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When do children start to take mitigating circumstances into account when judging the act of killing?



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ABSTRACT

The current study addresses the question of whether children start to judge the act of killing a person or an animal with leniency, and if so when. Four- and six-year-old preschoolers and 8-, 10- and 12-year-old children participated in the study (N = 300). Participants were asked to judge 16 scenarios in which a person killed another person or an animal under a set of six circumstances. According to Western normative ethical standards, three of the set of circumstances (i.e. killing in self-defense, accidentally and -in the case of animals- for food) are mitigating and attract less blame, while the remaining three (i.e., killing intentionally due to overestimation of the risk and -in the case of animals- due to greed for food) are non-mitigating. The results showed that from a very early age children form their judgments of the act of killing across three latent constructs which are identical to the Western normative ethics. However, children judge the mitigating circumstances with statistically significant leniency only after the sixth year.

1. Introduction

In March 2018, a 9-year-old boy in Mississippi shot his 13-year-old sister in the back of the head with a handgun. We do not know whether the boy meant to kill or even hurt his sister, or whether he was aware of the consequences of his action. Nevertheless, we do know that his sister provoked him by refusing to give a video game controller back to him. The case echoes many incidents over the years involving children who killed others who had provoked them, including family members or neighbors. Provocation is one of the mitigating circumstances that lead young children to judge a peer's aggressive act with leniency (Astor, 1994; Darley, Klosson, & Zanna, 1978; Leahy, 1979; Shultz, Wright, & Schleifer, 1986). In Western legal systems, however, provocation is not a strong defense (Bagaric, 2014; Gough, 1999). Although provocation could justify some ordinary aggressive reactions, provocation does not justify a harmful act such as killing, which, as Grossman (2014) reported, even soldiers in battle avoid due to the high psychological cost of the act.

There is some evidence that young children and adults do not use the same criteria to judge what constitutes proper mitigation for aggressive behavior (e.g., Martin & Ross, 1996). Moreover, children apply mitigation in progressively more complicated circumstances involving harm (Darley et al., 1978; Jambon & Smetana, 2014; Martin & Ross, 1996; Nucci, Turiel, & Roded, 2017; Shultz et al., 1986; Smetana, Jambon, & Ball, 2014; Turiel, 2002). Nevertheless, we do not know whether children start to judge the act of killing leniently under circumstances that are in accordance with Western legal systems, and if so when. The current exploratory study sought to investigate whether children judge the act of killing a person or an animal with leniency under certain circumstances, and if so, from what age.

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1.1. Mitigation of killing in Western legal systems

Martinovski (2006) defined mitigation as “a pragmatic, cognitive and linguistic behavior the main purpose of which is the reduction of vulnerability” (p. 2065). Mitigation is also defined as a set of principles that, when applied to the circumstances, have the potential to reduce vulnerability and mitigate censure (Brandt, 1992;). In the presence of mitigating circumstances in wrongdoing, the act is still judged as a crime, but the actor is judged with leniency (Fitzgerald, 1962).

Mitigation is considered as an important aspect when judging the culpability of an act in law (Martinovski, 2006) and the economy (Goetz & Scott, 1983). When judges are confronted with a harmful act, they engage in rational consideration of whether there is justification for the harm caused by the perpetrator in the specific situation. If they find that there is justification, the seriousness of the act is mitigated, and the act is judged with leniency. According to Western legal systems, the act of killing is not a crime (*actus reus*) and culpability is not attributed unless *mens rea* is present (i.e., the act is not guilty unless the mind is guilty) (Brandt, 1992). Thus, while U.S. law regards intentional killing as first-degree murder, if the act of killing is not proved to be intentional, it is considered to be second-degree murder, or it might not be a crime at all. Unintentional (i.e., accidental) harm attracts less censure than harm resulting from intentional acts (Guglielmo & Malle, 2010). Hence, establishing the absence of intention is the most common line of defense in courts (Martinovski, 2006). Moreover, even if an act is judged to be intentional, then the circumstances are further examined to assign the proper degree of blame. Whenever the circumstances can justify the harmful act, the harmful act is not held to be culpable. For example, if killing is the outcome of the perpetrator’s need to protect herself, the act is justified under the conditions of “double effect” (distinction of the act which the agent intends for an effect which the agent merely foresees which is not directly intended, Uniacke, 1996, p. 92), and therefore the act is judged with leniency. However, if the perpetrator overestimated the risk and wrongly anticipated that her life was in imminent danger, the act of killing is considered to be recklessness rather than self-defense, and the perpetrator is judged to have acted with insufficient concern for the rights of the victim (Dressler, 2000).

1.2. Killing in psychological research

Grossman (2014) described killing as the taboo of our century to explain why killing had been overlooked by psychological research for many years. Killing has been placed at the heart of moral, psychological research in recent decades when scholars have systematically used variants of the “trolley” or “footbridge” dilemmas, initially used in philosophical discussions (1985, Foot, 1967; Thomson, 1976) as a basic research tool for studying moral cognition. Individuals are confronted with moral dilemmas that involve killing, and one person is sacrificed to save others (e.g., Greene & Haidt, 2002; Hauser, Cushman, Young, Kang-Xing Jin, & Mikhail, 2007). The only study that used sacrificial dilemmas with 3- to 5-year-old children showed that young children react to the dilemmas in a similar way to adults (Pellizzoni, Siegal, & Surian, 2010): they endorse the sacrifice of one person to save more people in the trolley dilemma but not in the footbridge dilemma where the act is personal, and the individuals are directly implicated in the act (i.e., pushing a heavy man standing nearby on a footbridge onto the track).

Footbridge and trolley dilemmas are without doubt a powerful tool for studying killing and moral cognition. However, sacrificial dilemmas are designed to allow endorsement based mainly on a cost-benefit analysis (i.e., sacrifice one to save five). Scholars in the field perceived the solution of sacrificing one person to save five people as reflecting utilitarian normative ethics, according to which the morality of an act is determined by its consequences (e.g., Greene, Morelli, Lowenberg, Nystrom, & Cohen, 2008). Nevertheless, the assertion that when individuals endorse the utilitarian solution in sacrificial dilemmas, they do after deliberative analytical reasoning has been criticized as a simplification or a “misinterpretation” (Kahane, 2015; see also Kahane, Everett, Earp, Farias, & Savulescu, 2015). Also, utilitarian responses were associated with psychopathology, the meaninglessness of life and Machiavellianism (e.g., Bartels & Pizarro, 2011), or damage to the ventromedial prefrontal cortex (Koenigs et al., 2007). Additionally, sacrificial dilemmas may entail conflict considerations other than cost-benefit analysis (see Dahl, Gingo, Uttich, & Turiel, 2018, *in press*, for this aspect of sacrificial dilemmas). Moreover, sacrificial dilemmas exclude from investigation the fact that killing is judged with leniency in Western legal systems (e.g., unintended accidental killing, or intentional killing in self-defense).

The studies that examined children’s morality in circumstances that involve killing are limited in that they use only sacrificial dilemmas (e.g., Pellizzoni et al., 2010). Hence, we do not know how children judge killing in circumstances different from those used in sacrificial dilemmas. The current study seeks to investigate aspects underlying the ethics of killing, which has been disregarded in previous psychological research.

1.3. The use of mitigation in moral judgments

The idea that in some circumstances even intentionally harmful acts are judged with leniency (or are even morally justified) is shared not only by legal scholars but also by ordinary adults and children. Ordinary adults use mitigation to judge some harmful acts leniently similarly to how it is used within Western legal systems (e.g., Alicke, 2000; Darley & Shultz, 1990; Darley et al., 1978; Martin & Ross, 1996; Weiner, 1995; Woolfolk, Doris, & Darley, 2006). This similarity does not prevent individuals (legal scholars, ordinary adults or children) from having substantial disagreements about the circumstances in which a harmful act might be justified; nor does it prevent children from starting to use mitigation in all circumstances simultaneously (Darley & Zanna, 1982; Martin & Ross, 1996; Nucci et al., 2017). Most of the previous studies that examined mitigation among children directly mainly involved scenarios in which children judge the wrongness of hitting someone else or stealing money. Although these studies are informative about the use of mitigation in children’s moral judgments, they say little about the use of mitigation in circumstances that involve

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