Measuring Moral Progress
A neo-Kohlbergian Approach and Two Case Studies

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Abstract The study provides an in-depth analysis of two young adult subjects from a longitudinal study who underwent successive and significant developmental changes. Their developmental patterns, however, are only revealed by a new conception of moral stages, which is both more comprehensive and more detailed than Kohlberg’s original approach. In particular, the suggested alternative taxonomy neatly accommodates what appears as developmental anomalies in the Kohlbergian frame of reference. What is more, apart from merely matching with the observed data, the new theory also explains why the subjects developed the way they did, since it reveals the inherent cognitive conflicts at each stage and how these are resolved at the following one. Although the theory stands against the Kohlberg theory as it is, it may be understood as an extension and further development of the latter, in the sense that Kohlbergian stages are differentiated, supplemented, and theoretically substantiated within the new framework.

Keywords Moral cognition · Moral development · Stage theory · Longitudinal study · Qualitative data analysis

Introduction

Interest in moral stages has declined in recent years, as the context of moral judgment and action are now being examined, including moral sensitivity, motivation, and commitment (Rest et al. 1999; Nunner-Winkler 1998; Colby and Damon 1992; Damon and Colby 1996), intuitive decision-making (Haidt 2001; Narvaez and Bock 2002), specific developmental conditions (Lempert 1994), and moral segmentation (Beck et al. 1999, 2002) as well as even broader approaches like character education (Berkowitz 1998; Lapsley and Lasky 2001) and the investigation of moral excellence (Walker 1999; Walker and Pitts 1998). All these developments certainly take us ahead towards a complete and holistic understanding of moral functioning, especially in the diversifying contexts of adult development, and provide starting points for educational intervention.

However, the theory that binds these emerging or developing research programs together, Kohlberg’s theory of moral stages, has been somewhat neglected, by and large, in the last few years. This is regrettable in so far as moral stages, after all, are the deep structures which constitute our moral understanding and represent the core criteria on which (at least) our (rational) moral choices depend. As far as this goes, tracking down the fundamental modes of moral reflection must still be our supreme task and virtue. Yet throughout the years, the Kohlberg theory has faced many and serious criticisms and thus accumulated quite some systematic ballast (for an overview see Rest et al. (1999), pp. 9–33), although its major contention, that there be qualitative and hierarchically ordered forms of moral reasoning, continues to be valid and is upheld by almost all researchers in the field. Just what the stages—as well as the differences between them—precisely are and how they are best characterized still seems to remain an open and intriguing question. To this pivotal question the present paper attempts to provide an answer (as part of a sequence of publications and ongoing work).
In the following, a theory of moral stages will be presented that deviates from Kohlberg’s approach, but which is nonetheless in the best Kohlbergian tradition in that it claims to be a truly structural developmental approach. The proposed stage taxonomy is built on an explication of developmental “mechanisms”—in particular a Piagetian “developmental logic”\(^1\)—so that the stages are not merely the result of ordering empirical data, but have been literally and systematically (re-)constructed out of one another (just in the way real development is thought to come about).

Furthermore, the theoretical approach is illustrated by two case studies of young adults at the beginning of their professional careers. As the main focus will be on the analysis of these empirical examples, the theory itself will only be sketched out in its basic features in the second section (see Minnameier 2000a, 2001, for more detail). Individual stages will then be described and illustrated along with the report on the case material (fourth section), after the method of data collection and analysis has been described in the third section. The theory has already been used successfully to reconstruct developmental progress in ancient Greek as well as in modern ethics (see Minnameier 2000a, and 2005) and so has been shown to cover many instances of moral-cognitive progress that are particularly relevant for the development of adults.

The approach is dubbed “neo-Kohlbergian”, because it incorporates the core of Kohlberg’s theory and extends its range to include philosophical ethics beyond what would be Kohlberg Stage 6 (i.e. Kantian ethics) as well as differentiations within the rather coarse Kohlbergian stages. However, it would also be “neo-Kohlbergian” in the “neo-Piagetian” sense of accounting for domain specificity. This means that, contrary to Kohlberg, moral reasoning is not thought to take place at the individual’s highest available stage most of the time, which has an impact on scoring. At the same time it reinforces Kohlberg’s interview strategy to push subjects up against the moral wall in order to elicit the true, i.e., currently highest, stage from them.

### On the Cognitive Architecture of Morality

The main constructive principles for the proposed architecture of moral cognition are derived from Piaget and Garcia (1989), who assume a dialectical sequence of stages and levels throughout development as a whole.\(^2\) Thus, development is thought to proceed in a succession of stage-triads, each of which consists of three characteristic types, which Piaget and Garcia call “intra”, “inter”, and “trans” (see Fig. 1). These forms could also be paraphrased as 
\begin{itemize}
  \item \textit{differentiation} (intra),
  \item \textit{reciprocal relation} \(^3\) (inter),
  \item \textit{integration} (trans)
\end{itemize}

This is to say that a given object of cognition is first differentiated into various instances of a “form”. For example, in the moral domain one is able to put oneself in others’ shoes, but only one at a time, i.e., I either take my own perspective, or that of person X or person Y, but at this initial stage I can as yet not mediate between these perspectives. The underlying operation—following Kohlberg (see Kohlberg et al. 1984), I call them “justice operations”—is that of (simple) “equality” or, in terms of general cognitive development, “inversion”, since different members of one class are clearly distinguished which, according to Piaget, is equivalent to the construction of—otherwise similar—negations of the object in question (A, A’, A’’, …). In this way, the developing individual, who before knew nothing but his own point of view (A), has now constructed additional moral perspectives (A’, A’’, …) and thus acquired a certain role-taking capability (there

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\[^1\] Meanwhile the approach has been extended, and the \textit{logical} aspect especially has been further elaborated (see Minnameier, in press).

\[^2\] Note that Piaget also believes that in general intellectual development that same triadic sequence of stages obtains, in particular he reconstructs development from pre-operational thinking (intra) via concrete-operational (inter) towards formal-operational thinking (trans) in this way (see Piaget and Garcia 1989, pp. 173–174). And

\[^3\] Piaget and Garcia speak of “transformation”, because objects can be transformed into each other. What is crucial here is a common denominator, which enables such a transformation. I prefer the term (reciprocal) “relation”, because especially in the context of moral thinking, individual perspectives are not literally transformed into each other, but only balanced in a certain way.

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![Fig. 1 Illustration of the developmental logic](image-url)
are several aspects of perspective-taking, each of which comes in at a particular “intra”-stage (or “a-stage” according to Table 1). In this context, Piaget and Garcia remind us of Spinoza’s famous word “omnis determinatio est negatio” (ibid., p. 177), meaning here that one becomes aware of one’s own perspective only when one is able to contrast it with the perspective of others. This type of reasoning (i.e., concerning all “intra”-stages) can be understood in terms of (simple) equality in the sense that different individuals (or viewpoints) are regarded as equal (without attempting to make them equal).

At the “inter”-stage the opposed objects of thought are reciprocally related, but in a way that does not account for the specific differences between them (simple reciprocity)—e.g., by employing the 50–50 rule, which mediates between two individuals or perspectives, but does not yet integrate those perspectives. The latter only occurs at the “trans”-stage, where the differentiated perspectives are reintegrated into a new complex whole (characterized by reciprocal equality), which can now in turn be differentiated into a variety of second-order individual perspectives so as to constitute the next “intra”-stage up the hierarchy.

Take the example of a well-off and a not so well-off person. Mere reciprocity according to the 50–50 rule would not really be fair (from a moral perspective higher than Stage I1b), because it ignores differences in need. Hence,

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4 However, as far as the assignment of operations to stage-types is concerned, my interpretation diverges slightly from Piaget and Garcia. They think that both “inversion” and “reciprocity” come in at the inter-stage (but are as yet unrelated there), which are then integrated at the trans-stage. As for the latter there is no dissent, but I would hold against Piaget and Garcia that inversion is characteristic of the intra-stage, whilst reciprocity is constitutive for the inter-type of reasoning. But still, the interpretation offered here is not really opposed to Piaget’s and Garcia’s line of thinking, as they themselves only say that the establishment of reciprocal relations presupposes negation (see Piaget and Garcia 1989, p. 177). For a discussion, why negation should be the proper operation for the intra-type of thinking see Minnameier (2000a), pp. 75–82.
the dividing ratio should be in favor of the poor person, so that everybody ends up with a fair share (which exemplifies the overarching perspective of the trans-stage, here I1c).

However, each concept of a fair share involves a preference order according to which goods are valued and distributed. Initially, the individual projects his or her own preference order into the other. But once it is realized that different individuals may have different tastes, it becomes obvious that this also leads to different evaluations of the dividing situation. In this way, a new differentiation of perspectives emerges at a higher-order intra-stage (in the present case Stage I2a), on which one concedes that nobody can be forced into a deal against his or her will as it all depends on each person’s individual feelings (e.g., when a child refuses to join in a certain game or group activity on grounds that s/he does not fancy it). Thus, the complex whole that was cognitively shaped at Stage I1c (or any other “trans”-stage for that matter) splits up again in parallel, inter-individually different versions or sub-forms that have to be reintegrated in the subsequent course of development. As those complex wholes do not disintegrate, but are rather multiplied, this developmental process is marked by successive steps of hierarchical integration (as illustrated in Fig. 1 as well as in Table 1).

This may do as a very broad outline of the developmental architecture, which will be further illustrated by the examples discussed below (and again, for other details see Minnameier 2000a, 2000b, 2001). Let us now have a look at what has been set up following these constructive principles in the field of moral thinking (Table 1).

As any given triad of “stages” is conceived to form one more general “level”, with those levels being in turn embedded in global “main levels”, we end up with $3 \times 3 \times 3 = 27$ single stages (see Fig. 1), which cover the whole range from infant moral thinking to (current) moral philosophy.

Along the fine grid of single stages, new moral claims are derived from additional morally relevant aspects that arise with each new “intra-” or “a-stage” (i.e., with the move from one level to the next) and eventually equaled in the course of the respective developmental triad (which is why we speak of “equalization” as the guiding aspect for the differentiation of stages; see Table 1).

What about the levels and main-levels? Let us start with the latter. The three main-levels are differentiated according to the aspect of “universalization”, i.e., at Main-Level I one would always believe that what is conceived as moral at the different stages (1–9) is part of an absolute moral law (which could also be called “moral realism” according to Colby and Kohlberg (1987a, p. 25)). What causes the transition to Main Level II (i.e., from Stage I3c to Stage II1a) is the recognition that there are no such absolute—or divine—moral standards (in the sense of concrete laws such as, e.g., the Ten Commandments), but that morality consists in rules for social conduct that human beings create by themselves as a consequence of and as a regulation for public life in a society. Again, as a typical characteristic of “inter”-reasoning, society—or let it be “nature”—here functions as a systematic link between people and their individual moral orientations. However, society as such remains external to the reflecting individual, so that throughout Main-Level II moral reasoning remains within an inter-subjective frame of reference. In other words: On Main-Level II the moral point of view is externalized in the sense of what is demanded by or conducive to society or what is in accordance with nature as a whole (as e.g., ancient Greeks and later thinkers down to the Middle Ages have always seen it; see Minnameier 2005). By contrast, on Main-Level III the moral point of view is understood as a matter of reason. Just to give the reader an idea: Both the Stoics and Kant have demanded from us that we abstract from all our subjective inclinations and from our personal situation in order to attain a truly objective moral point of view. Thus, the two positions are fairly similar in this respect. However, whereas the Stoics (Stage II1c) contemplate the universe, Kant (Stage III1c) contemplates his mind; whereas the Stoics search for cosmic truths and aim at life in accordance with “nature”, Kant tries to trace the very basis of moral cognition in the human mind and to reveal the fundamental categories of reasoning. In other words, morality on Main-Level III is neither egocentric (as on Main-Level I, where the individual mistakes personal convictions for absolute moral imperatives) nor externalized (as on Main-Level II, where morality is always anchored in society or in nature as a whole), but integrates these two fundamental points of view in a, broadly speaking, rationalistic approach.5

The differentiation of “levels” refers to the problem of ethical relativity, i.e., the aspects that people differ in how they value certain goods (independently of individual need). This problem is ignored at each Level 1, recognized at Level 2, and “neutralized” at Level 3, where the value differences are overcome by taking the point of view of an entire group, society, or culture, rather than trying to mediate between the conflicting orientations of individuals within the respective social unit. A simple example is the idea that friends just have to stick together or that employees have to act in the interest of their company (Stage I3a), whereas before conflicting claims were regulated by mutual promises (Stage I2b) or the more overarching perspective of mutual consideration (Stage I2c). The process from Stage 3a to 3c—on

5 Main Level III, as a whole, relates to developments in philosophical ethics from—roughly—the beginning of modern times up to now, whereas Main Level II can just about be equaled with different forms of ancient Greek philosophizing in ethics.
each major level—is marked by solving conflicts that arise from clashing group interests and the like, so as to overcome social or cultural bias.

This may do as a broad outline and exemplification of how the stages are built on each other and what the overall architecture of moral cognition are like. Let us now turn to the data.

Data and Scoring Method

The data are taken from a 6-year longitudinal study (1994–2000) examining moral development of insurance apprentices during their vocational education and their first years as professionals. The study itself focused on the hypothesis and practices during their vocational education and their first years 

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2The study started in 1994, with new classes (cohorts) being included each year (from 1995 to 1998). 174 apprentices were examined altogether; only a few, however, passed through all six assessments which took place at yearly intervals.

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Thus, data collection was not geared to measuring moral reasoning according to the 27-stage taxonomy, but nonetheless the raw data are comprehensive and detailed enough to allow for precise stage scores in quite a few cases.

To measure the subjects’ moral stages we used four dilemmas—the Heinz dilemma and three other domain-specific dilemmas. After an initial screening of each cohort, using a translation (Heinz story) and adapted versions of the social reflection measure (Gibbs and Widaman 1982), single cases were selected for thorough moral judgment interviews [according to Colby and Kohlberg (1987a, 1987b)]—19 subjects in the first year, 48 in total.

For the present assessment within the new theoretical framework all scorables arguments (in terms of self-contained, coherent and unambiguous lines of thought) were coded, but the overall stage for the dilemma was not determined by calculating a summary value like the “weighted average score” or the “modal stage”, rather was the highest stage taken as the true stage in terms of moral competence. This is not an uncommon method (see e.g., Damon 1977) and it appears to be appropriate for two reasons. First, the risk of scoring errors is low, since mechanical or quasi-mechanical procedures (using prototypic examples as in Kohlberg’s “criterion judgments”) have not been applied. The stages were assigned solely on the basis of theoretical considerations in terms of the moral-cognitive architecture described above (which is equivalent to “structural issue scoring”; cf. Colby and Kohlberg 1987a, pp. 38–40).

The first subject, let us call him Peter, was 19 years old when he started his apprenticeship, and had just passed his A-levels (the German “Abitur”). This was in 1995, the second year of our study. Thus, he missed the first time, so that we could interview him five times at yearly intervals. His developmental sequence goes from Stage II1a through Stage II2b. The second subject, John (aged 20 at time one), is also male and has passed his A-levels, but participated in the study right from the start. However, 1 year, when he was supposed to come for the fifth interview, he was unable to join us, so that there was a 2 year break between the fourth and the fifth interview. He developed from Stage
II1c through Stage II2c. The fifth interview will be omitted here for reasons of brevity and for the fact that it is unclear whether John has developed any further by that time.\(^7\)

Case Study 1: Peter

First Interview

As the first interviews have been preceded by SRM screening tests, the interviewers occasionally refer to the answers from the questionnaires. The interviewers’ questions and remarks are put in brackets (there were always two of them, but since this seems irrelevant for the present purpose, I dispense with differentiating between “interviewer 1” and “interviewer 2”). Peter is first asked to confirm his stance on the Heinz dilemma as expressed in the questionnaire:

[So Heinz should steal the drug, and you weigh the facts and say: “The consequences for myself don’t matter. What matters is that a human life is at stake. And that’s more important in this case.”] Yes. [According to your sense of justice, as you write here?]. Yes. Well, it’s not that everybody should be licensed to pinch, but that everyone—I mean this is a valid reason. For me, this is not a case of theft, and I would perhaps have to re-define the notion of theft. For me, it’s no theft, and therefore I have not stolen. [Does that mean that laws constitute no unalterable barrier?] No. Laws are being changed and renewed every day. So, they are nothing unalterable. And, I mean, I can’t go there and say: “Well, we could change this or that article of the law.” It’s just not possible in this situation. If we had infinitely small reaction times, I would say: “Let’s quickly change the law.” [Well, that’s what you say. But it’s not up to you to make the laws. Do you think that everybody would see it the way you do?] Yes. [And why?] Drugs as such are material things. And I think, material things can always be replaced. A wife cannot be replaced. (…) As I said, the laws are meant to protect people and are generally important. But that in certain cases laws have to be violated, again, to protect human beings, this is absolutely legitimate.

So, Peter obviously thinks using his own sense of justice is unproblematic in that it is not so much a question of having one’s own point of view, but rather one of taking a *situation-specific* decision and being under pressure to act. However, there is as yet another important aspect in his argumentation, i.e., he does not just interpret the existing law in order to fit it to the given situation, but refers to his own sense of justice as a proper instance to produce valid moral judgments. In this respect, Peter’s reasoning may be called “autonomous”, which he also underpins in the following argumentation:

[But when I am in the situation and say: “I know there is a certain law, and I now have to make up my mind as to whether it is appropriate or not”—how can I decide this?] (…) Of course, I can decide it. I’ve got my own mind and I can think and act for myself. [Does this mean that, say, Heinz burgles the druggist’s, gets caught and is now being tried, does it mean that he should not be punished? How should the judge decide?] The judge’s verdict should be such that Heinz gets perhaps some penalty and, … well, or he is acquitted. It also depends on the druggist. Supposing the druggist is well off, then Heinz should be acquitted. If the druggist were as poor as a church mouse and at risk to lose his existence, he should get something in return from Heinz. This is at the judge’s discretion. And here I would fully rely on the judge. [And what reasons should the judge give, if he lets Heinz go without punishment?] Act of humanity, and the judge’s latitude.

This passage clearly indicates that Peter is beyond the idea of “absolute justice” (i.e., above Main-Level I), for there is a repeated emphasis that he has to make up his own mind. He recognizes that, instead of relying on some authority (who would know what is right and wrong), people have to see for themselves what they deem appropriate in certain situations (his relying on the judge expresses only that he is convinced of the judge’s reasonableness). Yet, Peter’s reasoning is couched in a societal perspective. He tries to balance individual claims and needs in order to find a—in his view—generally acceptable solution.

However, in some other respects, Peter’s moral point of view is egocentric, too. He not only fails to see that different people have fundamentally different values (independent of neediness and concerning Level II2, where ethical relativity comes in), but also that he as an individual does perhaps not have all the relevant information, that he may be too sympathetic with respect to certain people’s fate or may simply take too hasty a decision. Peter’s reasoning relies on the dignity of the moral individual’s conscience and thus seems to be basically following the

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\(^7\) There are indications that he might have advanced to Stage II3a. However, the respective interview passages are not entirely unambiguous, so that they might also be interpreted in terms of Stage II2c. As the possible move onto Stage II3a is not central for the claims made in the discussion (see below), John’s fifth interview is left out in the present paper.
golden rule (“Do unto others as you would have them do unto you”).

The problem with it is that decisions of conscience normally are not the same for all people. But if certain issues are judged differently depending on who takes the decision, how can this be just? Or how could they be matched? The failure to accomplish this at Stage II1a shows us that it incorporates only equality, but no reciprocity with respect to individual judgments according to personal conscience. The futile attempt to integrate diverging points of view would entail the contradictory result that what is just (in my view) is unjust (from the other’s point of view). As it appears, justice requires that it be equally applied to everybody. Peter seems to have realized that and learned this lesson by the time of the second interview.

Second Interview

Contrary to his previous argumentation, Peter now puts the law first:

[You said it’s important to abide by the law? Why do you actually think that it’s important?] To regulate life in a society. People who think they could ignore them—. We try to regulate how things should work. It’s like traffic regulations—if there were none, we would have crashes all over. And it’s exactly the same in life. People must somehow—not be forced, but—something must be stipulated so that all move in the same direction. Otherwise it doesn’t work.

[Now, Heinz has stolen the drug and gets arrested. How should the judge deal with the matter?] Well, the judge should generally act within the framework of the law..., but within it he has perhaps a chance to be lenient.

Peter’s personal view of the case does not seem to have been altered. He still feels that Heinz ought to go without punishment. But obviously this cannot be the ultimate criterion. He rather subordinates his personal views to what has been stipulated in the laws. Thus, the law functions as a mediator between (possibly) diverging individual moral judgments so as to provide a common basis and equal justice for all. In fact, there could also be a human mediator playing this role, as long as he or she was accepted by all parties.

However, the acceptance of such a mediator or the law depends on the acceptance of what is being ruled. If one does not understand why a certain verdict was spoken, one immediately finds it unjust by one’s own lights, even though it is held to be legally just (this is the contradiction). However, personal moral views—apart from that of an appointed mediator or lawgiver—have no place in the present stage’s rationale (mere reciprocity without equality). Therefore substantial subjective discomfort with legal decisions creates an irresolvable conflict at Stage II1b that calls for an integration of the individual’s moral perspective with that of the law at a higher stage.

Third Interview

Instead of the more rigid “law and order” perspective of Stage II1b, Peter becomes more moderate, again, in the third interview. But in contrast to his decisions of conscience that he advocated in the first interview, he now tries to integrate his personal view with that of the rest of the population. What is just is therefore neither down to each individual alone nor to the mere letter of the law, but to what the general public would think (Stage II1c).

[You argue that one has to find out the “spirit of the law” and act accordingly, which implies that one might have to put up with certain transgressions. Where would you draw the line?] Generally speaking, laws have been made to help humanity and should be observed. But I think—laws are also changed from time to time. They are rules made by human beings for the sake of human beings, … It’s also written in the law that life is to be protected… This is how I see the law. If someone asked me, say a child, what laws were good for, I would answer: “Laws are there to regulate public life, but the individual case also has to be considered.” In general, I say, laws have to be observed, but on top of this there is a certain factor, a humanitarian factor, that has to be added where no one else is harmed.

Here he clearly tries to derive his ideas from basic principles contained in the laws. Generally (and theoretically) speaking, reasoning at Stage II1c relates to democratic decision taking or what would be the outcome of such a process (as in the present case). The aim is to account as much and as objectively as possible for individual situations. Furthermore, the democratic process allows for reciprocal equality with respect to those individual moral points of view that were initially apprehended at Stage II1a. This explains the process of differentiation and reintegration across the three dialectical stages “intra”, “inter”, and “trans”.

However, even democratic decisions, and hence laws, may be biased. It is not only that minority claims may be overruled by the majority’s decision, but also that democratic decision making is more than just collecting votes. Outvoting minorities might be acceptable in the sense that after weighing all pros and cons one solution comes out as best or as the best compromise, even though it might not satisfy certain individuals or groups. The deeper difficulty,
however, lies in the fact that voters normally do not enter the process with fixed convictions, but that there is an opinion formation process before the actual vote. Therefore, a key role is played by the rhetoric and argumentative capabilities of the agents. As a consequence, democratic decisions do not automatically lead to just or optimal decisions (in terms of balancing individual claims), but appear as more or less contingent results of those opinion-forming processes. The inherent contradiction at Stage II1c, therefore, consists in the fact that what was meant as forming processes. The inherent contradiction at Stage appear as more or less contingent results of those opinion-decisions do not automatically lead to just or optimal fore, a key role is played by the rhetoric and argumentative opinion formation process before the actual vote. There- however, lies in the fact that voters normally do not enter the process with fixed convictions, but that there is an ethnicity of Stage II2a: (the hallmark of Level 2) and taken as merely "positive law". See what Peter tells us in the fourth interview, where he most clearly expresses this idea of ethical subjectivism or relativism (which is the fundamental mark of Stage II2a):

Everyone has got a certain "survival instinct"—no, a "self-satisfaction instinct", that, no matter what he does, whether he helps others, it still has the effect that he feels good, because he has helped someone else. For him, this has a self-satisfactory effect, no matter if he's a psychologist, a pedagogue, physician or consultant. [Does this also play a role in the other cases, where it’s about Heinz’ wife that he loves, or the friend?] Sure, when it’s about my wife—I have my own priority-scale, and my personal background, which I am more or less aware of, depending on education and personal history, and this measure is always applied, consciously or unconsciously. (…) [How important is it to observe the law?] Well, in general I have said that social life and survival are regulated by laws, therefore laws are very, very important. (…) (However,) there are laws, which are very good and others which are very bad, because laws are made by human beings, and human beings, again, follow their own individual points of view.

Fourth Interview

From the above-mentioned, newly emerging perspective each individual has to plead his or her own cause, trying to convince others and get their points through. Therefore, from the perspective of Stage II2a, the law’s character changes significantly: It does not represent anymore the objective point of view that integrates all individual ones, but turns out to be the contingent result of negotiating conflicting views. As such, it is still important, but it is now looked at from the point of view of ethical subjectivism (the hallmark of Level 2) and taken as merely “positive law”. See what Peter tells us in the fourth interview, where he most clearly expresses this idea of ethical subjectivism or relativism (which is the fundamental mark of Stage II2a):

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If one looks at it from the other side, are there reasons or motives that justify transgressions?] Well, in general there are no fixed reasons or motives. It’s always down to each individual—when I say, this and that is more important for me and I therefore violate the law, then it should be like that, then I have decided it that way for myself. I must live with the consequences and I also have to say: “OK, I have set my personal priority-scale in this way, it is there, and so I keep to it.”

[And, concerning the judge’s verdict.] I would not think it unjust, if I were sentenced, as Heinz, but on the other hand I would find it great—because it would match my own world view—if the judge said: “This was not well done, but I see why you did it”, and if he could decide this individually and put in his personal opinion. (However,) I differentiate between two types of reasoning: first, there is the decision that he takes for himself, and second, the one that he takes for the general public, or what he rules in court. So, if he decided according to his own world view, he would have no official reason, because as a judge he can’t argue that he had different priorities and therefore came to this and that conclusion. In this case, he wouldn’t be a judge anymore.

The inherent conflict of Stage II2a consists—similarly to Stage II1a—in the fact that no individual could possibly go wrong as long as they follow their personal moral point of view. This may work so long as different types of people live in different sub-cultures and do not interfere with each other or as long as legal and social sanctions do their job against potential offenders. Otherwise the conflicting views clash. However, at Stage II2a the individual is not capable of mediating between such conflicting views. If he or she attempted to do so, this would produce the contradictory result that what is legitimate (from one point of view) is illegitimate (from another point of view). Hence, there is only equality without reciprocity.

Fifth Interview

One year later, Peter refers to his personal moral point of view again, but by now he has realized the above-mentioned conflict that this reasoning at Stage II2a entails. And he goes beyond it:

[People with their own interests or points of view on one hand and the law on the other—how are these related to each other?] Well, somehow all have got their individual interests in different directions, and the law tries to bring these in line or in one direction, so to speak. No matter what laws are concerned, the constitution, or laws for specific domains, … it’s
always the same: Different opinions ... have to be brought together in a generally acceptable way or in a manner that is agreeable for everybody. There will, of course, always be people—myself included—who complain about this or that, but in the end think: “Well, yes” ...

[So this complaining, does it mean to put one’s own interest last, sometimes, in favour of the general observance of the laws?] You needn’t approve of everything, but what has to be seen is that it’s conducive to the situation as a whole and that it’s simply not possible in any other way, and then you’ve got to accept it. Even if you had wished something else in a particular situation—but if laws were made for myself and things adjusted to my personal point of view, then I would live in some kind of monarchy. [What should the judge rule, then? Should Heinz be sentenced?] If it made sense, the punishment, that the laws be observed, that is, as a general consequence that the laws would be observed, this would be a rather satisfactory result, even if it were not so satisfying with respect to the particular case ...

In view of the relativity of ethical values (and this view makes the difference between Stage II2b and Stage II1b), Peter considers the law as the ultimate moral instance which has to be respected as the result of our collaborative efforts for just regulations. They may always be criticized, but as long as they are enforced they are to be observed. This move ensures reciprocity, but as we shall see in our analysis of the second subject’s development (third and fourth interview), it does so at the expense of equality, since the law is always superior to the individual reason.

Case Study 2: John

First Interview

In the first interview, John argues at Stage II1c (i.e., he started off higher than Peter). As to the question, what the law means to him, he replies:

Well, in the end it would be impossible for so many people to live together properly without any guidelines. Either would we have the law of the jungle or so, and this cannot work or at least I wouldn’t like to live there. In this respect, the law, as we have it in our country ..., is one possible variant, perhaps not the best, but it is one possible variant... And therefore it has to be obeyed. With respect to this violation just now (John decided that Heinz ought to steal the drug for his wife), this can—(thinks for a long time, before he continues) I do violate the law in one particular respect, but I accept the legal consequences this entails. In this sense breaking the law is an expression that doesn’t really fit, because in a certain sense I do accept it as it is. But for me, at that moment, there is a higher law consisting in the relationship of friendship or love. (…) I’m committed to it, and this commitment weighs more heavily in these few exceptions. After all, it is not every two days, or so, that I would have to infringe the laws. But I have to accept and live with the consequences, and this is, I think, what I do.

A little later in the interview, he is asked if our law should allow for the possibility that people such as Heinz could go unpunished:

Our law is already full of loopholes, because it tries to be just to everyone. And this (the decision that Heinz should get away with it) would be the greatest possible loophole, because everybody could pretend that he just wanted to do this or that. Everything would break down. (…)

[Would it be justified, if Heinz were only punished moderately due to extenuating circumstances as he had to take such a difficult decision?] This is certainly correct. If someone acted out of good motives, it would be quite legitimate to make certain concessions. For one can’t measure each case by the same standard and lump them all together. (…)

[You mentioned the role of the jury and that it is not down to one single person to take the decision. However, each juror would still have to make up their own mind, wouldn’t they?] Yes, but so many people ought to come to a correct decision, normally this would have to be so. On the basis of the facts and personal feeling, they have to come to a verdict

What we see in this argument is a strong commitment to laws as we have them (which seem to mean balanced democratic laws that generally try to be just to everyone) and the reference to a higher moral law which would vindicate exceptions in special circumstances. Moreover, John also relates to all the aspects that are particularly relevant within Level III in terms of the present taxonomy: the ethical point of view of the individual’s autonomous moral evaluation within a social perspective (which is constitutive of Stage III1a), the already mentioned commitment to laws together with the necessity of a generally valid and applicable system of regulations (II1b), and the latter being based on democratic decision-making and trying to account for all individual needs and necessities (II1c). However, he clearly remains within the framework of Level II1, for he still thinks that individual conscience and public law would not get into real conflict. Moreover,
he has no doubt as to the legitimacy of laws as long as they are produced in a democratic process.

The inherent conflict of Stage IIIc, however, is already discernible in John’s view that our law is only one out of many conceivable ways of regulating social life and his resort to “exceptions” in the present case. Once it is seen that democratic decision-making is influenced by interest groups and opinion-leaders, it cannot be just anymore in the sense of a harmonious equilibrium (as implied throughout Level III), but appears as merely positive law. This is how John looks at it in the second interview.

Second Interview

One year later, John’s reasoning has changed, although he still thinks that Heinz should steal the drug to save his wife and at first evaluates the role of laws in a similar way as before. Asked for his justification for the theft he now argues:

It remains a violation of the law. In this respect, it (the plight of his wife) cannot justify it (the act of stealing), cannot legitimate it. It is a merely humane decision in this situation. [From where can those humane decisions be derived? What could be the basis, if not the law?] I can only answer for myself, here. And here I would refer to my own morality as the basis of my own understanding. This is a morality that every human being has for themselves. And according to my own view I would say: “Do it.” [Can you elucidate this morality?] Everybody has his own attitude towards their fellow human beings. Some have an extremely social attitude; they would do everything for everyone. Some have an egocentric or egoistic attitude—such as “It doesn’t matter what happens when we ourselves have gone”. And most people are somewhere in between. And from this a sort of a standard has evolved in society which is commonly called “morals”.

This hardly needs any comment so far, so clearly does John express the main ideas of Stage II2a. That is, as far as the argument has been reported, the idea of “positive law” as a compromise between diverging individual views, and a prerogative for the latter in cases where personal views do not comply with the law. This conflict is also expressed in John’s continuation of the argument (contrary to his former belief in harmony in this respect). When asked if his own humanitarian ideas were not in conflict with the law, he answers:

Conflict for sure. [And how to straighten this out, in your opinion?] Difficult. Only on the level that I say: “When I get caught, I will have to take the consequences.” [This means, you wouldn’t really have reservations against infringing the law in the sense of violating the established order in society?] Laws are a framework created in due process. But a general law cannot cover every particular situation. I have to abide by it, but in a situation, where I would say: “I can’t obey it, because I’m simply a human being, and you can’t represent a human being in a statute book”, then I have to live with the consequences that my violation entails.

Here he explains the contrast between laws from society’s view and ethical values from the individual view, which is typical of Stage II2a. Although the law is generally respected—as a means of regulation as well as for the individual’s own sake—, and although it stands to reason that society has to punish law-breakers, the individual is ultimately committed to his or her own moral point of view.8

Third Interview

The third interview reveals that John has developed one stage higher, again, and reasons at Stage II2b. As opposed to his previous point of view, the law is now thought to overrule the individual’s own judgments. Prompted for a decision whether Heinz should steal or not, he argues:

It would be right not to burgle the druggist’s. (...) [Would you think one ought to obey the law in this situation—or perhaps not?] Well, it is quite something different to judge this from the outside compared to being in the situation yourself. From an outside point of view I would say: “He should not do it.” [And why not?] Well, just looking rationally at it. According to the law, it has to be like that. The druggist has a right to demand a certain price, and if he (Heinz) can’t get it together, he can’t get it together. (...) [Would you think it understandable from an outsider’s point of view, if Heinz said that in this situation he would do it?] One could understand it, yes. [And would the outsider then not have to think that Heinz had taken the right decision?] In this case, I would say that I can understand it, but that he has to answer for it to the full extent provided for by the law.

Whereas before John readily went back on his commitment to the law when his own feelings stood against it, he now argues the other way round, saying Heinz’s

8 The respective conflict is explained above: Peter, fourth interview.
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possible burglary would be understandable, but still not acceptable. As before he talks of moral “predispositions” in which people differ from each other:

It also depends on his (Heinz’s) predispositions, whether he is a radical humanist or more of a realist. (...) These are the attitudes of different people. One person thinks more like that (i.e., altruistically), the other is an egoist. One is absolutely open-minded and the other is quiet and leads a secluded life. These are predispositions that every human being has.

However, he does not leave it at that. He accepts to some extent—as an “exception”, like in Heinz’ case—that individuals violate the law, but only if they are prepared to turn themselves in and to suffer the full consequences. Even though he thinks this is also a kind of accepting the law, he recognizes that e.g., the stolen drug has been used and cannot be given to anyone else (which makes clear that taking the legal consequences does not really make up for the offence):

The law is of great importance, simply because ... if he steals the drug, then it is gone. I can’t turn that back. (But still:) If he then said: “Well yes, things were so and so, here I am”, that he answers fully for what he has done, he would somehow observe the law, even though not in the sense of what it intends.

This, I think, would be rather important. [Aha, and you think this would be a trick to …] What do you mean by “trick”? (...) I would not call this a trick. One could look at it as an emergency solution or perhaps as an exception.

Note that in this interview Heinz is expected to confess the burglary of his own free will and live up to the legal consequences, whereas before he was only meant to accept legal punishment in case he gets caught. In other words, and contrary to Stage II2a (second interview), the law is deemed superior to individual morality at Stage II2b, since it establishes a reciprocal link between the “naturally” diverging views or inclinations of different people, which have to be realigned by the common law. At least, this is the idea.

The inherent conflict of Stage II2b derives from the downright externalism of this stage, which leaves no room for the individual’s proper (internal) sense of justice and moral reasoning apart from what has already been included in the (external) laws. If a law is considered unjust for what it rules, this view clashes logically with the conviction that laws were necessarily just (provided they were the result of an inter-subjective exchange and discussion of—ethically subjective—views under a democratic order). Therefore, Stage II2b only incorporates reciprocity, but not equality (especially because the law reflects only the views of those people who, on the whole, agree with it, but discriminates against those who disagree with it).

Although John is convinced of the correctness of his reasoning, cognitive conflict is imminent and also inherent in his current deliberations with regard to the difference between “understanding” and “accepting”:

[Would there be an inconsistence for you of the sort—well, reason on one hand tells me to steal, feeling tells me not to steal. Or could you sort this out on a rational level?] No, this would pretty well be a conflict between feelings and rational thought.

Fourth Interview

By the time of the fourth interview, John has proceeded to an overarching view with reference to moral subjectivity (as an internal basis of moral judgment) at Stage II2a and the external principle of Stage II2b, i.e., he has not reached Stage II2c. He thinks, now also from the outside perspective that Heinz ought to steal. Here is how he justifies his opinion:

In these circumstances it is a decision—what should I call it—guided by a critical human understanding. That is, the statute book is there; it has been written a long time ago for general situations. Well, and I am in a concrete situation here and now, where I eventually have to take a decision, and I won’t do it the way someone has written it down some time. (...) [From where, then, can you draw an orientation, whether the law ought to be changed or abolished?] This is a difficult job. Legislation is certainly not easy—you’ve got to try to do the best you can and account for real-life cases as much as possible. But somehow human reason will always be limited, so that, in the long run, laws will have to be changed again and further developed world-wide.

The key idea of John’s current thinking is that a rational evaluation of the material content of laws is possible and that, following the ideal of justice, an attempt at an optimal balance between individual claims is always feasible, albeit only approximately and imperfectly. Nevertheless, as ethically subjective views are accounted for from an overarching moral perspective, Stage II2c yields reciprocal equality with respect to these views. This reasoning, to my mind, would be equivalent to Kohlberg Stage 5.

Discussion

The presented data show that the two subjects’ moral reasoning changed significantly and progressively (in terms of hierarchical integration) during the course of our
longitudinal study. Moreover, the developmental paths the subjects have followed are coherently accounted for by the suggested theory of moral development, both in identifying stages of moral reflection in the subjects’ reasoning and in reconstructing the process of moral-cognitive equilibration.

Conversely, the Kohlberg theory fails to accommodate the observed developmental patterns. Stages II1b, II1c, and II2b would all have to be interpreted as Stage 4 on Kohlberg’s account, whereas Stage II2a is equivalent to Kohlberg Stage 4 1/2 (or “4/5” as it was called later; cf. Kohlberg 1973; Turiel 1974; Colby and Kohlberg 1987a, pp. 100–101). Consequently, the steady upward development that the two subjects exhibit, especially their move from Stage II2a to Stage II2b, would appear as a regression from Stage 4 1/2 to Stage 4 in Kohlberg’s terms. What’s more, “Stage 4 1/2” comes out as a full-stage in its own right in the present frame of reference.

Thus, the proposed alternative theory of moral development not only provides more “finely grained” stages, so that one Kohlberg stage should cover a certain sequence of those stages, but that there are obviously quite different versions of Kohlberg stages that are located in different regions of the new taxonomy. Moreover, this result is consistent with other findings that apparently contradict Kohlberg’s approach, namely the fact that six-year-olds already take moral points of view that seem to indicate higher stages of moral reasoning (see e.g., Turiel 1983; Keller 1990). In contrast to Kohlberg’s theory, our approach neatly accommodates these types of reasoning within Main-Level I (see also Minnameier 2001).

On top of this, the stage taxonomy comprises forms of moral reasoning above and beyond the six Kohlberg stages. Note that even the most developed subjects of our study have only made it about half-way up the entire stage hierarchy. On the one hand, this indicates a vast potential for further development, on the other hand it also leaves room for professional ethicists and other intellectuals to excel ordinary young adults. In Minnameier (2000a, and 2005) it is shown that Main-Level II roughly covers the development of moral philosophy throughout Greek and Roman antiquity as well as the Middle Ages, whereas Main-Level III accommodates philosophical ethics from modern times onwards.

Finally, another crucial result is that, as far as the argument goes, the Kohlberg theory is proved both right and wrong at the same time—wrong, because Kohlberg’s conception of individual stages has to be rejected, right, because his stage-theoretical approach as such is strongly supported and even supplemented by a suitable developmental logic. In this sense, Kohlberg’s theory is developed further and kept moving rather than being removed.

References


Colby and Kohlberg (1987a, p. 74) also cite a study in which subjects are reported to have regressed from Stage 5 to Stage 4/5 and add that “it might indicate some remaining unresolved inadequacy in the differentiation of Stage 5 from transitional level 4/5. Given that Stage-III1b-reasoning would have to be scored as Kohlberg Stage 4, it might well be that Stage II1c was (mis)taken as Kohlberg Stage 5, in which case the subsequent movement to Kohlberg’s 4/5, i.e. Stage II2a, would come as no surprise at all. See also Colby and Kohlberg (ibid, pp. 38–39) for similar systematic problems of accommodating empirical developmental sequences that might be due to a lack of differentiation in Kohlberg’s stage hierarchy.

10 In Minnameier (2000b) it is also explained why the explication of justice operations provided by Kohlberg et al. (1984) is insufficient. For a developmental process logic employing the three inferences of abduction, deduction, and induction see Minnameier (2004).


