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**Measuring Moral Progress – Empirical  
evidence for a theory of moral reasoning**

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# Measuring Moral Progress – Empirical evidence for a theory of moral reasoning

*Abstract:* The paper provides an in-depth analysis of two subjects from a longitudinal study who underwent successive and significant developmental changes. Their developmental patterns, however, fail to be addressed appropriately by the Kohlberg theory. By contrast, the observed course of development can be neatly accommodated by an alternative theory of moral stages. What's more, apart from merely matching with the observed data, this 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 such, it is capable of absorbing the latter and can thus be taken as a further development of it, in the sense that Kohlbergian stages are differentiated, supplemented and theoretically substantiated within the new framework.

## Introduction

Interest in moral stages has declined in recent years, as the view on morality as a whole has broadened. The entire context of moral judgment and action is now being examined, including moral sensitivity, motivation, and commitment (Rest et al., 1999; Nunner-Winkler, 1998; Colby & Damon, 1992; Damon & Colby, 1996), intuitive decision-making (Haidt, 2001, Narvaez & 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 & Lasky, 2001) and the investigation of moral excellence (Walker 1999; Walker & Pitts 1998). All these developments certainly take us ahead towards a complete and holistic understanding of moral functioning 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, evidence will be presented for a theory of moral stages 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" – 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).

In the present paper the focus will be on empirical evidence. Therefore, the theory will only be sketched out in its basic features (2<sup>nd</sup> section). Individual stages will then be described and illustrated along with the report on empirical case studies (4<sup>th</sup> section), after the method of

data collection and analysis has been described (3<sup>rd</sup> section). The theory itself has been expounded mainly in Minnameier (2000a, and 2001). It has also been used to reconstruct developmental progress in ancient Greek as well as in modern ethics (see Minnameier, 2000a, 2003).

### 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.<sup>1</sup> 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 Figure 1). These forms could also be paraphrased as *differentiation* (intra), *reciprocal relation*<sup>2</sup> (inter), and *integration* (trans) (see Piaget & Garcia, 1989, pp. 273-274).

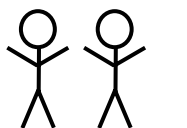
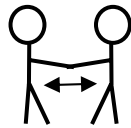
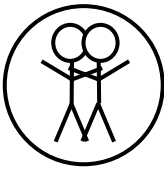
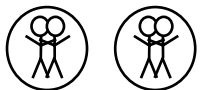
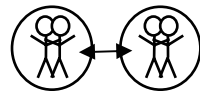
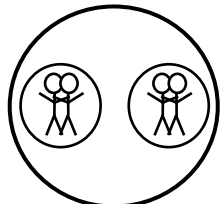
Stage type:	Intra	Inter	Trans
<b>Level 1:</b> Stages 1 – 3	1 	2 	3 
<b>Level 2:</b> Stages 4 – 6	4 	5 	6 
⋮	⋮	⋮	⋮
<b>Justice operations:</b>	(simple) equality [inversion]	reciprocity	reciprocal equality

Figure 1: Illustration of the developmental logic

This is to say that a given object of cognition is first differentiated into the various instances of a “form”. For instance, 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 A or per-

<sup>1</sup> 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 & Garcia, 1989, pp. 173-174). And in an even broader view the contention is “(t)hat this dialectical triad can be found in all domains and at all levels of development” (ibid., p. 28).

<sup>2</sup> 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.

son B, 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 are several aspects of perspective-taking, each of which comes in at a particular “a-stage”, see Figure 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.<sup>3</sup> This type of reasoning (i.e. concerning all “a-stages”) can be understood in terms of (simple) *equality* in the sense that different persons (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 fifty-fifty rule, which mediates *between* two persons 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 fifty-fifty rule would not really be just (from a moral perspective higher than Stage IIb), because it ignores differences in need. Hence, 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 IIc).

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 (here Stage I2a), on which one concedes that no one can be forced into a deal against his 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).

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, b, 2001). Let us now have a look at what has been built 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 Figure 1), which cover the whole range from infant moral thinking to (current) moral philosophy.

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<sup>3</sup> 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 & 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 & 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).

ASPECTS OF MORAL REFLECTION			Current no.
<b>Universalization</b> <i>(of the moral point of view)</i>	<b>Neutralization</b> <i>(of the ethical subjectivity)</i>	<b>Equalization</b> <i>(of valid claims)</i>	
Main Level III (trans)	Level III3 (trans)	Stage III3c (trans)	27
		Stage III3b (inter)	26
		Stage III3a (intra)	25
	Level III2 (inter)	Stage III2c (trans)	24
		Stage III2b (inter)	23
		Stage III2a (intra)	22
	Level III1 (intra)	Stage III1c (trans)	21
		Stage III1b (inter)	20
		Stage III1a (intra)	19
Main Level II (inter)	Level II3 (trans)	Stage II3c (trans)	18
		Stage II3b (inter)	17
		Stage II3a (intra)	16
	Level II2 (inter)	Stage II2c (trans)	15
		Stage II2b (inter)	14
		Stage II2a (intra)	13
	Level II1 (intra)	Stage II1c (trans)	12
		Stage II1b (inter)	11
		Stage II1a (intra)	10
Main Level I (intra)	Level I3 (trans)	Stage I3c (trans)	9
		Stage I3b (inter)	8
		Stage I3a (intra)	7
	Level I2 (inter)	Stage I2c (trans)	6
		Stage I2b (inter)	5
		Stage I2a (intra)	4
	Level I1 (intra)	Stage I1c (trans)	3
		Stage I1b (inter)	2
		Stage I1a (intra)	1

*Table 1: Overview of the stage hierarchy's formal structure*

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” (that is 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 to 9) is part of an absolute moral law (which could also be called “moral realism” according to Colby & 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 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. the Greeks in antiquity – and later thinkers down to Middle Ages have always seen it; cf. Minnameier, 2003). 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 us to 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 II3c) 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 human cognition and 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.<sup>4</sup>

The differentiation of “levels” refers to the problem of ethical relativity, i.e. the aspect 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 the individuals within the respective social unit. A simple example is the idea that “friends just have to stick together” or that employees had 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 each major level – is marked by solving conflicts that arise from clashing group interests and the like, so as to reach a point of view that is not socially centered anymore.

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 is like. Let us now turn to the data.

## Data and Method

The data are taken from a 6-year longitudinal study (1994-2000) examining moral development of insurance apprentices during their vocational education and the first years as professionals. The study itself focused on the hypothesis of moral segmentation (Beck et al. 1999; 2002), especially with respect to private vs. job-related issues, and remained strictly within the Kohlbergian framework (the present taxonomy was only developed during that time). 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.

The study started in 1994, with new classes<sup>5</sup> (cohorts) being included each year (from 1995 through 1998). 174 apprentices were examined altogether, only few of which, however, passed through all six assessments which took place in yearly intervals.

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<sup>4</sup> Main Level III, as a whole, relates to developments in philosophical ethics from – roughly – the beginning of modern times up to present, whereas Main Level II can about be equaled with different forms of ancient Greek philosophizing in ethics.

<sup>5</sup> Vocational education in Germany follows the so-called „dual system“, i.e. apprentices spend about 1 ½ days per week in a vocational school and 3 ½ days in their company. “Classes” therefore refers to regular school classes.



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 & Widaman, 1982), a small number of single cases were selected for thorough Moral Judgment Interviews (according to Colby and Kohlberg [1987a, b]) – 19 subjects in the first year, 48 in total.

As to the scoring of these subjects' interview statements all relevant answers were coded, but the final stage for the dilemma was not determined by calculating a summary value like, e.g., Kohlberg's so-called "modal stage", rather was the highest stage taken as the true stage in terms of moral competence. This is a common 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. Of course, these considerations themselves might have been misled, but wherever the author was unsure about how to interpret certain passages of the interviews, the lower stage or no stage was assigned. What's more, the rationale of scoring is fully transparent, since all the relevant evidence and their reconstruction in terms of the stage taxonomy is made explicit in the case studies to be reported below. So the readers may judge for themselves.

Second, Kohlberg thought that people would normally reason at their currently highest stage, since it were the most equilibrated one. Meanwhile we know that this is false, that reasoning is flexibly tuned to situational aspects (Beck et al., 1999; 2002) and that we normally first decide and start thinking (further) only if we are not content with our decisions or prompted for justification (Haidt, 2001; see also Rest et al., 1999, pp. 23-26). In particular, it appears that starting from perceived situational problems only the appropriate (minimal) concepts to solve them are activated. Thus, it seems just normal that individuals flexibly use the whole range of moral principles available to them according to the various moral conflicts they are confronted with. It is also a most salient aspect of our study that those subjects who actually went through developmental changes nonetheless started always with the same line of reasoning as in the first interview, but when prompted with additional aspects that demanded higher order reasoning, they moved on to novel and as yet unattained stages of moral reflection. Thus, an exhaustive interview strategy appears to be best suited to "worm" the actual moral competence out of the subjects. And taking the highest score as the true stage of moral-cognitive competence is congenial to this methodological approach.

However, not many of our participants actually developed much further during to time of the study. Others may have developed, but owing to the fact that the interviews were not geared to the fine-grained 27-stage taxonomy, the subjects' capacities may perhaps not have been exhausted. Yet another problem was the dropout of some of our subjects and the fact that the later cohorts had fewer measurement points (down to only two for the last class that we included). Of those who obviously underwent substantial developmental changes, two subjects are of particular interest. Both were assessed five times and took a different moral point of view each time they were interviewed. The observed changes in moral reasoning match well with our proposed theory – so well, in fact, that even only those two cases may be regarded as very promising evidence in favor of the theory. Table 2 shows an overview of the results, both in terms of the stages set forth in this contribution and in terms of the Kohlberg stages (henceforth "KS").

Subject Time	Peter		John	
	Stage	KS*	Stage	KS*
t <sub>1</sub>	–	–	<b>II1c</b>	4
t <sub>2</sub>	<b>II1a</b>	3	<b>II2a</b>	4 ½
t <sub>3</sub>	<b>II1b</b>	4	<b>II2b</b>	4
t <sub>4</sub>	<b>II1c</b>	4	<b>II2c</b>	5
t <sub>5</sub>	<b>II2a</b>	4 ½	–	–
t <sub>6</sub>	<b>II2b</b>	4	<b>II3a**</b>	5

\*) Kohlberg Stage

\*\*\*) This stage score is less warranted by the data than the others.

*Table 2: Overview of scores at different measurement points*

The first subject, let us call him Peter, was 19 years old when he started his apprenticeship, and had just passed his A-levels (German “Abitur”). This was in 1995, i.e. the second year of our study. Thus, he missed the first (measurement point), so that we could interview him five times in yearly intervals. The second subject, John (aged 20 at t<sub>1</sub>), is also male and has passed his A-levels, but participated in the study from the start. However, in one year, when he was supposed to come for the fifth interview, he was prevented from coming, so that there was a two year break between the fourth and the fifth interview.

Both subjects show a “steady” (stage-wise) development during the time of our study. It is surprising to some extent that they have gone up one stage each time they were assessed. However, others also developed quickly at the beginning, but soon reached a ceiling. The two subjects to be examined here may have also been stimulated by the critical questions with which we challenged their views trying to exhaust their capacities. Although this was only once a year, it was a principled and profound discourse treating four different stories and lasting for several hours each time (divided in two portions on two different days). Thus, it is not implausible to imagine that those interviews also had lasting after-effects in terms of moral-cognitive stimulation. Be that as it may, such causal speculations+ are clearly out of place in the present context. What matters is the analysis of the subjects’ reasoning in each of the interviews.

## **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, that in such a situation stealing would be justified and that the laws be quickly changed?] 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. However, everybody has to decide for themselves, whether these violations are appropriate in the given situation or not.

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 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 that. 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. 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, 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 individuals conscience and thus seems to be basically following the Golden Rule (“Do unto others as you would have them do unto you”) and therefore fall in the category of KS 3, or Stage IIIa with respect to our alternative approach. The prob-

lem 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? 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 – I mean, we have only one planet and everything is limited. 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 is 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*, according to one's own moral insight (in the sense of Stage II1a). But personal moral views – apart from that of an appointed human mediator or lawgiver – have no place in the present stage's rationale. Therefore substantial subjective discomfort with legal decisions creates a conflict that calls for an integration of the individual moral perspective with that of the law.

### ***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, and I think there are passages in the law that might be "interpretable", right? 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 is also 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 IIIc 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.

#### *Fourth interview*

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. But the deeper difficulty 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 opinion-forming processes. From this point of view, each individual has to plead their own cause, trying to convince others and get their points through. In this perspective, the law's character has changed 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. 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, some 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 is regulated by laws, therefore laws are very, very important. (. . .) (But) 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.

[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.

### *Fifth interview*

One year later, Peter takes up this point again, but by now he has realized the cognitive conflict that this reasoning at Stage II2a (which is equivalent to KS 4 ½; see Kohlberg, 1973; Turiel, 1974) entails. And he goes beyond it:

[How do you look at this – 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, or only certain terms or conditions, 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, because the ideal solution, that I have in mind, is impossible anyway or at least not possible on our current evolutionary stage ... where we wouldn't need detailed rules or laws anymore, because other things would go without saying.

In view of the relativity of ethical values (and this view makes the reasoning different from 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. As I have shown elsewhere (Minnameier, 2003), this kind of reasoning (Stage II2b) seems to be equivalent to Socratic ethics, with the sequence from Stage II2a to Stage II2c reflecting the philosophical development from the Sophists' to Plato's ethics, and with Platonic ethics, to my mind, being equivalent to (one version of) KS 5.

The last part of Peter's argument, which is somewhat arcane, might be understood as already indicating KS 5, which would save Kohlberg's theory from inconsistency in this respect, but this does not appear to be warranted. He does by no means look for principles that are prior to society (or to the law, for that matter), but only “dreams” of a conflict free world, in other words: a situation in which the problem to be solved (i.e. ethical subjectivity) does not exist. This is why he is quite right in claiming that this is not possible, at least not for humans as they are. In Peter's argument this also does not indicate a possible solution, but is only meant to produce a contrast that allows him to prop up his central point (which appears to reflect Kohlberg's “social system perspective” and thus KS 4).<sup>6</sup>

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<sup>6</sup> The social system perspective is meant to cover both KS 4 and KS 4 ½ and to explicitly account for ethical relativity (Colby & Kohlberg, 1987a, p. 39). However, this again blurs the important distinction between what we call Stages II2a and II2b. What's more, the stage description provided by Colby and Kohlberg (*ibid.*, pp. 28-29) does not highlight this aspect, but relates more to what we have discussed as Stage II1b and Stage II1c. Colby and Kohlberg essentially tell us that “the individual takes the perspective of a generalized member of society. This perspective is based on a conception of the social system as a consistent set of codes and procedures that apply impartially to all members. The pursuit of individual interests is considered legitimate only when it is consistent with maintenance of the sociomoral system as a whole. (...) A social structure that includes

Thus, in terms of the Kohlberg theory, Peter regresses from Stage 4 ½ to Stage 4. What's more, the same pattern can be found in our second subject's development, to which we will see now. This subject, John, went even beyond Stage II2b to II2c, i.e. to the "true" KS 5, so that our hypothesis of a Kohlberg-related anomaly appears to be confirmed.

## **Case Study 2: John**

### *First interview*

In the first interview, John argues at Stage IIIc (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 – this assumed –, 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 long, before he continues) I do violate the law in one particular respect, but I accept the legal consequences this entails. In this sense (thinks), well, 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 by it, and this commitment weighs more heavily in these few exceptions, in my view. 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 so leaky, because it tries to be just to everyone. This leads to loopholes and this (the decision that Heinz should get away with it) would be the greatest possible loophole, because everybody could come and pretend that he just wanted to do this or that. Everything would break down. And everybody could just do what he wants. (. . .) Our law may not be the best alternative, but it is the best we have.

What we see in this argument is a strong commitment to laws as we have them (which seems to mean balanced democratic laws; see also the passage quoted below, where he invokes the ideal of a jury) and the reference to a higher moral law which would vindicate exceptions in special circumstances. Moreover, John also draws 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 IIIa), the already mentioned commitment to laws together with the necessity of a generally valid and applicable system of regulations, and the latter being based on democratic decision-making. However, he clearly remains within the framework of Level III, 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. This becomes obvious in the subsequent passage:

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formal institutions and social roles serves to mediate conflicting claims and promote the common good. That is, there is an awareness that there can be conflicts even between good role occupants" (ibid., p. 28). Following this description our Stage IIIb is a perfect match of KS 4, which entails that all in all Kohlberg's notion of Stage 4, together with his deliberations on the social system perspective are either too vague or inconsistent (or even both).

[Would you consider it 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 standards and lump everyone together. (. . .)

[You mentioned the role of the jury and that it is not down to one single person to take the decision. But 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.

This passage stresses both the importance of addressing individual needs and necessities and the validity of democratic decision-making, with an almost absolute confidence in the latter.

### *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 or 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 (or Kohlbergs Stage 4 ½, respectively). This 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.



### *Third Interview*

In the third interview, John shows that he has again developed one stage higher. Now the law is 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 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' 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') 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.

But 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 take 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.

The foregoing problem at Stage II2a was that, on one hand, the societal perspective was taken, but on the other hand the individual was necessarily condemned to one-sidedness, because since they had to follow their own convictions and could never, in principle, have conceived the societal perspective in any substantial manner (with "justice" on the inter-subjective level remaining an empty concept).

The inherent conflict of Stage II2b derives from the downright externalism of this stage, which leaves no room for the individual's proper concept of justice in a material sense. 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 views under a democratic order).

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 inconsistency 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***

John has now proceeded to a balanced 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 (one version of KS 5). 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.

#### ***Fifth Interview***

On the basis of the data from this interview it is not clear, whether John has taken yet another step in the meantime. Let us first see what John says and reflect on it then. As for the druggist, he expresses the following view:

He would have the moral obligation at least to grant deferred payment, as long as his costs were covered. If he doesn't accept this, I don't see any reason why the druggist ought to be awkward and not agree to this suggestion in such a case where a human life is at stake. That's even a moral transgression that's being committed here.

[Why would it be a moral transgression?] What is morality? It is at least to protect a human life. I think, this is a fundamental duty in civilized society. (. . .)

[You said, the possibility to save a life without having to break the law was in the druggist's hands. He has the possibility, yes, but why should he translate it into action?] Because he has the possibility to save this life without breaking the law and this commits him morally. (. . .) Heinz has no strong moral argument to infringe the rules that hold society together in the first place, that make society possible. The druggist doesn't need such an argument, because he doesn't have to infringe on society. He betrays morals with his attitude, but he wouldn't have to violate the written principles of society.

Still, John is neither a relativist (Stage II2a), nor would he feel committed to just any law created in due process (Stage II2b) anymore. As in the fourth interview, he asserts his view of what he thinks appropriate in society, which he considers compelling. So, he is certainly not below Stage II2c.

The emphasis on society as a whole and the moral principles that keep it together, however, could already indicate the perspective of Stage II3a, where morality is not grounded in ideas (the “critical moral understanding”), by which to balance diverging individual orientations, but in man’s nature as a social being and the demands of society as a whole. The difference between Stage II2c and II3a is to be understood in the way that according to II2c social ethics is based on individual ethics (i.e. principles for the latter are to be derived from the former), whereas according to II3a social ethics comes first (which also “neutralizes” the problem of ethical subjectivity, cf. Table 1).<sup>7</sup> This is supported by the fact that John no more accepts that the druggist might have his own particular moral feelings (or “predispositions”), but derives a moral obligation from “fundamental duties” with respect to civilized society. On the available evidence, however, this interpretation still remains a little speculative.

## Conclusion

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. There are substantial advances in moral reflection that are either *ignored*, since the subjects are thought to remain on one and the same stage (Stage II1b to II1c, both KS 4) or *marginalized* as mere “transitional stages” (Stage II2a, which would be KS 4 ½), or even *denied* (development from Stage II2a to II2b, which in terms of Kohlberg’s taxonomy appears as a regression from Stage 4 ½ to Stage 4).

One important consequence of the present analysis is that 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 our taxonomy. What’s more, this result with respect to the stages discussed in the present paper is consistent with other findings that apparently contradict Kohlberg’s approach, namely the fact that young children (up to six years) already take moral points of view that seem to indicate higher stages of moral reasoning, whilst those children are generally thought and expected to be at KS 1 (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).

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<sup>8</sup>. In this sense, the Kohlberg theory is developed further and kept moving rather than being removed.

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<sup>7</sup> This also appears to be the key difference between Plato’s and Aristotle’s ethics (see Minnameier, 2003).

<sup>8</sup> In Minnameier (2000b) I also explain why the explication of justice operations provided by Kohlberg et al. (1984) is insufficient.

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