only that the crime was symptomatic of the observed pathological functioning but also that this actively affected the subject’s ability to understand and thus rendered him mentally incapacitated. For this to occur, it must be possible to demonstrate, on the basis of the correct medico-legal methodology founded also on the criminodynamic and criminogenic reconstructions – this mentally incapacitated state supported by clinical signs and symptoms that can be directly traced back to “infirmity or immaturity in the case of juveniles”. This is the true meaning of the use of the term to “explain”, that cannot and must not be employed to replace the clinical procedures serving to support the diagnostic conclusion, but rather as a useful strategy to achieve the correct knowledge and diagnosis. It is also important to underline that no type of family background, nor any kind of “affective attachment” can ever suffice in itself to explain a crime, nor ever to label it as an “infirmity”. It has only to be considered how rare this type of offense is, whereas impaired affective attachments and human relations are extremely common, to realize that it is one thing to identify altered personality traits, relational models and affective attachments and quite another to understand why, in a given moment, these can produce such a drastic outcome as sexual assault committed by minors against other minors (61).

All the elements analyzed above can legitimately provide the basis, in each case, for identifying the premises, background, scenario, risk factors, facilitating or precipita-

ting factors for sexual assault among juveniles., after a close analysis of all the elements, data and evidence available (62). Sexual assault, like all human behavior, has an “objective” component that can yield a comprehension of the event, i.e. an external key to the interpretation, but also a component that can be understood only on the basis of a subjective understanding of the perpetrator, and of what the act meant to him (or her). “What it meant to me”, in turn, depends on the specific personal history, existential pathway that has developed over time, in a complex interweave that is not only interior and intrapsychic, but also involves the relational network and context in which the subject is inserted. Analysis of these crimes of sexual assault, that arouse strong emotions because they intimately affect the feelings of the people concerned, in a highly sensitive sphere like that of human affectivity and sexuality, has led us to conclude that in addition to the criminal profile delineated by our research, there are shown to be an infinite number of more or less “pathological” relations that condition choices, lifestyles, and self-realization. Some are clearly more abnormal than others, and can profoundly affect the life choices of an individual, even in adolescence, and therefore to seek the causes only among clinical aspects cannot lead to a complete understanding of the phenomenon.

## Conclusions

In Italy, when analyzing the norms and legal dictates regarding sexual assault, in which juveniles are considered together with adults, for the former these rulings appear to be difficult to apply, and also “not lacking in contradictions, and often difficult to understand”.

Sexual behavior is defined as “abuse” when it is committed without the consent of the other party, in an unequal and coercive relationship (American Academy of Child and Adolescent Psychiatry, AACAP, 1999). In practice, the concept of consent (to the sexual act) presupposes mental competence of both parties, a full understanding of what is proposed, a knowledge of social standards governing sexuality, of the potential consequences and alternatives, voluntary agreement without any imbalance related to different ages, roles, strength and psychological maturity.

At the logical level, as well as the semantic and interpretative/narrative level, the complexity of these concepts is clearly evident when dealing with the delicate sequences and often contradictory phases of development of psychoaffective and sexual behavior in juveniles. It is extremely difficult to inculcate and mediate such concepts and allow them to be absorbed by juveniles during their development, thus allowing them to become fully aware of their actions. The term coercive is used to refer to the use of threats, corruption, force, intimidation, to obtain the cooperation and obedience of the other party. In the light of these considerations, in this conclusive section, together with the results of our investigation oriented toward the more purely criminological aspects, we wish to point out some contradictions evident in the Italian legislation (in which, as stated above, the world of juveniles is taken together with that of adults) and also advance a final proposal.

In Italy, where the laws guarantee the non penal liability of children of 14 years of age or younger, raised to 16 in cases of particularly vulnerable victims, there has been an attempt to carve out a non penal area for juveniles under the age of 17 committing sexual assault of children aged 13 years or older (art. 609 quater co.3 c.p.).

In fact, the crime delineated in art. 609 quater c.p., that disciplines sexual acts with minors, unlike the hypothesis depicted in art. 609 bis c.p., that disciplines sexual assault in general, does not take into account the actual subjection of the victim but merely ascertains the age of the subjects (art. 609 quater co.1 n.1), the existence of a formal relation between the assaulter and the juvenile victim (art. 609 quater co.1 n.2) and the abuse of power deriving from exploiting a position of greater strength of the perpetrator than the child victim (art. 609 quater comma 2).

Thus, in legislation regarding sexual acts with minors no consideration is made of the consequences of the damage wrought on the victim's sexual freedom and subsequent correct psychophysical development (Cass. Sez. III Pen. 19.6.02 n. 32513). The indifference shown toward the feelings of the victim has led doctrinal authorities (63) to consider such an act as a crime posing an abstract danger that does not require any ascertainment and/or assessment of any resulting impairment of the minor's psychophysical balance.

The legislative choice to deprive the minor's power of consent of any relevance when excluding penal liability is based on the implicit conviction that the minor is not sufficiently mature to be able to express consent of a *valid, balanced nature in regard to the delicate sexual sphere (that especially in young people is guided more by instinctive impulses than by profound feelings and aware choices)*. In making this choice, the Italian legislation is almost perfectly aligned (especially after the introduction of L. 172/12, that implemented art.22 of the 'Convention of the Council of Europe for the protection of minors from exploitation and sexual abuse' signed in Lanzarote on 25 October 2007) with the European scheme, that views a juvenile under the age of 18 years as a "child" (Cass. Cass. III Sez. Pen. 8 June 2015 n. 24342).

Thus the laws tend to safeguard the psychophysical integrity of juveniles in regard to the sexual sphere, rather than their right to freedom and self-determination, in the perspective of a correct development of their sexuality (Cass. Sez. III Pen. 27/5/2010 n. 24258).

The crime of sexual assault of a child by an adult is judged independently of the question of the victim's consent, as is well known, because violence is presumed to have taken place in view of the victim's immaturity and hence inability to make aware choices of a sexual nature (Cass. Pen. Sez. III 15/6/2010 n. 27588).

Instead, the legislation adopts a different approach in regard to sexual acts between consenting juveniles. A close reading of the norms disciplining sexual acts between minors considered to be consenting (art. 609 quater 3° comma) seems to be more intent on safeguarding the minor's personality development: their conduct is lawful because there is no impairment of the minor's personality development in view of her/his consent, nor any exploitation of her/his immaturity constituting an offense, unless the offender is over the legal age and hence considered an adult (64-65-66-67).

This legislative option of delineating a "zona franca" within which the offender is not subject to penal consequences is exclusively addressed to sexual relations between a 13-year-old minor and another not older than 17 years of age. It therefore presupposes on one hand that a 13-year-old is already mature enough to have a sufficient sexual self-determination capacity, provided that the relation is undertaken with another minor, and on the other, that the 17-year-old is able to understand whether the conduct is lawful, essentially on the basis of the age of the partner and discerning among the multiple ways the younger party could manifest consent or rejection of sexual overtures.

There is an evident inconsistency in legislation that assigns sufficient sexual self-determination to a 13-year-old, provided that the acts occur with another minor, thus guaranteeing sexual freedom but denies that same minor a sufficient maturity in other fields until the age of 14. Moreover, regardless of legal provisions, in the current context dominated by the Internet and new communication and interaction technologies (chat, social networks, short message systems), where the makeup and clothing adopted by adolescents and adults are ever more similar, there is a high risk that juveniles of 17 years of age or less, who are often lacking in maturity and experience, may engage in a relation with a partner who appears older but is actually under the legal age of consent.

Moreover, to gain an understanding of the intimate, peculiar nature of sexual dynamics that develop in relations between adolescents frequently demands highly complex psychological and criminological investigations (as our research has amply demonstrated) to ascertain the true involvement of the younger party in the sexual act. This poses the risk of introducing dangerous subjectivity indexes into investigations aimed at excluding penal consequences, that may also depend on the perception of sexual advances and the ethical code of the judge or other official charged with drawing conclusions about the legislative aspects and consequences of the event.

In the light of the results of our research and observations, we advance the humble but resolute suggestion that the legal norms governing questions of sexual abuse and violence should be reconsidered by experts working in the field of law together with experts working in the vast area of mental health. This refers in particular to psychologists, psychiatrists and child neuropsychiatrists, who should be involved in drawing up norms that are better adapted to the communication registers and so more amenable to comprehension by the complex juvenile world, that cannot be assimilated to the world of adults.

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