

Kohlberg

Appendix A: The Six Stages of Justice Judgment

IN CHAPTER 2, we gave a detailed account of the moral stages in terms of the underlying sociomoral perspectives of each stage. Table 2.1 summarized this characterization in terms of "What Is Right," "Reasons for Doing Right," and "Social Perspective of the Stages." There is a relation between general social perspective-taking levels as described by Selman (1980) and moral perspective-taking, which we have interpreted as one in which a social perspective level is necessary but not sufficient for a moral perspective level. Moral perspectives are perspectives on social values, not social facts, and are perspectives upon the desirable and not just the desired. Stages of moral judgment are structures of thinking about *prescription*, about rules or principles obliging one to act because the action is seen as morally right. The mode of judgments stressed in our dilemma interviews is "deontic"; they not only refer to the twelve basic moral norms but stress the modal elements of "rightness," "rights," and "obligations." Rights and obligations at higher stages are correlative to one another: obligations entail respect for persons and rights. These justice modes of judgment are in turn justified by the value elements of impartial order, maximum welfare (each person is considered to count as one), social harmony, and fairness (as reciprocity and prescriptive role-taking).

Our moral dilemmas address three problems of justice that have been identified in Aristotle's *Nicomachean Ethics*. The first problem is one of distributive justice: that is, the way in which society or a third party distributes "honor, wealth, and other desirable assets of the community" (Aristotle, *Ethics*, 1130b). This is done in terms of such operations as equality, desert, or merit (i.e., reciprocity defined in terms of proportionality), and finally, equity in light of need or extenuating circumstance. The second type of justice problem is

Sections of this appendix are adapted from Levine, C., and DeVos, E., "The Form-Content Distinction and Kohlberg's Theory of Moral Development," unpublished manuscript, 1983. This appendix is revised from that of Volume 1 which appears in this volume as Table 2.1 in chapter 2.

For us the justice operation of equality can be defined as (a) identical quantities of goods for all, or for all relevant persons and/or (b) equal consideration of competing claims prior to distribution or adjudication and/or (c) assertion that all persons are equal as justification for (a) and (b) (i.e., since all are of equal moral worth, then . . .). We define equity as an operation of compensation on equality; that is "shades of inequality." For example, an equity operation constructs a notion of unequal distribution in order to compensate for inequalities that may have existed prior to the situation or that are due to special circumstances within the situation. A temporary example of the equity operation is the justification of "reverse discrimination" with regard to affirmative action policy. We define a third justice operation, reciprocity, as an operation of distribution by exchange. Of course, what is considered just reciprocity varies by stage. However, in general terms reciprocity is an operation which exchanges merit or "just deserts," reward, or punishment in return for effort, virtue, talent, or deviance. At lower stages what is considered reciprocal and equal is often hard to distinguish since reciprocity implies some notion of equality in exchange. At Stage 6, however, reciprocity is distinguished from and derived from an explicit concern for equality or equity. Our fourth justice operation is prescriptive role-taking or balancing perspectives, an operation closely tied to the problem of procedural justice. At higher stages, prescriptive role-taking stems from the realization that one must (a) take into account the perspectives of others and (b) imaginatively change positions with others in such a way that one is satisfied with the outcome of the dilemma regardless of who one is (i.e., moral musical chairs or the validity check of reversibility mentioned already). At lower moral stages prescriptive role-taking is often closely tied to the other justice operations as well as to the respondent's sense of moral norms. For example, a question regarding upholding the norm of property is answered with the response: How would you feel if someone stole from you? While one can detect a prescriptive role-taking operation in a response such as this, it clearly does not take the form of a self-conscious validity check on justice reasoning as it does at Stage 6. The final operation which we identify is the operation of universalizability. This operation is closely tied to the operations of equality and equity, and it is expressed by the appeal, Is it right for anyone to do X? This statement implies a concern for equality and equity, and at the principled stages it is explicitly expressed as a self-conscious validity check on

commutative justice, which focuses upon voluntary agreements; contract, and equal exchange. A third and closely related type of justice problem is the problem of corrective justice, which supplies corrective principle in private transactions which have been unequal or unfair and require restitution or compensation. In addition, corrective justice deals with crimes or torts violating the rights of an involuntary participant and in this sense requires restitution or retribution.

There is a fourth type of justice problem which is not independent of the three already mentioned. It is the problem of procedural justice, an aspect of justice which must be addressed in problems of distributive, commutative, and corrective justice. This problem of procedural justice, a concern more clearly distinguishable in high moral stage judgments, often represents the considerations which moral philosophers treat as validity checks on moral reasoning. These "checks" are derived from a concern for balancing perspectives or making one's judgments reversible (i.e., employing the golden rule) and from a concern for making one's judgments universalizable (i.e., employing Kant's categorical imperative). The reversibility check asks, Would you judge this action as fair if you were in the other person's shoes? The universalizability check asks, Would you judge this action right if everyone were to do it? Procedural justice, which involves a special set of considerations at lower stages, becomes a solution to substantive justice problems of distribution and correction at Stage 6, where universalizability and reversibility constitute self-conscious validity checks on one's reasoning. Before proceeding to our descriptions of the six stages, we wish to make a few comments about justice operations and that we understand them as developing into a grouped structure, in the Piagetian sense, by Stage 6. In Chapter 3 we pointed out that there were four orientations to the justice problems reviewed above—that is, the norm-maintaining, utilitarian, perfectionistic, and fairness orientations. We also pointed out that justice operations were explicitly used in the fairness orientation, where they defined elements of fairness such as reciprocity, equality, balancing perspectives, and so on. In contrast, we suggested that the justice operations were implicit in the use of elements of the other three justice orientations. Our stage descriptions will, accordingly, focus more directly on the fairness orientation, where the use of the justice operations is most clearly visible.

Norms and Justice Operations

At Stage 1 norms are concrete rules which are not identified with the psychological perspective of, or expectations of, any individuals, including the self. Instead, norms are perceived categories of right and wrong behavior. These categories define types of actions and types of persons (e.g., thieves, good sons, important persons, etc.). *Equity* at Stage 1 is a notion of distribution by strict equalization to those who are classified within any one category of actor or person. Unequal distribution can be acceptable if to persons of a less valued category. *Reciprocity* is a notion of "exchange" of goods or actions without regard for the psychological valuing of terms of the idea of self or other. This exchange is balanced in terms of the idea of "same for same" (i.e., Eskimos kill seals so seals should kill Eskimos). The operations of *equity* and *prescriptive role-taking* are absent at Stage 1 because of the egocentric, heteronomous nature of this stage of reasoning. Finally, at Stage 1 *universalizability* exists in the sense that a rule or norm is generalized and admits of no exceptions, with the possible exception of authorities who create and enforce the rule or norm. In formal terms, Stage 1 reasoning is characterized by the uncoordinated use of equality and reciprocity.

Distributive justice is guided by strict equality, and special considerations of need or deservingness are not taken into account. In cases where an authority is involved, distributive justice is guided by heteronomous obedience to or respect for authority. This is illustrated by the following response to Dilemma 1 (see appendix B for dilemmas and questions):

Q.—Should Joe refuse to give his father the money?
A.—If his father told him to save the money up, I'd give it to him, because he's older than you and he's your father. Because he's older than him.

Corrective justice tends to be retributive and based on strict reciprocity. For example, "The doctor should be given the death penalty (if he performs the mercy killing)—he killed the woman so they should kill him." Again, moderating circumstances such as intention are not incorporated. Also characteristic of Stage 1 is the notion of immanent justice—that punishment necessarily follows as an automatic consequence of transgression. For example:

Q.—Why is it important to keep a promise?
A.—If you don't then you're a liar. You're not supposed to lie because you'll get pimples on your tongue.

the conceptions of equality and equity which one has employed in moral reasoning.

We now offer the following stage descriptions. Each moral stage is reviewed by discussing stage-specific sociomoral perspectives on norms in general and upon the justice operations of equality, equity, reciprocity, prescriptive role-taking, and universalizability. Each stage description is then completed with examples of justice operations applied to the three justice problems of distributive, commutative, and corrective justice.

Stage 1: Heteronomous Morality

The perspective at Stage 1 is that of naive *moral realism*. That is, the moral significance of an action, its goodness or badness, is seen as a real, inherent, and unchanging quality of the act, just as color and mass are seen as inherent qualities of objects. This realism is reflected by an assumption that moral judgments are self-evident, requiring little or no justification beyond assigning labels or giving rules. For example, telling on your brother is wrong because it is "telling," breaking into the druggist's store is wrong because "you're not supposed to steal." Punishment is seen as important in that it is identified with a bad action rather than because the actor is attempting pragmatically to avoid negative consequences to him- or herself. Likewise, there is an absence of mediating concepts, such as deservingness or intentionality, through which the particular circumstances of the case alter its moral significance. Thus, moral rules and labels are applied in a literal, absolute manner and both distributive and retributive justice are characterized by strict equality rather than equity. Characteristics of persons that determine their authority, power, or moral worth tend to be physicalistic or categorical. For example, the father is the boss because he's bigger. You should steal to save a life if it is that of Betsy Ross, who made the flag. The perspective of moral realism represents a failure to differentiate multiple perspectives on dilemmas. This means that authority and subordinate, self and other, and other individuals in conflict or disagreement are assumed to share a single perception of the situation and of the morally appropriate response to it. Morality at Stage 1 is heteronomous in the Piagetian sense; that is, what makes something wrong is defined by the authority rather than by cooperation among equals.

terms of his or her interests or needs. The operation of *reciprocity* in this context defines a notion of concrete exchange of equal values or goods in serving the needs of self and other. The operations of equality and reciprocity are coordinated at Stage 2, as they are not at Stage 1. For example, at this stage one can reason that "Joe should refuse to give his father the money because he worked for it and earned it, and if his father wants money, then he should earn it himself." The Stage 2 operation of *equity* compensates by focusing on the needs, not the intentions, of actors. For example, it can be fair for the poor to steal because they need the food. The operation of *prescriptive role-taking* at this stage acknowledges the fact that the self would have needs as others do (e.g., "If I were Heinz and needed the drug for my wife as he did, then I'd steal it"). While perspectives are balanced at this stage in the sense that self can understand the needs and actions of the other, they are not balanced in the sense of taking into account conflicts between perspectives. At Stage 2 the operation of *universality* is expressed in terms of a concern for limiting deviation from norms by naturally self-interested persons. Thus, it is a concern that if deviation from norms is allowed for one, then there could be deviation by many, and this could produce a state of affairs which would interfere with what is considered the fair pursuit of self-interest and fair exchange. An example of this type of concern can be seen in the following Stage 2 response: "The judge should punish Heinz, because if he doesn't others may try to get away with stealing."

Distributive justice involves coordinating considerations of equality and reciprocity, so that judgments take into account the claims of various persons and the demands of the specific situation. In addition to equality and reciprocity Stage 2 can use an equity operation to consider individual needs or intentions in the light of special or extenuating circumstances. The Stage 2 conception of equity is based on the reasonable pursuit of individual needs and interests, whereas at Stage 3, equity operations consider shared social norms as the basis of distribution.

The coordination of reciprocity with equality in distributive justice at Stage 2 is illustrated by the following response to Dilemma 1: Q—Should Joe refuse to give his father the money?
A—He shouldn't give him the money, because he saved it and should use it however he wants. If his father wants to go fishing he should make his own money.

Commutative justice, as already illustrated, is a matter of following externally defined rules: "You should keep a promise because if you don't, you're a liar." Avoidance of the punishment that would inevitably follow transgression is another reason to follow promise-keeping rules (as is also the case with other rules).

Stage 2: Individualistic, Instrumental Morality

Stage 2 is characterized by a concrete individualistic perspective. There is an awareness that each person has his or her own interests to pursue and that these may conflict. A moral relativism develops out of the understanding that different persons can have different, yet equally valid, justifications for their claims to justice. That is, there is a recognition of more than one perspective on a situation and a respect for the moral legitimacy of pursuing one's own interests. The morally right is relative to the particular situation and to the actor's perspective on the situation. Since each person's primary aim is to pursue his or her own interests, the perspective at Stage 2 is pragmatic—to maximize satisfaction of one's needs and desires while minimizing negative consequences to the self. The assumption that the other is also operating from this premise leads to an emphasis on instrumental exchange as a mechanism through which individuals can coordinate their actions for mutual benefit. Thus, the moral realism of Stage 1 is no longer in evidence. An important limitation of Stage 2 is that it fails to provide a means for deciding among conflicting claims, ordering or setting priorities on conflicting needs and interests.

Norms and Justice Operations

At Stage 2 norms are psychological expectations of individual selves. They are standards for regulating action which are thought to be satisfying to the needs or interests of individual selves. At this stage norms have no fixed values except insofar as they allow individuals to have expectations of one another which maintain a balance through exchange. The Stage 2 operation of *equity* recognizes the category "persons" as all individuals, including the self, who have needs, desires, and so on that can be satisfied through one's own action and through the exchange of goods and actions with others. Categories of good and bad actions or actors have no inherent value at this stage except insofar as they represent an expectation of right that an individual would hold psychologically in

golden rule role-taking—Do unto others as you would have others do unto you. Logically, this involves the coordination of the inverse and reciprocal operations. It involves a second-order operation whereby a Stage 2 reciprocal exchange is subjected to evaluation by reference to a superordinate or shared norm against which its fairness can be judged. That is, reciprocal exchanges are not necessarily fair but must be negated or affirmed in relation to standards of morally good conduct that stand outside the reciprocal exchange.

Norms and Justice Operations

At Stage 3 norms are understood as expectations shared by persons in relationship. The purpose of norms is to maintain relationships and the loyalty, trust, and caring between persons in the relationship or group. Such relational norms are felt as obligatory. The Stage 3 operation of *reciprocity* constructs a conception of obligation as debt; the other has given a value or something valuable to the self, and the self cannot terminate this inequality by a simple one-to-one exchange but feels a sentiment of gratitude, loyalty, or duty to reciprocate. For example, when asked, "Is it a duty for Heinz to steal?" Case 9 says: "If I was Heinz, I would have stolen the drug for my wife. You can't put a price on love, no amount of gifts make love. You can't put a price on life either." This respondent is asserting that relationships and obligation are not reducible to the Stage 2 notion of concrete equal exchange. When scored as Stage 2, Case 9 was asked, "Should Heinz steal for a friend?" He replied, "No, that's going too far. He could be in jail while his friend is alive and free. I don't think a friend would do that for him." As the example of Case 9 suggests, Stage 3 reciprocity involves the notions of obligation, debt, and gratitude which allow one to understand reciprocity as going beyond concrete notions of equal exchange to maintain- ing relationship, mutuality of expectations, and sentiments of gratitude and obligation. Stage 3 reciprocity can also construct an idea of exchange whereby persons who are good or have worked hard are entitled to their just deserts or rewards (e.g., Heinz should steal if he doesn't love his wife, out of gratitude or appreciation). The operation of *equality* at this stage constructs a category of persons who are to be treated equally based on the notions of "good role occupants" and "persons with good motives." The operation of *equality* at Stage 3 leads to the making of exceptions for those who deviate, based on the recognition of extenuating circumstance and

In this judgment, the reciprocal relation between working for money and being able to spend it is seen as applying equally to both father and son.

Corrective justice at Stage 2 can involve reference to individual needs or intentions as the basis for equity. For example, "The doctor should not be given the death penalty for mercy-killing the woman, because she wanted to die, and he was just trying to put her out of her pain." This represents the beginning of a recognition that one person can see the other's point of view and modify his or her own action in response. Another example is the following: "The judge shouldn't punish the doctor, because the judge would think that if it was him who was sick he would want the doctor to kill him too."

Communitive justice at Stage 2 is based on instrumental exchange which serves to coordinate in a simple way the needs and interest of individuals. For example, it is seen as important to keep promises to ensure that others will keep their promises to you and do nice things for you, or it is important in order to keep them from getting mad at you.

At Stage 3 the separate perspectives of individuals are coordinated into a third person perspective, that of mutually trusting relationships among people, which is embodied in a set of shared moral norms according to which people are expected to live. These moral norms and expectations transcend or are generalized across particular persons and situations. Stage 3 norms can be distinguished from Stage 1 rules in that norms represent an integration of perspectives that have been recognized as separate, a coming to general social agreement on what constitutes a good role occupant, whereas the orientation to rules at Stage 1 represents a failure to differentiate individual perspectives. The primacy of shared norms at Stage 3 entails an emphasis on being a good, altruistic, or prosocial role occupant and on good or bad motives as indicative of general personal morality. This recognition of the importance of motives also distinguishes Stage 3 norms from Stage 1 rules. As a result of the socially shared perspective, the individual at Stage 3 is particularly concerned with maintaining interpersonal trust and social approval.

The justice operations of Stage 3 are most clearly represented in

upon empathy with good intentions. At this stage, the operations of reciprocity, equality, and equity can be expressed in a way that indicates that they are coordinated and linked to a prescriptive role-taking operation. The following response exemplifies this idea: "It's all right for Heinz to steal the drug because the druggist is heartless in ignoring Heinz's wife's right to live." Another example of this coordination of operations at Stage 3 can be seen in the following response: "The judge should be lenient with Heinz because he has suffered enough and didn't want to steal." The Stage 3 operation of *prescriptive role-taking* or balancing perspectives is the Golden Rule. There is a clear use of the Golden Rule for the first time at this stage. It is expressed as the idea that something is right or fair from one's point of view if one could accept it as right or fair from the other's point of view. Here the Golden Rule can be a positive prescription (e.g., "You should help someone to save their life, because if you were them you would want that to be done for you") or it can be expressed as a limiting prescription in the sense that an expectation at odds with taking the other's viewpoint is not considered to be obligating (e.g., "Joe should refuse to give his father the money because his father should not demand the money and should be concerned with how Joe feels"). An example of how the operation of *universality* is expressed at this stage can be seen in the following response: "All people should obey the law because without laws immoral people would cause chaos." At Stage 3 this operation of universalizability expresses a desire to limit deviation that would interfere with the actions and the realization of the intentions of morally motivated persons (i.e., those who are loyal, good, etc.). Thus, the chaos feared at Stage 3 is one that would interrupt a community of persons with good intentions.

Distributive justice at Stage 3 is based on the coordinated use of operations of equality, reciprocity, and equity. At Stage 3, the strict equality and literal reciprocity of Stage 2 is replaced and modified by reference to shared norms or motives. Thus, in addition to focusing on individual needs or interests, as at Stage 2, persons are now considered in terms of their goodness, badness, and deservings. An example is provided by the following response to Dilemma III: "That must be a pretty terrible druggist. A druggist is like a doctor, he's supposed to save people's lives." Thus, the Stage 2 notion of reciprocity as "he made the drug so he can do what he wants with it" is negated by reference to socially shared norms of a good druggist.

Corrective justice at Stage 3 also emphasizes the relevance of motives and whether or not the transgressor is living up to a shared conception of a good person. If so, punishment is not warranted:

Q—Should the judge sentence Heinz?

A—The judge should see why he did it and see his past record. Let him go free and give a warning.

Q—Why?

A—He did it from the fondness of his heart . . . what most humans would do.

Commutative justice also involves the modification of reciprocity by reference to shared norms and deservings. For example, while a young child might freely agree to trade his dollar for an adult's twenty-five-cent candy bar, at Stage 3 the fairness of this exchange would be denied on the ground that the adult knows better and should not take advantage of the child's ignorance. That is, at Stage 3 the adult should live up to a socially shared conception of his benevolent, protective role in relation to the child.

A similar idea is represented by the following response to Dilemma I: "Joe shouldn't give his father the money, because even though, as his parent, his father can demand the money, he shouldn't do it because that would be selfish and childish."

Stage 4: Social System Morality

At Stage 4 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 the maintenance of the sociomoral system as a whole. The informally shared norms of Stage 3 are systematized at Stage 4 in order to maintain impartiality and consistency. A social structure that includes 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. This realization makes it necessary to maintain a system of rules for resolving such conflicts. The perspective taken is generally that of a societal, legal, or religious system which has been codified into institutionalized laws and practices. Alternatively, the perspective may be that of some higher moral or religious law

ing universalized attitudes of respect for law and the integrity of societal organization. This idea is expressed in the following response: "One should obey the law because respect for the law will be destroyed if citizens feel they can break it just because they disagree with it."

Distributive justice at Stage 4 is based upon the coordinated use of the three justice operations. However, at Stage 4 these operations are modified by a concern for impartiality, respect for social institutions (such as systems of authority and private property), and considerations of social merit and contribution to society. Generally, maintaining respect for property rights as a return for investment of effort is considered to be central to social organization. On the other hand, property rights may also be seen as contingent upon demonstration of social responsibility. This is exemplified by the following response to Dilemma III:

Q.—Did the drugist have the right to charge that much?

A.—No, for him to make that much profit is ignoring his responsibility to people.

Corrective justice at Stage 4 centers on the notions of impartiality in application of the law and corrective action as protecting society through deterrence, by removing threats to society or by providing a means for the offender to "pay his or her debt to society." The importance of upholding impartiality or consistency reflects a concern about procedural justice which emerges as a central justice problem at Stage 4. This is illustrated by the following response to Dilemma III:

Q.—What would be the best reason for the judge to give him a sentence?

A.—Exceptions to the law cannot be given. This would lead to totally subjective decisions on the part of the law enforcers.

Commutative justice at Stage 4 is based on a recognition of the importance of contractual agreements for maintaining a smoothly functioning society or on the value of upholding one's moral character, integrity, or honor. For example:

Q.—Is it important to keep a promise to someone you don't know well?

A.—Yes. Perhaps even more so than keeping a promise to someone you know well. A man is often judged by his actions in such situations, and to be described as being a "man of honor" or a "man of integrity" is very fulfilling indeed.

which is embodied in the individual's conscience and which may conflict with institutionalized law. In this case, internal conscience or moral law is equated with some system of divine or natural law. That is, moral judgments at Stage 4 are made in reference to institutions or systems—either legal and social institutions or moral and religious institutions and systems of belief.

Norms and Justice Operations

At Stage 4 norms promote cooperation or social contribution and act as regulations designed to avoid disagreement and disorder. *Equality* as an operation constructs the idea of "equality before the law"; that is, persons are equal in the sense that the rights and obligations of each are defined by societal standards such that each obeys a law even if you don't agree with it because a law is made by the majority of people and you have to consider what's good for the majority." Examples of the *equity* operation at Stage 4 can be seen in the following responses: "The judge should be lenient to Heinz in order to demonstrate that the law can be fair or humane." In other words, equity at this stage makes exceptions to the general application of norms on the basis of the idea that societal standards may not be sufficiently sensitive to take into account certain individual circumstances or needs. This equity operation is different from the Stage 3 notion in the sense that it is the system and not a specific other that is recognized to be the agent responsible for exception making. The operation of *reciprocity* at this stage is articulated as a "norm of reciprocity" linking the individual with the collectivity. There is a sense of duty, obligation, or debt to society incurred by the benefits received from living in or having membership in the institutions of society. Such an idea is expressed in the following response to Dilemma III: "The drugist should have used his invention to benefit society," and "it is important to save another's life because people must have some sense of responsibility for others for the sake of society." The operation of *prescriptive role-taking* at Stage 4 achieves a balanced perspective between individual actions and societal standards, an idea expressed in the following response: "Heinz should steal the drug but he should still see that it is wrong in society's eyes and that he'll have to be prepared to accept the consequences." Finally, at this stage the operation of *universalization* constructs the idea of limiting deviation for the sake of maintaining

the fact that at Stage 5 equality notions of life and liberty are fundamental assumptions in reasoning and provide for the foundation of norms, whereas at earlier stages notions of equality are derived from norms, laws, and so on and are employed to justify them. The *reciprocity* operation at this stage constructs an idea of the exchange of concrete or symbolic equivalents between freely contracting individuals. In this notion, the key idea is free agreement into contract and not just the idea of the equivalence implied in exchange. At Stage 5 the *prescriptive role-taking* operation stresses the necessity of taking into account the viewpoint of each individual involved in a social situation; that is, each is seen as, and is to be counted as, an individual. This idea is expressed in the following response to Dilemma IV: "The doctor should take the women's point of view as to whether to live or not, out of respect for her own sense of dignity and autonomy." An example of how equality, equity, and reciprocity are coordinated at Stage 5 can be seen in the following response concerning the issue of equal opportunity: "Each should have an equal chance to make their contribution to society and reap the appropriate benefits, even if they have different starting points or are disadvantaged." The operation of *universalizability* at this stage expresses a universalized regard for the value of human life and liberty. Moral norms or laws should be generalized or universalized for human beings living in any society.

The justice operations of *distributive justice* at Stage 5 are structured around respect for fundamental human rights and a rational hierarchy of rights and values, or around a process of social cooperation and agreement. The latter is exemplified in the following response to Dilemma III:

Q—Last time we talked you mentioned something about a priori rights. . . . A— . . . it revolves around what I was saying just now about rights that kind of go with being a human being, but really those rights have been defined by us as people, by agreements that we have reached through some kind of social process, and so I may be kind of backing off from the concept. . . .

Corrective justice also focuses on human rights and/or social welfare, and retributive notions of punishment are given up. Capital punishment, for instance, is typically rejected as retributive. *Procedural justice*, including a concern for due process, is closely related to corrective justice at Stage 5. It is assumed that the practice of consistently applying due process will (in a reasonably just legal sys-

Stage 5: Human Rights and Social Welfare Morality

The Stage 5 prior-to-society perspective is that of a rational moral agent aware of universalizable values and rights that anyone would choose to build into a moral society. The validity of actual laws and social systems can be evaluated in terms of the degree to which they preserve and protect these fundamental human rights and values. The social system is seen ideally as a contract freely entered into by each individual in order to preserve the rights and promote the welfare of all members. This is a "society-creating" rather than a "society-maintaining" perspective. Society is conceived of as based on social cooperation and agreement. Within the Stage 5 perspective, the primary focus may be either on rights or on social welfare. The former orientation emphasizes the point that some rights must be considered inviolable by the society. These rights cannot be abridged even through freely chosen contracts. Each person has an obligation to make moral choices that uphold these rights, even when they conflict with society's laws or codes. There is a concern for the protection of the rights of the minority that cannot be derived from the social system perspective of Stage 4. The social welfare orientation reflects a rule-utilitarian philosophy in which social institutions, rules, or laws are evaluated by reference to their long-term consequences for the welfare of each person or group in the society.

Norms and Justice Operations

At Stage 5 norms are defined as maximizing and protecting individual rights and welfare and are seen as being created among free persons through procedures of agreement. The *equality* operation at this stage recognizes the fundamental equal rights and equal worth of individuals as reflected in judgments about the ultimate value of human life and human liberty. At Stage 5 the *equity operation* asserts equality claims which norms, laws, or procedures exist which are insensitive to, or prevent the realization of, basic human rights and respect for the value of human life. An example of such a view can be seen in the following response to Dilemma III: "It may not be wrong to break a law where the function of it was not protecting rights, but was protecting infringing on them." Unlike previous stages, where the "target" of compensation for the equity operation was some notion of equality, at Stage 5 the target becomes the norms, laws, or procedures. This shift in perspective is a function of

(dying person) is expected to take the point of view of the other in putting forward his claim and so modifying it. A third formalization is expressed through an actual dialogue, the equivalent of internal dialogue as described by Kohlberg. A fourth, utilitarian, formalization by Haranyi is that of considering preferences under the condition of having an equal probability of being any of those involved in a situation or a society. It is manifested in response to a dilemma by considering the point of view of each person involved and balancing these points of view. It is also manifested in explicit statements of the intrinsic worth, dignity, or equality of every human being, that is, in expressing the attitude of respect or care for persons as ends in themselves, not solely as means to achieving other values, no matter how lofty or desirable, such as the good of society or human survival and development. It is manifested in using the criterion of universalizability, that is, would I want anyone in my (or Heinz's) position to choose the way I do? It is manifested, fourth, in using one or more general principles to make a decision. General principles are distinct from either rules or rights, first, in being positive prescriptions rather than negative prescriptions (don't kill, don't steal or cheat), and second, in that they apply to all persons and situations. Respect for human dignity may imply sometimes breaking the rules or violating socially recognized rights (stealing the drug, giving a lethal dose of morphine at the request of a dying woman in pain). General principles at Stage 6 may be one or several. Single principles include the principle of justice or respect for human personality or dignity and the principle of utility or benevolence, that is, act so as to maximize the welfare of all individuals concerned, the attitude of universal human care or *agape*. Multiple principles of justice include the principle of maximum quality of life for each, maximum liberty compatible with the like liberty of others, equity or fairness in distribution of goods and respect. These principles may be expressed either in terms of the language of human rights (and reciprocal duties) or in the language of care and responsibility for human "brothers and sisters."

Operations and Principles

At Stage 6 the operations we have been discussing form a coordinated whole which constitutes a self-conscious structure for moral decision making. At Stage 5 law and moral norms are grounded on the operations of equality, equity, and so on. At Stage 6 these

(em) lead to more equity than will the practice of making each individual decision on an *ad hoc* basis. Corrective justice may also be oriented toward effecting social change through the judge's discretion in interpreting the law. For example, "I can see the point of the judge trying to act as a reforming force in law by handing down a sentence which is so light as to effectively say the law itself is wrongly applied here."

Communitive justice focuses on contract as a necessary form of social agreement, the foundation of human relationships. That is, making and being able to depend upon agreements is the basis for social relationships and a source of moral obligation: "Society is interrelationships with other individuals. You would have no basis for that relationship if there were no trust or acting in good faith, so to speak." As is true of distributive and corrective justice, communitive justice at Stage 5 may also focus on respect for the rights of the parties to an agreement. The importance of upholding contracts is seen as deriving from the fact that people warrant respect in their own right as individuals having intrinsic worth and dignity. Breaking an agreement is seen as a violation of the other's intrinsic dignity or value.

Stage 6: Morality of Universalizable, Reversible, and Prescriptive General Ethical Principle(s)

"The sociomoral perspective of Stage 6 is that of 'the moral point of view,' a point of view which ideally all human beings should take toward one another as free and equal autonomous persons. This means equal consideration of the claims or points of view of each person affected by the moral decision to be made. This prescriptive role-taking is governed by procedures designed to insure fairness, impartiality, or reversibility in role-taking. Procedures of this sort are formalized in various ways. One formalization is Rawls's original position of choosing under 'a veil of ignorance' in which the chooser does not know which person in a situation or society one is to be and must choose a principle or policy with which one could best live in any position including especially, the position of the person(s) who would be most disadvantaged in the society. A second formalization is that of 'moral musical chairs,' a second order application of the Golden Rule. Not only is Heinz to take the point of view of the dying person, of the druggist, and of himself, but in doing so each person (druggist,

actions of Heinz scaling the drug or Dr. Jefferson performing euthanasia are seen to require no punishment, but they do require one to consider issues of procedural justice.

Communitarian Justice is based on the recognition of trust and mutual respect as the bases of contracts and promises. Promises are seen as the foundation of contracts. Promises presuppose and affirm a moral relationship between promisor and promisee. A violation of a promise is both a violation of trust and a violation of a relationship of mutual respect between promisor and promisee as autonomous persons of worth and dignity. It is the violation of a right awarded to the promisee in making the promise. Promises may be modified or violated only insofar as they maintain a moral relation of mutual respect or reversible role-taking; for example, one may break an appointment to serve the urgent need of a third party, a violation of promise which the promisee as a moral person would necessarily understand through ideal role-taking or "moral musical chairs." Violation of promises is not so much seen as a violation of the self's integrity (Stage 4) as it is seen as an issue of the integrity of the other and of the relationship.

operations become self-conscious principles. Given this self-consciousness of moral agency and decision making, the operations of prescriptive role-taking (i.e., balancing perspectives) and universalizability become operative principles as well as being valid checks on the reasons given for upholding moral laws or norms. Stage 6 is not so much "based" on a new social perspective beyond Stage 5's notion of a prior-to-society perspective as it is on a *deliberative* use of the justice operations as principles to ensure that perspective when reasoning about moral dilemmas. These characteristics of Stage 6 reasoning require that Stage 6 raise dialogue to a principle, a principle of procedure or "moral musical chairs." Thus, while Stage 5 is grounded on the notion of fixed contract or agreement, Stage 6 is oriented to the process by which agreements or contracts are reached as well as to ensuring the fairness of the procedures which underlie such agreement. Underneath the fixed contract and agreement of Stage 5, designed to protect human rights, is the notion of the importance of maintaining human trust and community. At stage 6 the notion of trust and community becomes the precondition for dialogue, human rights, and so on. (We should note that Stage 5 has difficulty balancing the notion of fixed contract with the underlying notions of trust and community, a problem that Stage 6 resolves through the operation of dialogue, a derivative of moral musical chairs.)

Distributive Justice at Stage 6, in addition to the principle of equality, uses the principle of equity or fairness. At this stage equity does not include reference to special rewards for talent, merit, or achievement. These are largely seen as resulting from differences in genes or in educational and social opportunities which are morally arbitrary, or to unequal distribution by society. However, Stage 6 equity does include recognition of differential need, that is, the need to consider the position of the least advantaged. Where distribution of scarce basic goods must be unequal (e.g., issues of who should live in "life-boat" dilemmas) a lottery approach is preferred to favoring the strong of the more socially useful.

Corrective Justice is not retributive; while punishment through either incarceration or restitution is seen as necessary to protect the rights or welfare of potential or actual victims of crime through isolation or deterrence, it is not based upon inflicting suffering or death as "repayment" for demerit or immorality. The offender is still seen as a human being with human dignity to be respected as far as this is compatible with justice principles. For example, the