

Respect for Bad Thoughts*

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Let us say you are sexually aroused by the thought of a man raping a baby and so you create a computer-generated image on your laptop, adding some red pixels to give the illusion of blood. You are now liable to three years' imprisonment. There is no need for proof of the risk of harm to anyone, for merely to possess this 'extreme pornographic image' constitutes the offence.¹ Furthermore, it is difficult to see a significant difference between having this thought and computer-generating it, for only pedants would argue that the offence lies *only* in the fact of possession (and in any case somewhere along the line the person who produces the image must do it with the thought, principally, of sexual arousal). Of course, the purpose of the offence is to enable the conviction of paedophiles who do a lot of this sort of thing and do a lot of harm. But the reality is that this offence creates a right in the state to *punish* people for merely having a thought, bad though that thought is.

There is an additional point. If it were really 'wrong in itself' to possess extreme pornography and this wrong really were independent of harm to others there would, in principle, be no justification for *anyone* possessing such material. True, the lack of justification would stymie the function of the courts and prosecutors since possession in their hands would mostly be necessary for a successful prosecution. But why should those involved in your prosecution be allowed to possess what you are not? It would be unfair: they are allowed to commit the offence but you are not. That Parliament allows it is insufficient because that is self-justifying and doesn't address the moral problem. If it is wrong *in itself* to possess extreme pornography that is a wrong for everyone, in the same way it is wrong for anyone to murder. Few people would suggest that if the occasional murder would help the prosecution of an offence then that could be permitted by Parliament. The point applies equally to possession of drugs, at least in those cases where someone has produced a drug (e.g. growing cannabis) for their own use. We should therefore view the argument - that prosecution of the offence couldn't be justified when possession of extreme pornography was required for it to be successful - as a *reductio ad absurdum*. Because prosecution is required, it must follow that it is the possession of extreme pornography *by the defendant* as opposed to the state that is especially disturbing and that suggests that the rationale for the offence is harm to others. The problem, however, remains. The possession of this image, like the possession of home-grown cannabis, harms no one. The ancestor of this offence is still in force – possessing pornographic photographs of children – but requires evidence of an intention to distribute, thereby including the harm element.² It is now possible to manipulate images without downloading, and people will be able to create ghastly images of whatever they think and as sadistic and as sexual as they like. Should these people really be subject to criminal liability merely because they have, for themselves, produced images on their computer screen, or printed these images onto paper?

The issue of thought crimes is intimately related to whether hate speech should be made criminal. There is a philosophical tradition of drawing a sharp line between 'the mind' and 'the body' (perhaps Descartes started it) which on examination doesn't amount to much.

* I'm grateful to Alex Calladine for helpful comments throughout.

1. S.63 of the Criminal Justice and Immigration Act 2008.

2. S.1(c) of the Protection of Children Act 1978 of which makes it an offence to possess indecent photos with a view to their being distributed, etc.

We can see a person's thoughts 'on their face' or in the awkward or relaxed way they go about a task. Stillness and silence, and the presence of hidden thought, can be just as chilling as violent action (think of the use of silence in a Pinter play or the ominous background bureaucracy in Kafka novels) or as comforting as the quiet of home. Human relationships, particularly intimate ones, flow in a seamless medium between thought and action. Nevertheless expressing hate is insulting, hurtful and potentially cruel, and one can see how it could, especially if it contributes to a persistent pattern of behaviour from others, cause harm, that is, amount to an unjustifiable interference with personal freedom.³ But hate speech is not necessarily harmful and it must be true to say, generally, that the expression of hateful thoughts and feelings is well within the normal range of situations that human beings expect to face. For no one, surely, would advocate the outlawing of hate speech between man and wife in the throes of divorce or the expression of hate from a couple whose children have just been badly maimed by a drunken driver. Where then is the room for the outlawing of hate speech itself as a category of act that is separate from the clearly harmful cases of intimidation, bullying, and harassment? Those cases that fall short are not so different from the computer-generated images you have produced. I suggest the real aim of the legislation is to get at hateful and horrible thoughts and the unpleasant people who have them rather than to prevent anti-social conduct.

One of the practical problems is that where isolated expressions of hate are harmless, in conjunction with the expression of similar expressions they can become harmful. However such situations may be defined so as to include concert with others, thus preserving the harm principle. Hate speech developed this way becomes just another dimension of the offence of harassment. Someone who stares at you once or follows you home once, displaying an inchoate thought, might not quite pass a margin suitable for criminal liability but once this becomes a pattern or course of conduct (which might in some circumstances amount only to a repeat act) it can become harmful.⁴ It does not follow, of course, that isolated non-harmful hate speech becomes harmful merely by its being promulgated in concert with others. One of the popular problems concerning hate speech is whether individuals in football crowds shouting racist slogans along with others should be subject to criminal sanction, and there is a tendency to assume that merely because a crowd is involved the action is harmful. The more interesting problem here concerns the link between speech and thought. Crowd chanting of racist slogans is pretty clearly often completely mindless, the chanters neither believing nor disbelieving what it is they are saying.

How much does any of this matter? Waldron has recently claimed that the issue of hate speech is not that of the thought itself and that people who advocate the criminalisation of hate speech do not want to 'get inside people's minds.' Rather, hate speech is harmful to some ethnic and other groups because it creates a 'polluted social environment' for them.⁵ His invocation of 'pollution' is troublesome. 'Pollution' suggests that hate speech somehow gets into the air we breathe, and the analogy with speech and action perhaps suggests more than it should. Is there really more to an expression of hateful thoughts than what generally constitutes communication? Take swearing which is, in general, unpleasant although it is often the aggression with which it is uttered that is more so. But swearing can also be an

3. In this context, I use 'harm' to mean an 'unjustifiable interference with liberty' following the most consistent interpretation of Mill in his famous essay on liberty. See also Raz, *The Morality of Freedom* (OUP, 1986) Chapter 15. As Raz says, 'harm' in every day use would include some violation of our physical integrity and such violation does not necessarily restrict our liberty (a pin-prick, say); it reveals a different dimension of moral wrong. The arguments concern the question of what is unjustifiable, of course.

4. See s.2 of the Protection from Harassment Act 1997. See also s.7 where 'course of conduct is defined' and, particularly, s.7 (4) which states that speech can amount to harassment.

5. Waldron, Review of Lewis, *Freedom for the Thought That We Hate: A Biography of the First Amendment* May 29th 2008 *New York Review of Books* Vol.55 No.9

effective form of speech – and funny let's not forget. Is it 'polluting'? There are many unpleasant things on our streets, true. But what constitutes 'pollution' short of actual interference with any person is difficult to say and veers into the realm of taste. Part of the difficulty is that the debate concerns the creation of criminal offences and these import stigma, punishment, publicity, delay and worry.⁶

Is the hateful thought really irrelevant to 'social pollution?' If through technological development it became possible to read people's thoughts would those thoughts be subject to Waldron's suggested test of social pollution? Maybe the answer lies in the question of control. If we can't control certain of our thoughts (we clearly can some, and this is part of the problem of self-discipline) it could be unfair to impose criminal liability, in the same way as it would seem to be unfair to hold a Tourette's sufferer to account when uncontrollably using obscene language.⁷ Would we, however, adjust to the idea of making people liable for their controlled thoughts so that the whole business of hate speech would just step back a bit into what was only formerly the public realm?

It is at least odd to suppose we could lock someone up because their perhaps unintentionally made public thoughts were polluting.⁸ If there were a predominance of sullen looking people at the theatre spoiling my enjoyment of *The Sound of Music* would that be anywhere on the road to being 'socially polluting' to those whose evening would be enhanced by a more appreciative audience? Or the sight of drunk tramps in cardboard boxes and the very idea of their thoughts as we step our way from the Thames to the opera at Covent Garden? It is easy to be seduced into thinking that 'pollution' is the defining issue. Take possessing extreme pornography. Probably people who are sexually aroused by the thought of violent sexual acts on children are a serious cause for concern. Look at it from the point of view of the police who daily see the connection between paedophiles who are convicted of offences and the horrible pornographic material they have back at their flats. The concern here is, of course, the dispositions such people might have. There is also a degree of prurience: people don't want people to arouse themselves sexually with such thoughts. And there is the danger that disgust will overcome rational assessment of evidence. The possession offence tends to suggest that popular belief in untested empirical assumptions about the relationship between bad thoughts and anti-social behaviour has held favour with politicians. We could argue that where children are involved *and* the harm possible to them is high the criminal law may justifiably lean heavily in their favour so that only weak empirical assumptions of a connection are sufficient. And perhaps this weighting in favour of the protection of children – a bending over backwards - against the private possession of these materials comes closest to a decent justification. But in general to criminalise within the realm of what people think would be to demolish the last bastion of privacy any of us has.⁹

The political background to the legislative proposal to create the offence of 'possession of extreme pornography' was populist and perhaps cynical. It required some courage to be a critic of the proposal in public because of the danger of being singled out as someone who 'condones' violent sexual thought. But that charge would be wrong for it does not follow that because a person supports a right to bad thoughts that they must therefore approve the content of those thoughts. Playing on widespread lack of appreciation of this

6. See Hart, *Punishment and Responsibility* (2nd rev. ed. OUP 2008) ch.1.

7. For example, the British Institute for Brain Injured Children (BIBIC) is concerned at the seemingly disproportionate number of ASBOs given to children suffering from autism, Asperger's disease and Tourette's syndrome.

8. Incidentally, a crowd chanting racist slogans at a football match might be less polluting if their thoughts were on view, since crowd behaviour can be mindless - what two thousand joined voices of hate produce may be accompanied by relatively few actually joined thoughts of such hate.

9. Dominic Lawson, 'We All Want to Protect Children from Sexual Abuse – But This Is An Intrusion Too Far' *The Independent* 30 May 2008.

relatively difficult idea is the major reason Parliament gets away with it (another is moral panic but I shall not discuss that here); the thoughts envisaged by the statute can be genuinely horrible.¹⁰ The government was also able to call on the increasingly popular view that moral judgements are merely matters of taste and so unsupportable by reasons - just facts to be reported about 'how we *feel* about things.' This is often called the 'yuk' factor,' meaning the view that 'feeling disgusted' substitutes for proper moral assessment and judgement. In that potent and dangerous idea it is easy to lose sense of the once more popular idea that 'people's thoughts are their own,' which is a much stronger version of (because it underpins) the idea that we have a 'right to do wrong' which entails a right to *express* wrong or deeply hurtful thoughts. Criminalising our thoughts would mark a serious step backwards in our legal system and the progression to speech is no greater than on a gentle slope. Is a sullen face, the incline of a head, a sudden look of anger, an expression of disgust, pursed lips or rapid blinking in response to what someone thinks, so different from the having of a thought? I suggest that respect for people requires respect for *expression* of their thoughts, too, and that no valuable freedom is possible if that freedom is curtailed where no harm is threatened to others. The crux is that there is a crucial sense in which we respect another person yet rightly have absolutely no respect for that other's thoughts and dispositions.

It helps in examining this idea to isolate cases where thoughts have no consequence for others but are uncontroversially bad thoughts. If we think that there is merit in thinking that such thoughts should not be criminalised, that should give us some clue as to the extent to which those bad thoughts may without fear of criminalisation be thrust into public space. Some will naturally think that a thought is bad *only* because it has the potential for bad consequences and so I am navigating non-existent questions. But this position seems to me untenable because there is sufficiently clear evidence that perfectly harmless people harbour thoughts that are unpleasant, nasty, lazy, dishonest, violent and the rest. So I shall disregard the following sorts of reasons for justifying freedom of thought:

- a. because we might not be right about whether they really are bad (and so we might accidentally prevent a D.H. Lawrence, or James Joyce, or a Shakespeare from engaging in a beneficial imaginative project);
- b. because preventing people from having bad thoughts is either downright impossible, or too inefficient to be justified; or
- c. because there is insufficient empirical evidence that such thoughts might lead (perhaps in conjunction with a significant number of other similar thoughts) to:
 - *harmful* acts (unjustifiable interference with the freedom of others), or to the
 - *insulting* acts, short of harming others, or to
 - a '*polluted*' *social environment* in which life is less pleasant and less hopeful either for some particular group, e.g. women, or just generally.

Do we really have a right to 'do wrong'? That idea is a relatively late product of the Western Enlightenment and was not always with us; indeed the idea of our having rights 'against' anyone or of individuals 'possessing rights' was not according to some studies part of the discourse of political philosophising until Grotius's time.¹¹ And so very likely the case for the importance of a 'right to do wrong' must be put again. But I don't have to go *that* far in order to establish, with less difficulty I believe, that we have a right to whatever thoughts we

10. Obviously, thinking this way is not *always* horrible. I might be a detective, trying to work out where blood would fall in such a scenario, the better to detect the crime (but perhaps knowing I'll be sexually aroused by it). Or I might be an artist developing a Leda and the Swan theme but also motivated by sexual interest. Less obvious is where I have produced the image in order to be aroused, to see how horrible it would be, as a well-meant attempt at empathising with a paedophile's motivation.

11. Tuck, *Natural Rights Theories*, (CUP 1981).

like. And like those who argue for a right to act wrongly, I'll claim that it is a requirement of respect for people that we respect their ability to be self-initiators, to have and direct their own thoughts and desires, in short, that we respect them as free people however much we lack respect for what it is in the end they decide to do.

It follows there are two levels at which we can show disrespect for another person only one of which makes meaningful a right according to which another can justifiably claim that their dignity has been significantly attacked. To be highly insulting shows disrespect but does not give rise to a right 'not to be insulted.' To prevent another from expressing a thought shows disrespect at a deeper level, one that *does* give rise to a right not to be so treated. The argument for respect at two levels is important because it attacks the idea that the showing of disrespect by someone leads to the withdrawal of their right to express their thoughts, while allowing that withdrawal when the disrespect attacks the very expression of thought itself. To be rude and hurtful, in short, is allowed where it does not amount to harming others but attempting to prevent a person from forming his thoughts is not allowed. The former does not strike at respect where it matters.

The ground for a right to freedom of expression – my suggestion is protection of mental activity – lies firmly in the idea of respect for others, but only at the deeper level. This means that the expression of disrespectful thoughts – displaying pictures of the recent dead, or acts of bestiality - has no bearing at all on the question whether rights to expression of those thoughts should be denied.¹² Many place the thoughts and acts of denying certain propositions – for example, that God exists or that the Chinese government is repressive, or denying the Holocaust – into the same category. But these are human beings who say these things and as vile although these thoughts may be the respect for the humanity of those human beings must remain.

There is an array of mental activity we can subsume under the idea of 'bad thoughts.' Decisions and intentions are clearly bad if bad consequences are contemplated. Awareness of a risk of bad consequences - recklessness, intentional inadvertence, not caring, 'turning a blind eye,' or shirking responsibility - are likewise bad and exist within the shade of intention. There are less clearly consequential bad thoughts, however, such as controlled fantasies that a person will intentionally produce involving creativity, imagination, sexual arousal, greed and much besides. Uncontrolled fantasies are those we have in dreams. The full gamut of our mental states is the stuff of psychologists and novelists, as well as exists in our daily life. There are thoughts that offend the dignity of the person who has them – they 'lower' him - or they encourage or manifest a disposition in that person to act wrongly towards others. We know the person who consistently prefers certain sorts of mental activity of say an undisciplined and self-indulgent or other sort.

The important sense of respect relies in our understanding of what we ourselves are alike and that others are like us. Our innate capacity to see others 'as us' is governed by a rational mechanism that both constrains our understanding of our self and constrains our contact with others. We draw from our internal knowledge of ourselves and use that knowledge to understand others; we innately recognise others to be human 'like us.' Because the transmission of what we understand as significant in ourselves is projected onto others our judgements about ourselves should rationally match up with those transmitted judgements. It would be inconsistent, for example, to say of another that they are 'human' and then deny they suffer pain (without, at any rate, some further explanation, say, about anaesthesia). This inter-personal understanding seems to me to be at the core of moral judgement. It expresses, for example, the so-called 'principle of reciprocity' at the heart of

12. These two examples are Barendt's; see his *Freedom of Speech* (2nd ed. OUP 2005) 33.

many religions that you should not act towards another in a way that you would not want them to act towards you.

This account of moral judgement is not intended to be a straightforward derivation from empirical judgements about ourselves (that we wish to avoid pain, for example). Rather our self-judgements depend not on what we only think to be desirable or not but what is *objectively* so. These judgements are not generalisations because they are not detachable from judgements about what it is to be 'human.' It is through self-knowledge *and* knowledge of others that we make judgements of a universal kind about human nature. Kant took this rather straightforward view much further in claiming that our motives for acting morally could lie in reason alone (and the ability to formulate universal rules). But he thought that awareness of our own capacity for free choice meant that in the knowledge that others are 'like us' we were bound to conform in our exercise of our freedom to rules that applied in exactly the same way for everyone. But common to both my view and Kant's is that appreciation of others as equally human to ourselves as the basis for moral rules means that 'the human being' (or the 'human' or the 'person') becomes the centre or 'end' of moral deliberation (in Kant, the 'rational being' is central). Therefore fundamental weight and not just 'a consideration to be taken into account' - as some lawyers like to say - has to be given to the 'person behind' the thoughts and actions.

People are, however, disposed to make judgements that conflate a person's humanity and our due respect for that (which I emphasise must flow from our respect for ourselves) with how that person thinks and acts, in some sense *how* they exercise their humanity. They will conclude that because a person has failed in some way that the necessity for respect that person is due as a human being has vanished. The view that respect does not depend on how the freedom is exercised runs counter to the idea that we respect free thought so long as it is exercised in a way that contributes to maintaining and enhancing a decent society - a democratic one - or it enables people by endorsing moral independence to develop morally.¹³ I believe these restrictions are unnecessary. Much better are some theories such as Scanlon's¹⁴ which maintain that thought and speech should be protected (i.e. not criminalised) because the human 'capacity to be rational' should be protected. These theories are better because the proposed justification is less instrumental to a person's good. The thought lingers, however, as to whether we may intervene to protect someone from having irrational thoughts and expressing them; the celebration of rationality seems to require too much. Should we really restrict the thoughts and speech of someone to protect their rationality? It is *human* to respect people who are pretty well incapable of rational thought. We might also think how we should conceive of rational thought. People are nasty, stupid, brilliant, self-deceiving, imaginative, dull, creative and mad; this array probably defies categorisation into the rational and irrational. I would rather suggest it is respect for the extraordinary range of 'things that go on in people's minds' that gets at it better, although the connection with freedom as Kant discerned is there: we cannot quite understand the *production* of thoughts and thoughts-and-actions without some conception of there being some initiation on our own part. We respect this aspect of the human condition just because it is *human*. People are still to be valued and respected as human even when they think and say and do things that strike at the very roots of rationality, even the roots of understanding of what it is to be human. The medical procedure of frontal lobotomy brings this out well. This intervention penetrates the centre of human personality; it can be meant well as it prevents a

13. The origins of the 'rational approach' are in Milton, *Areopagitica* (1644). See also Mill, *On Liberty* (1851) ch.2 'Of the Liberty of Thought and Discussion'. See for contemporary developments Bollinger, *The Tolerant Society* (OUP 1986); Schauer, *Free Speech: A Philosophical Enquiry* (CUP 1982); Raz, 'Free Expression and Personal Identification' (1991) 11 *OJLS* 3.

14. See Scanlon, 'A Theory of Freedom of Expression' 1972 *Phil. & Pub. Affairs* 204. Also see Fried, *Saying What the Law Is: the Constitution in the Supreme Court* (Harvard UP 2004).

person from doing themselves harm irrationally, and from the post-operative docility after the irrational storm it may seem a sensible and kind solution. But it eliminates a vital spark.

Indeed it is the failure to grasp the distinction between ‘the person’ and ‘his or her acts’ that lies behind serious misunderstandings about what it is to be moral. We must be able to conclude that a person is a human being yet recognise their faults. The question then becomes one of what it is appropriate to do about those faults and we should ask and answer that question on the assumption that the person is a human being. That we should make such judgements seems not just natural – we are like other human beings – but desirable and necessary. Transmitting *our* judgements into others *we* would want to be corrected, encouraged, led and educated by others into improving and honing our own judgements. And so to use the idea of ‘bad thoughts’ it cannot be just morally permissible for human beings to disapprove of ‘what goes on in the mind’ of other people but at least in the case of less mature members of the community, children being the obvious example, it is our moral duty to encourage people to avoid bad thoughts.

If you accept that it is permissible to make these sorts of judgements, and that at times it might even be permissible to encourage others to think differently, then it seems reasonable to suppose that the ground for correcting others lies in some sort of respect for their ability to change themselves. Here we have a clue as to the sorts of consideration relevant to determining respect for another person’s *being a human being*. What in another person we regard as an absolutely necessary condition for our being critical of them is that they are human beings with the capacity to choose to think to act and to be otherwise. I therefore conclude that each human being has a *right* to have ‘bad thoughts.’

Let us take the distinction between respecting human beings and respecting their thoughts and actions to its extreme by considering a human being whose actions we despise as far as we can almost possibly imagine, namely, Adolf Hitler. He was an evil person in the truest sense of the term. He was not insane, although he was clearly unhinged. His life on Earth had the most ‘murderous impact’.¹⁵ He was responsible for human suffering on a gigantic scale; some fifty million dead and many more maimed, psychologically destroyed and so on. It was intentional. Yet our respect for Hitler’s status as a human being does not alter and should not alter from that of any other human being. We cannot detach ourselves from his condition because we recognise him as a human being and *therefore* we recognise elements of him in ourselves. In full knowledge of what he had done we would nonetheless suppose it a failing of our community if we did not accord to him the same respect in the court system, say, as any other person. If he fell ill while awaiting trial we would not think that because he had lost all respect as a human being, which is in one sense but only one, obviously true, there was no need to provide medical treatment. Our ‘common humanity’ denies us that possibility. Thus, in the less extreme case, we must respect the human being ‘in whose person’ resides those thoughts that are behind the obscene and violent computer-generated image, assuming that those thoughts are not high-minded¹⁶ and are *bad*.

Equality is fundamental to understanding respect for others. This is a crucial idea in bringing out the connection that we have with others that is implicit in judging others to be like us as human beings. The argument that we ‘are equal’ to others because we are able to recognise that they, like us, have their own thoughts and a ‘point of view’ is only a start to a more nuanced moral principle of equality. While it is more helpful to develop that idea from the idea of a ‘point of view’, we can get into the idea of equality even through thinking that because another entity has two legs, like us, then that other entity is ‘equal’ to us; at least we appreciate, for example, that the other will have, like us, difficulties in water, and difficulties like us, in familiar situations with balance. But the idea of an individual with a relatively

15. Shirer, *The Rise and Fall of the Third Reich*, (Arrow Books 1991) last page.

16. See comment above, n.10.

conscious view of its own capacities and most important a sense of its own 'self' combines the different elements of our being. The judgement constituting our 'point of view' focuses on why it is that we do not want to drown or lose our balance and recognises the power that we have to alter events both for ourselves and in the environment. Equality means here 'seeing the other person as in relevant respects like yourself.' Much lies in the idea of 'relevant' because it brings out the non-empirical judgements we make in determining what it is to be human. So we don't think that we are unequal merely because we are not exactly alike physically; rather we are equal in 'being human.'

Claims of a deficit of equality are claims that draw upon the human condition – our understanding of what it is to be human taken primarily from those thoughts lying behind our own point of view. As I have argued, they are not empirical claims. If equality is primarily conceived in that way, as a kind of metric of comparison, there is a temptation to think that equality is only about comparison and not about what constitutes the value of the entities being compared. But equality is not empty because it is necessary to specify a point of view. In appreciating and coming to understand our own point of view we must introspect; what else can we do? We must consider what we think is important and relevant for ourselves. One thing we find is that we don't have a proper sense of ourselves unless we are free to think about the different possibilities in determining the best way to live. So understanding freedom arises from introspection; we see that 'point of view' is an idea to be developed. Indeed, our 'life's story' can and should be viewed as a developing set of points of view, each changed according to events that occur as a result of things we have done and as a result of conscious decisions to change our point of view. We should not be driven by any idea that the metaphor of a point of view requires it to be fixed at some time and in one place but by the idea that our ways of seeing things can change. All this is possible while maintaining a point of view that is our own.

And our thoughts are in some sense not private. For as we have seen we can appreciate the point of view of others as a result of our transmission of our point of view onto *them*. This naturally creates a dialogue between them and us in which it would be natural to absorb how it is that others would see us from their projecting their point of view onto us. This only sounds cryptic if you believe that we really cannot understand what it would be like to be another person; that cannot be true because part of our judgment about the points of view of others presupposes that the other is a human being. Although there is a kind of circularity in this idea it is not the sort of circularity that matters. It is rather a matter of reciprocal appreciation. Dialogue of one sort or another is very important although it could take many forms such as a social connection even without formal linguistic communication. We can make judgements about some animals showing our recognition of humanity in them. That must mean that there is a workable sense in which we can appreciate their point of view; it is one that can certainly be reciprocal at a level of inarticulate feeling and it is a perfectly feasible and plausible way of understanding some animals as equals.¹⁷ We can learn from animals although not to the same degree or with such variety as we can from other human beings much more like us. It is not surprising that animal rights activists, some of whom promote equality for animals, rely on ideas such as sentience of which the capacity to feel pain and frustration (which presupposes freedom) and some limited sense of self figure very highly. The invocation of sentience promotes very much the idea I advocate here, that it is by introspection into ourselves and our projection onto others that we may make rational claims about how we ought to treat others. It is not an absurd idea that we might feel drawn to reproach animals for their violent behaviour as, too, we feel drawn to reproach human beings for their expression of violent thoughts.

17. Singer, 'All Animals are Equal' in *Applied Ethics* (ed. Singer OUP, 1986).

Dialogue requires a two-way transmission of ideas. So by an enrichment of our understanding of others we come to enrich our understanding of ourselves. Understanding ourselves shows that we are free to make decisions that change the way we are and we acknowledge that freedom in others. Introspection allows us to see that we can make no sense of ourselves unless we are free - even if only in a limited way. We are not inactive, passive consciousnesses. We are self-initiators whose identity depends on our ability to make alterations to our environment in the widest sense. At the very basis of that idea of freedom is our freedom to think. Although we can envisage odd neurological states where we can't move a limb, it is still possible to understand that in such states we are free in having free thoughts. It is very difficult, though, to see what it would be like to have just one thought, perhaps a view of a non-moving flat perspective through an only eye that can see, or even just one, like Yossarian's in *Catch-22* 'Where are the Snowdens of yesteryear?' or a tune that goes on endlessly. On the other hand, we think of these thoughts as obsessive or maniacal, meaning that we have no control over them and so the very antithesis of freedom (one can be 'trapped by one's thoughts'). Having uncontrolled thoughts is actually a horrific idea. But it has reality for many of us. At the basis of our being, I suggest, is our understanding that we may change our thoughts, to adjust and monitor how we really are. The freedom to think and modify or constrain our actions in relation both to others and ourselves is an absolutely necessary condition of our being able to have any kind of human life and therefore moral life at all. Think of the ways reflection on our own lives modifies the way we treat others. Think how recognition of the mistakes we make encourages us to be more tolerant of the mistakes of others, or how appreciation of 'how that would feel to us' slows the speed or level of condemnation or kind of approach to improving or the degree of punishment that we would be prepared to support for curtailing anti-social activity. This seeing of others as ourselves is a powerful antidote to cruelty and the principle follows naturally from rational dialogue about the human condition. I believe that it is along such lines that we can demonstrate a rational connection through the idea of what is distinctively human to recognising others as equal to ourselves.

So far I have discussed the interplay between our sense of others and ourselves in the context of purely moral assessment. When our dialogue and thus our connections with others manifest themselves in sustained ways as they inevitably do through the existence of families and wider (and different) social units, we begin to understand *community* in a significantly moral way. I suggest that way ought to include our understanding that because others are human beings, they too have ways of being that they themselves can initiate. Our recognition both that others are free *and* that they are like us requires that our relationship be detached as well as cordial and civil. This relationship is not one of the sort of special relationship between two lovers since there is kind of attraction there that is excluding, although that detached and cordial relationship is what should be left once the pain of separation has gone, if it does. But the relationship should not be regarded either as one of mutual distrust of the sort that might obtain between two competing corporations and which may only be governed by laws of contract rigidly interpreted to exclude refinements of fairness and decency. Corporations are probably the extreme case; while corporations are composed of human beings having 'legal' personality, they lack sentience and exist for very specific purposes. Nevertheless, their free will is the free will of its members and associates such as shareholders and to suppose that rigidity of contract is applicable in such cases may concede too much.

What is the conclusion to be drawn? If you agree that respect is due to all human beings and that the respect is a form of transmitted self-respect, I suggest you will be moved to the idea that the self-initiating freedom of thought marks out a fundamental identifying criterion of what it is to be human. And we must respect freedom of thought for that reason

alone, independent of what unpleasant and bad thoughts ensue. Respect for humanity requires that I must be free to have whatever thoughts I please to have and where those thoughts manifest themselves in actions that do not unjustifiably interfere with the freedom of others we must respect the right to these actions as well. We should not, however, lose sight of the fact that my freedom is perfectly compatible with your freedom to explain, persuade, correct and educate me from those thoughts. This follows from straightforward reciprocity and the nature of the community to which non-contractual reciprocity gives rise. We all recognise our ability to be mistaken in our beliefs and so other people can and may correct our beliefs. Therefore it must at least not come as a surprise to us that others might guide and lead us and that our right to exercise our deep freedom must be exercised, where control is possible, with proper restraint.¹⁸

18. Nor should it be lost that explaining, persuading, correcting and educating are not the same as conditioning, coercing, punishing, and so on. To correct a mistaken thought requires understanding *from within* how the process has gone wrong. I cannot endorse my new way of thinking if I have been forced into it; my identity is forcefully changed in the process. It is aversion therapy of the sort that Alex underwent in *A Clockwork Orange*, and Winston underwent in Orwell's *1984*. And one has to be careful not to suppose that conditioning takes place only in these extreme cases of torture. To a considerable extent our thoughts are shaped and conditioned to make it easier for us to think in bland ways, about the capitalist society, the third world, and violent solutions to problems.