

Handout 1

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

167

171

To spell this out a bit: Kohlberg identifies a major logical error in social science: the 'naturalistic fallacy'. Many theorists confuse *cultural relativity* (the fact that different cultures have different values) with *ethical relativity* (the claim that no universal moral principles are possible).

For example, a student argued that 'the value of life' justifies stealing a life-saving drug, yet simultaneously claimed that 'all values are relative to your culture'.

But if all values are relative, then the value of life cannot be used as a universal justification. Relativism often fails because it cannot account for the 'possibility of rational ethics' or how humans reach agreement through rational standards.

We group moral development into three levels. At the preconventional level, usually seen in children, 'right' is determined by physical or hedonistic consequences. Hence:

Stage 1: Obedience and punishment. Goodness is simply avoiding trouble.

Stage 2: Instrumental relativism. Right action is whatever satisfies one's own needs.

At the conventional level, morality is defined by conforming to and maintaining the social order. Hence:

Stage 3: Interpersonal conformity. Being a 'good boy' or 'nice girl' by pleasing others.

Stage 4: Law and order. Doing one's duty and showing respect for authority for its own sake.

At the postconventional level, we define principles that have 'validity and application' apart from the authority of the groups they belong to. Hence:

Stage 5: The social-contract orientation. An emphasis on legalism but with the awareness that laws can be changed for social utility.

Stage 6: Universal ethical principles. Right is defined by self-chosen principles of 'justice, reciprocity, and equality'.

FORMAL UNIVERSALITY. While the content of moral beliefs varies (e.g., whether you steal to pay for a funeral or to get someone to cook for you), the form of the reasoning is universal. That is, every child must move step-by-step through these stages. They might move at different speeds or stop at a certain level, but they never skip a step or move backward.

Studies in Taiwan, Mexico, Turkey, and Yucatan show the same age-related trends. Though, e.g., Stage 5 thinking is more salient in the U.S. than in isolated villages, the underlying 'basic ways of moral valuing' remain identical across all religious and cultural groups.

ROLE-TAKING AND JUSTICE. There is a fundamental gap between Stage 1 and 2 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. 190

Natural empathy/sympathy is not enough: a child might feel bad for a seal being killed, but true moral reasoning requires a 'sense of justice'. And as we develop, we move toward the principle of 'distributive justice': the idea that we must treat every person's claim equally.

MORE ON STAGE 4 AND 5. 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, stage 4 is the most widespread condition of adult morality.

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.

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.

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.

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.

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.

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).

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.

Rawls 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.

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.

198

199

200

201

202

203

205

208

208

209

211

286

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

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) 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

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

299

As far as I can tell, the idea is this. Suppose than 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.

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.

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