

### Kohlberg, Rawls: The sense of justice

**KOHLBERG'S SIX STAGES.** We investigate people's reactions to moral dilemmas, like 'Heinz and the druggist'. Kohlberg's claim: responses have a universal pattern independent of particular cultures, but highly correlated with the age of the participants. 152

The distinctions are summarised in several tables corresponding to the different issues raised. There is a fundamental gap between the first two stages and the rest. Only at stage 3 we observe 'role-taking' that is the chief characteristic of morality. This involves the ability to take the perspective of others, to respond to a situation from the other's point of view. 171 190

Stage 4 is an expansion of the role-taking that emerged at stage 3. Here, the person judges the situation from the standpoint of the community. What matters is not the impact on the given individual (say, a family member), but the impact on the whole community in terms of the preservation of the social order. So the actions are judged right when they contribute to that goal. As Kohlberg notes (echoing Durkheim), stage 4 is the most widespread condition of adult morality. 198 199

We have seen the celebration of stage 4 in Hegel, where it corresponds to the 'ethical life' of the state. Yet, Kohlberg argues, stage 4 is not the most developed form of role-taking. We are urged to adopt the perspectives of others within the given social order, or even the perspective of the communal interest as a whole. But what of other communities and their members? And how do we change the extant rules and customs? Stage 4 has nothing to say about that. 200

At stage 5 we observe, as a fact of ontogenetic development, the novel attitude of a *legislator* of laws and customs, rather than a mere protector of the extant laws and customs. The law is no longer a barrier against external enemies and internal disturbance, but an instrument of adjudicating between the interests of different groups. The governing principle of this adjudication is the concern for universal welfare, with the built-in notions of equality and impartiality. 200 201

Other important characteristics of stage 5 are the contractual nature of obligations and higher reflexivity. Rules are adopted by receiving the consent of the contracting parties. This is in contrast to stage 4 where contractual obligations were interpreted as lending justification to the already existent rules. Secondly, the evaluation of a given situation is done not by focussing on that particular situation and the agents involved (or perhaps individual feelings), but by examining the rational justification of the principles that governed particular actions. Once again, contrast this with stage 4 where no such metaethical stance was even possible. 202 203

**FROM STAGE 5 TO STAGE 6.** Kohlberg describes this transition by a dilemma of civil disobedience. How exactly is this case difficult for a stage 5 thinker? Kohlberg argues that stage 5 lacks the resources to pass judgement when the situation is not covered by extant laws and regulations. But if we interpret stage 5 as an utilitarian approach, as apparently we should, then the concern for general welfare, supplements with further principles like impartiality, should generate some resolution. 205

However, this resolution is expected to vary from society to society. Utility is served better by one course of behaviour in one social and historical circumstance, and by another—in another.

Similarly, utility calculations will prescribe different kinds of behaviour depending on the particular details of the situation. Perhaps, e.g., Heinz should steal the drug if the wife is sick with cancer, but not if she is sick merely with a flu.

Therefore, stage 5 thinkers are in effect committed to a form of relativism, or in any case, to the rejection of any 'one morality'. This is because, for them, moral principles are simply shortcuts (perhaps very well established) for the improvement of welfare. 208

Yet there is space for a further stage 6 where moral principles are invariant under changes of circumstances. A stage 6 thinker believes that moral principles are exactly those that all rational people accept (and most of such people recognise). 208

So, for example, Heinz ought to save his wife regardless of the legal status of stealing or of his personal attachment to the wife. Nor should his action be driven by utility calculations. It is rather that his course of action should be driven by the overriding concern for the human life. This is something that all rational people would agree on. 209 211

**THE PROBLEM.** We enquire into the conditions where members of the moral community—the community founded on the principles of justice to be explored later—have the psychology that enables the stability of that community. There are two traditions in moral psychology that dealt with (roughly) this question. One is empiricist and is loosely affiliated with utilitarianism: people are encouraged to perform acts beneficial to others. This is achieved by approval and disapproval of the relevant actions by other members of the community. The other tradition is rationalist and is loosely affiliated with deontology. As the person grows up, he naturally acquires the sensibility required for the continuous life in the society. Sympathy toward others is basis of this development. 401

Rawls ultimately comes out strongly in favour of the deontological position, though in later work he is trying to reconcile both traditions. 303

**AUTHORITY.** The first stage of moral development is dominated by the morality of authority. It characterises, for the most part, the stage that children may reach in their development. There are two steps here. First, parents love the child, and their love is manifested in various ways. In turn, though initially he is motivated by urges and desires, the child learns to love and *trust* the parents back. The proper parental love encourages and supports the child for his own sake: he is appreciated for what he is, as a person. He recognises his parents as competent, loving individuals, and his trust in them emerges naturally. 286

This is the root of the parental authority. Having earned the child's trust and established their authority, the parents may inform the child of various moral precepts. He accepts them blindly, so to speak, simply on the strength of their authority. He has no tools to examine and criticise them. 288

**ASSOCIATION.** As an individual grows up, he enters into various associations with other members of the society. These associations may be educational, professional, anything whatever. They characterised by certain roles and rules of conduct. The individual learns the *ideals* of what it is to be a good student, brother, friend, colleague, or citizen. 288 289

Yet, Rawls notes, these social skills do not automatically guarantee stability. Con artists and other fraudsters possess these skills in abundance. What is required, as a necessary addition to social skills, is 'attachment' to association and its members. It emerges in the course of the person's cooperation with other members and contribution to the general good of the association. Then can develop feelings of guilt when he fails to do his part. Without that guilt feeling there will be at most an outward display of sociable attitudes, without any serious commitment, while taking advantage of others when opportunity presents itself. 290 412

The second psychological development, Rawls argues, will be emulation of those people who contribute to the well-being of the association. In particular, we'll strive to emulate those who possess complex skills, and we'll wish to learn those skills ourselves. 291

**PRINCIPLES.** Someone who has the morality of association understands the principles of justice. He understands the ideas of equality, impartiality, and fairness. But he is not yet motivated by them. Instead, he observes that behaving in conformity to these principles wins him the approval of others, improves his reputation etc. He is motivated by these effects, not by the principles themselves. Rawls now considers the possibility that a person might wish to be not just a 'respected citizen/associate/partner', but also a just person. 291

Rawls speculates that this ability to act as a just person may be a product of a further psychological law. This law yields in us a recognition of justice created by the institutions that tend to the benefit of a community. Here we adopt two positions. Sometimes we are in a position of a legislator willing to legislate exactly the arrangements that benefit us and those toward whom we developed the attitudes of friendship and trust, or reform the extant unjust arrangements. On other occasions, we are in a position simply to accept and uphold the just arrangements that have already been legislated. 292

A most interesting question here is how the morality of principles is supposed to differ from the morality of association. Rawls in effect claims that the morality of principles can be based solely on reason. As members of an association, our moral attitudes were tied to the emotions (e.g., those generated by friendship) we had toward other members. When we are governed by principles, we might not have any particular emotions toward other members, as happens, e.g., in modern states. We choose actions entirely on the ground of their conformity to the right principles. Thus, we liberate ourselves from the 'accidental circumstances' we are placed in—from our family or friendship ties, in particular. 299

*Remark 1* (Williams). This liberation from the contingent relations we may have with other people will be criticised by Williams (later on in the course).

Still, Rawls admits, emotional attachments may strengthen the purely ‘moral emotions’ we have toward others. For example, they may intensify guilt, indignation, or joy we feel when we violate or observe rational principles in our behaviour. 299

Furthermore, it is not as though we fetishise principles, duties, or rights. We do not say:

(1-1) I want to do what is right, full stop! Why I want to do it has no further explanation!

As Rawls puts it, the morality of principles is not based on any inexplicable inner conviction, or ‘conscience’. Our sense of justice, that finds its highest expression in the morality of principles, is a product of a rational reflection on how best to organise the lives of free and equal individuals. And we naturally want to be such individuals ourselves, and to live among such individuals. 301

*Remark 2* (Original position). We discuss later on how this rational reflection may go, according to Rawls.

**MORAL AND NATURAL ATTITUDES.** Rawls also aims to show that there is no conflict between natural affection and resentment and moral emotions. In particular, the lack of moral feelings is a symptom of the lack of natural attitudes, and the presence of natural attitudes is a symptom of moral feelings, at least in a fully morally mature person. 297ff

As far as I can tell, the idea is this. Suppose that Ann is a complete moral individual driven by the morality of principles. Suppose also that Ann loves Ben, and that Cyd assaults Ben. Then Ann feels indignation at Cyd’s action—a moral attitude. But this indignation is also a sign of Ann’s love for Ben. Suppose now that Dan is *not* indignant at Cyd’s action. Then this is a symptom that Dan is (naturally) indifferent to Ben. 299

This, you might think, is not an altogether convincing defence of the link between natural and moral emotions. First, think of Eve, another member of the well-ordered society. Ann has no special affection or hatred toward Eve who lives in another city. Suppose that Cyd assaults Eve, and Ann reads about it in the newspaper. By assumption, Ann is capable of indignation at this act. But *should* we conclude that Ann has or develops some ‘natural’ love for Eve? Ann may be a cold fish, but this doesn’t rule out her membership in the well-ordered society. Second, return to Ann and Ben. If Cyd assaults Ben, who is loved by Ann, we expect Ann to be pained by that. But Rawls seems to demand that Ann also pass a moral judgement based on moral principles. The worry here is that this is superfluous. Personal, direct pain is enough. Not only that: if Ann’s response is dominated by moral indignation (supported by appeal to universal principles), rather than personal pain, Ben may suspect that Ann’s love isn’t very strong at all.

*Remark 3.* Superfluity: we return to this issue in our discussion of Williams’ critique.