

Can't We All Just Respect One Another a Little Less?

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I Introduction

Contemporary moral philosophy and much contemporary moralizing almost radiate respect for persons. Thomas Nagel is one of many who take its primacy for granted. In a review of Scanlon he says:

Scanlon's theory addresses a number of its central questions: first, the question of the objectivity or truth of moral claims, their relation to reason, and whether or not they should be regarded as in some sense relative or subjective; second, the question of the kind of concern or respect for persons that is at the foundation of morality...¹

Many others take the centrality and foundational role of such respect as a given.² This is a big change from the days when moralists held that all

1 Thomas Nagel, 'One-to-One,' review of Thomas Scanlon, *What We Owe Each Other*, *London Review of Books* 21 3 (4 February 1999), in *Concealment and Exposure, and Other Essays* (Oxford: Oxford University Press 2002), 148

2 Often cited in this connection are Alan Donagan, *The Theory of Morality* (Chicago: University of Chicago Press 1977) and Charles Taylor, 'The Diversity of Goods,' in A.K. Sen and Bernard Williams, eds., *Utilitarianism and Beyond* (Cambridge: Cambridge University Press 1982) 128-44. Charles Fried goes so far as to say that 'Right and wrong are expressions of respect for persons — respect for others and self-respect' (Charles Fried, *Right and Wrong* [Cambridge: Harvard University Press 1978], 9); and the opening sentence of R.S. Downie and Elizabeth Tefler's *Respect for Persons* (London: George Allen & Unwin 1969) is: 'The idea of the individual as of supreme worth is fundamental to the moral, political and religious ideals of our society' (9).

human beings deserved a certain basic and equal disrespect. Marston's *Malcontent* tells us that

This earth is the only grave and Golgotha wherein all things that live must rot: 'tis but the draught wherein the heavenly bodies discharge their corruption, the very muckhill on which the sublunarie orbes cast their excrements: man is the slime of this dongue-pit...³

Though a villain the *Malcontent* does no more than echo the sentiments of Innocent III's immensely popular *De Miseria Humanae Conditionis*:

Man was formed of dust, slime, and ashes: what is even more vile, of the filthiest seed. He was conceived from the itch of the flesh, in the heat of passion and the stench of lust, and worse yet, with the stain of sin.

Not much later, Innocent explains that

"Therefore the Lord God formed man from the slime of the earth," an element having lesser dignity than others. For God made the planets and stars from fire, the breeze and winds from air, the fishes and birds from water, but He made men and beasts from earth. Thus a man, looking upon sea life, will find himself low; and looking upon the creatures of the air he will know he is lower. Nor can he equal heavenly things, nor dare put himself above the earthly; for he finds himself on a level with the beast and knows he is like them.⁴

I don't advocate a return to this point of view. It is painful to behold the thorough humiliation of another human being. We appreciate the respect we receive, and have been appreciated for the respect we confer on others. But none of this comes close to implying that I must really respect everyone, or that respect is the heart and soul of morality.

In what follows, I will argue that the importance of respect for persons is easily and frequently exaggerated, or at least misunderstood. No doubt we should generally treat one another with respect, just as we should generally not sleep with our close relatives. But the latter rule does not play a foundational role in our moralities; why should the former? An analysis of various concepts of respect will show that it is neither a moral cornerstone nor a moral ideal. Those concepts whose

3 John Marston, *The Malcontent* (1604), Act IV, scene 5

4 Lothario dei Segni (Pope Innocent III), *On the Misery of the Human Condition (De Miseria Humanae Conditionis)*, Donald R. Howard, ed., The Library of the Liberal Arts (Indianapolis: Bobbs-Merrill 1969), Book I, Part ii (*Of The Vile Matter of Which Man is Made*), 6.

application seems to be universal do not confer anything like genuine respect. Those which confer something like genuine respect lack the universality and moral force required for a foundational role.

II Darwall on Respect

Stephen Darwall's influential 'Two Kinds of Respect' is one of the remarkably few non-Kantian⁵ attempts to explore the foundational role of respect for persons. It therefore provides a good point of departure for an analysis of the notion. Darwall speaks of two kinds of respect, *appraisal respect* and *recognition respect*. Appraisal respect 'is a positive appraisal of a person or his character-related features.' Recognition respect 'is a regard for a fact or feature as having some weight in deliberations about how one is to act.'⁶ The idea here is that, while we may not all be entitled to the same degree of appraisal respect, we must, as a fundamental notion of morals, all get the same degree of recognition respect.

The odd thing is, neither of these kinds of 'respect' are respect in any normal sense of the word. Suppose I have what Darwall calls recognition-respect for persons. Then I have 'regard' for the fact that someone is a person; this has some weight in my deliberations about how one is to act. Regard isn't necessarily positive; what is required is that, if I respect persons, I 'take seriously and weigh appropriately the fact that they are persons in deliberating about what to do.'

Does this imply a normal sort of respect? Suppose I think Ronald acts and talks like a contemptible idiot, and contemptible idiots should be treated with what I can only call disrespect. But *is* Ronald a contemptible idiot, deserving of such treatment? Not if he is a machine, or an android, or a dog. I therefore take seriously and weigh appropriately the fact that Ronald is indeed a person, and proceed to shower him with verbal abuse. Or, to put it in Darwall's terms, I exhibit recognition respect for the fact that he is a person.

Recognition respect is therefore not respect; it is more like remembering who belongs to the domain of discourse of the rules I follow. What

5 I have argued elsewhere that Kantianism cannot provide a basis for contemporary conceptions of respect for persons. See 'Did Kant Respect Persons?' *Res Publica* 6 1 (2000) 1-15.

6 Stephen Darwall, 'Two Kinds of Respect,' *Ethics* 88 1 (1977) 36-49, at 41

7 Darwall, 38

about appraisal respect? Well, appraisal respect is a type of appraisal. But appraisals, even positive ones, need not lead to anything we would normally call respect. Suppose I think Ronald is an admirable genius, but needs taking down a peg: I will then show him no respect. Or perhaps, despite a purely positive judgment of Ronald's personal qualities, I just don't feel respect for him or anyone else: maybe I'm too depressed. My appraisal is a factual belief with no certain implications either for my behaviour or for my feelings.

Respect is not a weighing of facts or an appraisal of persons. It is either a feeling of reverence that I might have or lack whatever I believe or judge, or it is obedience. If I respect Ronald, I hold him in reverence, and I might do so despite any factual beliefs I entertain. If I respect a boundary, I do not cross it: I obey the rule that others must give me permission before I cross. If I respect the laws, I obey them, and I have respected them no less for believing them to be idiotic. Respect, non-technically speaking, is reverence or obedience.

III A Fuller Classification

For Darwall, appraisal respect is not morally fundamental. Recognition respect is, but it doesn't suffice to found contemporary moralities of respect for persons. To find a notion of respect that is up to the job, we need to conduct a more extensive survey. At least four independent conceptions of respect (perhaps five) deserve our attention.

1.

First, there is a notion that probably amounts to Darwall's 'recognition respect.' This is the bare idea that you are to be counted as a moral person, subject to whatever a moral theory holds in store for such persons. Since this 'recognition' in itself says nothing whatever about how you are to be treated, or what is to be expected from you, I will, to avoid confusion, call it *formal respect*.

Formal respect is morally fundamental in the sense that it guarantees your inclusion within the domain of discourse of a moral theory. But this isn't much different from guaranteeing that you will not be taken for a toaster. We have already seen that such a notion cannot support any full-blooded doctrine of respect for persons. The permissiveness of formal respect shows in its tolerance of racist moralities. Consider the moral rule R: 'If you are a person of race A, you must transfer half your assets to a person of race B.' R doesn't deny that you are a moral being or that you have full moral status: the rule applies to all persons, regardless of their race. That R penalizes persons of a certain race in fact

requires 'recognition' of their moral status: were they outside the domain of morality, R would not apply. Since, in order to discriminate against you, R recognizes that you are a moral person, it accords you formal respect.

The bareness of formal respect reminds us that the desirability of being recognized as a moral person depends entirely on the rules of a theory which does the recognizing. Being treated as a moral person need not get you any better treatment than being treated as a toaster. Formal respect is no closer to genuine respect than being identified as female is to being respected as a woman. So contemporary moralities of respect must locate themselves in one of the other three conceptions.

2.

Second, there is *equality respect*, the notion that all moral beings have equal status. Nozick's example of taking a step to avoid hitting a cow while swinging a baseball bat in a field⁸ is presumably designed to show that animals have recognition respect, but not (necessarily) that they have equality respect. All human beings may have a status different from all cows, a status that may entitle them to something more than protection from callous batters.

Charles Taylor is a big fan of this notion. Referring to universalizability principles, he says:

Behind all these Kant-derived formulae stands one of the most fundamental insights of modern Western civilisation, the universal attribution of moral personality: in fundamental ethical matters, everyone ought to count, and all ought to count in the same way. Within this outlook, one absolute requirement of ethical thinking is that we respect other human agents as subjects of practical reasoning on the same footing as ourselves.⁹

The core of this 'fundamental insight' amounts to little more than fairness as neutrality. Taylor is not saying, of course, that Western civilisation has embraced egalitarianism or welfarism because, of course, it hasn't. It is rather that our standards, however inequitable, will be equitably applied: everyone will be judged, and they will be judged by the same standard, without fudging procedures or facts. But equal status is very different from equitable treatment. Perhaps we will recognize

8 Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books 1974), 37

9 Charles Taylor, 'The Diversity of Goods,' in Sen and Williams, *Utilitarianism and Beyond*, 130

only the justice of merit, and Newton or Schubert will flourish while working-class grandmothers starve.

Gregory Vlastos espouses principles belonging to the notion of equality respect for persons that shed more light on this point:

(1) *one man's well-being is as valuable as any other's ...* (2) *one man's freedom is as valuable as any other's.* (emphasis in original)¹⁰

This is equality respect. It sounds quite inspiring until one notes that any such principles (a) fail to assign any *great* value to either freedom or well-being; (b) fail to exclude the possibility that whatever value these things have gets outweighed by other values. For example, a warrior-code might hold that fighting ability is far more valuable than freedom or well-being. The system incorporates equality respect. Our fighting abilities 'count equally' in the sense that, if we tie for 11th place in the combat rankings, our entitlements are the same. Moreover, given the opportunity, you are entitled to the same level of freedom and well-being as I am. But it may be that *neither* of us is entitled to *any* freedom or well-being, because only higher ranking fighters will get food and citizenship. It is not any superior right to well-being or freedom that entitles them to food and citizenship; their rights in these areas are not greater than ours. But their fighting ability is, and that's what gets you food and citizenship in the warrior system.

Someone might even suppose that equality respect accommodates racist moralities. The warrior system recognizes equal rights to freedom and well-being, but these rights are, equally and universally, weak and defeasible. To put it another way, the demerit of inadequate fighting ability trumps my right to well-being and freedom, just as in our systems the demerit of committing a murder trumps my right to well-being and freedom. As long as everyone's entitlements are weighed on the same scale, equality respect is preserved.¹¹ What is it then in equality respect that prevents a system from taking your race as a demerit? We would then have equal rights to freedom and well-being, subject to the demerits of murder and race. No matter who you are, your race, conduct, freedom, and well-being count equally.

10 Gregory Vlastos, 'Human Worth, Merit, and Equality,' in Joel Feinberg, ed., *Moral Concepts* (London: Oxford University Press 1969), 150

11 Vlastos himself sees the equal value of well-being and freedom implying equal rights to well-being and freedom but, and significantly for our purposes, notes that these are *prima facie* rights (ibid., 151).

Even if racist moralities are in fact excluded, equality respect is compatible with social systems whose protections vary to a morally frightening extent. This is certainly a far cry from what the advocates of respect for persons require:

any liberal democratic politics committed to the ideals of freedom and equality cannot escape the demand that it create inclusive and sustaining social environments that respect all peoples in their cultural diversity.¹²

We must look further afield to encounter more substantive and satisfying notions of respect.

3. *Rights respect.*

From equality respect it follows that whatever rights we have are equal, but not that we have any, nor that they are worth anything much. Rights respect means that, not only do we have rights, but that they are worth something. (They need not be equal rights, but those who value rights respect will very likely value equality respect as well.) Most people — among them Taylor¹³ — believe that standard act utilitarianism includes equality respect, because it grants equally to all moral beings (all beings with formal respect) a single moral right, the right to have one's utility count as much as anyone else's. Non-utilitarians believe this right isn't worth much, so they believe that utilitarianism may include equality respect, but not rights respect. Rights respect implies that everyone has *valuable* rights.

Having valuable rights doesn't necessarily mean getting what would ordinarily be called respect. Suppose a moral system in which we have an equal right to have our basic needs met. However, when there isn't enough to go around, there is an 'ugliness contest,' and the 'winners' are deprived of sustenance. Everyone in the society has at least one valuable equal right, so there is rights respect, no less so because in times of scarcity there is recourse to a sort of distribution according to merit. But few would say that this society implements a genuine respect for persons.

12 Steven C. Rockefeller, 'Comment' in Amy Gutman, ed., *Multiculturalism and 'The Politics of Recognition': An Essay by Charles Taylor With commentary by Amy Gutman, Steven C. Rockefeller, Michael Walzer, Susan Wolff* (Princeton: Princeton University Press 1992), 97

13 Taylor, 131

Any system which grants everyone valuable rights will be said to incorporate rights respect, even more if the rights are equal. But at times I will distinguish between *loose* and *strict* rights respect.

Loose rights respect will refer to the notion that if we have fairly extensive rights, whatever their specific content, then their mere observance constitutes respect for persons. *Strict* rights respect will refer to the notion that not any old package of extensive rights will do: there is, on the contrary, a certain specific package of rights, the mere observance of which constitutes respect for persons. People often hold that these fairly extensive rights, the observance of which constitutes respect for persons, are in the main 'autonomy rights.'

4.

Finally, we might all actually really have a right — an equal right — to be respected.¹⁴ This right wouldn't be captured by a bunch of civil rights like free speech, the vote, habeas corpus, and so on. It would be more like the right to be treated with some sort of deep politeness: people would have to listen to your opinions without dumping on them or putting you down; they couldn't make up nasty rhymes about you, and so on. Or it might go beyond this to incorporate protection for your autonomy. The observance of such rights will be called *substantive respect*.

IV From Form to Substance?

Do any of these concepts have what it takes to qualify as 'foundational'? Presumably the claims made for respect do not constitute an attempt to justify morality in general, to explain why we ought to do anything at all. Nor would it be claimed that respect for persons must enter into any system of moral 'oughts' — otherwise there would be a problem with 'One ought not to respect persons.' Something more modest, but still ambitious, must be intended: perhaps that respect for persons plays a central role in any moral system we find plausible, that a system that

14 One recent and very clear insistence on a right to substantive respect is found in Elizabeth Anderson, 'What is the Point of Equality?' *Ethics* 109 (1999) 287-337. She says that 'the most fundamental test any egalitarian theory must meet [is] that its principles express equal respect and concern for all citizens.' She then, and on this basis, condemns certain forms of egalitarianism because their principles 'express contemptuous pity,' 'disrespect the fortunate,' and make 'demeaning and intrusive judgements of people's capacities to exercise responsibility' (cf. 289).

does not 'begin' with respect for persons cannot appeal to us. 'We' in this case cannot be too parochial. It might exclude egoism, but not commonplace systems like utilitarianism. And, conversely, respect for persons ought to exclude any system we find absurdly immoral.

We have seen that formal respect probably qualifies as foundational. Hardly any of us would accept as moral a theory which excluded some persons from moral consideration.

Equality respect also seems to make the grade.¹⁵ Hardly any of us would accept as moral a system in which, prior to any evaluation of our merits, I count for more than you do.

But neither formal respect nor equality respect deserves to be called 'respect' in any substantive sense of the term. Substantive respect is something you can lose; you need protection from that. Since neither formal nor equality respect implies any particular sort of rules, they protect no one from such loss. They do place *constraints* concerning how you are treated, but it does not follow that these constraints protect you. To put the point generally, equality respect (which presupposes formal respect) stipulates that you will be as much the object or subject of moral rules R as anyone else. But R could be *any* rule or set of rules of the form 'It is morally obligatory that actions of type A are performed.' Type A can define *any* sort of action. Since this tells us nothing whatever about how we can be treated, it can hardly tell us that we will be treated with respect. For all we know, R will enjoin us to treat one another with contempt. And even within an acceptable moral system, equal moral status may be the opposite of protective. The kindly old gentleman who discovers your sexual indiscretion may feel constrained by his principles to expose you precisely because you count equally as a moral person.

What does, of course, deserve to be called 'respect' is substantive respect. But what is this, and is it foundational? A look at rights respect will begin to supply some answers.

V Rights Respect

The loose sort of rights respect, in holding that respect for persons just *is* respect for their important rights, builds on the notion of respecting boundaries. To respect you as a person is simply to respect the rights which delineate the boundaries of your entitlement.

15 Fortunately, perhaps: Charles Taylor seems to count equality respect as one of those principles 'so foundational to the moral thinking of our civilization.' Cf. Taylor, 131f.

Loose rights respect cannot be substantive: respecting the boundaries of my entitlements says nothing about what those boundaries are. Because the rights are stipulated to be important, the boundaries are important, but it does not follow that they form some border between substantial respect and substantial contempt. Merely calling my rights 'the rights the observance of which constitutes respect for persons' simply evades the question of their content.¹⁶ Perhaps my rights are consistent with Innocent's Christianity and therefore with a deep contempt for all human beings. If loose rights respect is to count as foundational, it is almost vacuously so.

There is another problem. Loose rights respect does not imply *equal* respect: that I am to respect your rights in no way implies that they are as extensive as mine. Nor does adding equality respect help: even if you have the same right to have your pretty important rights respected as I do, it does not follow that your pretty important rights are as extensive as mine.

Suppose, for instance, a morality where the sexes have different rights. One set of rights, though still important, is by most reasonable yardsticks worth a lot less than the other. Suppose you are a member of the disadvantaged sex. Then I treat you with loose rights respect by observing your rights. Moreover, I treat you with equality respect, because the observance of your rights is as much an obligation as the observance of mine. So we have equality respect and loose rights respect, but not equal respect.

Even if you have the same rights as I do, they may have very different value for you than for me. Perhaps you are poor and I am rich, but we both respect one another's right to scavenge in dumpsters. This hardly implies that you get as much substantial respect as I do.

Loose rights respect, then, does not ensure any substantive respect for persons. Since it tolerates discriminatory moralities, respect theorists like Charles Taylor shouldn't even regard it as 'foundational' in any morally important sense. What then of strict rights respect?

Strict rights respect covers a very wide range of rights packages, most of which contain autonomy rights. Particularly when speaking of people at some disadvantage — hospital patients, those suffering from mental disorders, prisoners, racial, ethnic and religious minorities — the autonomy rights are said to defend the dignity of their holders. Much of the casuistry associated with respect for persons concerns strict rights re-

16 Essentially the same point is made in Charles Landesman, 'Against Respect for Persons,' *Tulane Studies in Philosophy* 31 (New Orleans: Tulane University Press 1982), 33. It is also suggested in Carl F. Cranor's 'Limitations on Respect-for-Persons Theories,' p. 51 of the same collection.

spect, especially when respect and autonomy seem to conflict: can respecting you require interfering in your life and curtailing your power to make your own choices?

This casuistry, like the rights it involves, presupposes that you ought to get some substantive respect. This goes beyond saying that people are morally valuable: so is happiness, yet it is not the case that I ought, either morally or non-morally, to respect it. (And what if I am morally valuable simply because I have a capacity for utility? So do animals incapable of autonomy, and people rightly judged to deserve contempt.) There must, therefore, be something about people from which it follows that they ought to be respected. This something cannot be the mere possession of either moral value or just any old property, like having pleasure receptors, which confers it.

What would that something be? What sort of properties confer, not only moral value, but also the moral obligation to respect the possessor of the property? I cannot see a better way of sorting through value-conferring properties than by looking for those properties which might give me a right to substantive respect. In other words, strict rights respect strongly suggests that I possess properties which impose on others an obligation to respect me in some non-technical sense of the word. If some of my rights protect my dignity, they must protect more than the mere possession of those rights.

In theory, I might have some properties which entitle me to strict rights respect, yet not to substantive respect. But what then would be respectful about strict rights respect, and what sort of dignity would these properties command? The best way to look at the case for strict rights respect seems to be to take it as founded on a right to substantive respect, and it is to the possibility of such a right that we will now turn.

VI Substantive Respect

The notion that 'respect for persons' is more than a highly technical expression, that it articulates some supremely important moral value, now rests on the status of substantive rights respect. Like formal and equality respect, loose rights respect may be 'foundational' enough, but is not genuinely respectful of persons. Since strict rights respect seems derivative from substantive respect, substantive respect must now bear the entire weight of the controversy.

Since respect is a feeling of which we might be incapable, we cannot literally have a moral duty to respect persons. A substantive right to be respected must therefore involve a right to be treated *as if* people actually had respect for you. If they actually had respect for you, they would think you had some excellence, value (worth), sublimity, even. And since we

are all supposed to be equally worthy of respect,¹⁷ there must really be something about us, some property we all possess, that gives us this worth. Our task is to discover what that something is. We can avoid some pitfalls from the start by seeing what that something is *not*.

First, some critics of respect for persons seem to think that people can deserve substantive respect only if they are (all) morally good, or at least only if there is something morally good about them.¹⁸ No careful respect theorist would make the former claim, nor do they have to. People might be respected for non-moral qualities: not for their virtue, but for their reason, or intelligence, or potential. This is because not all our obligations to persons need be grounded in their moral goodness. We might judge, for instance, that a world with admirable or beautiful or conscious things in it might, other things being equal, be morally more desirable than a world without them: it could be a morally better world even if none of these beings deserved anything. In the same manner, it is often supposed that the world is better for containing happy persons, even if their happiness is not deserved.

It might also be supposed that, since the property that confers a right to substantial respect is supposed to confer it *equally*, it will have to be possessed by all persons to the same degree. This isn't really so. It could be that certain properties, perhaps rationality, command substantial respect for persons beyond a certain quite low threshold. Past that threshold, increasing levels of rationality might have no moral significance, or sharply diminishing marginal moral value. In the latter case, even though I should perhaps respect much more rational people a bit more, their moral right to substantial respect will be approximately the same. What I get for possessing some excellence beyond the threshold might be non-universal rights to, say, admiration, but not to any morally crucial entitlements. In this situation, my right to substantial respect would indeed be variable, but its variance beyond the threshold would not have great moral importance.

Some writers seem to suppose that any property of persons supporting substantial respect must be a defining property:

[The property] must be constitutive of personhood. That is, the putative respectworthy property must be such that possession of it by a sentient being provides a reason for classifying or counting that being as a person.¹⁹

17 Ronald Dworkin stresses the importance of these requirements in *Taking Rights Seriously* (Cambridge, MA: Harvard University Press 1977), 227

18 See, for instance, Cranor, 50f.

19 Cranor, 49

This need not be the case. Suppose that all persons have property F, and it is, not a conceptual truth, but a law of nature, that all who have F have G, which confers substantial respect. A lot of respect-theorists might be satisfied with founding respect for persons on G. Some, in fact, might even be satisfied with 'all who have F have G' as a simple empirical generalization. These people ask only for the universality of the respect-conferring property, not for the necessity of its universality.

What, then, must respect theorists ask of whatever property commands substantial respect for persons? First, because the duty of respect is to be universal, the property must be possessed by everyone. (This property need not be some simple, natural kind; it might emerge from more than one set of traits possessed by moral persons.) Second, and often overlooked, the property must do more than merely give us *some* reason really to respect persons. It must give us *a lot* of reason to do so. The rights it confers must be powerful.

There is a third requirement. The property that commands substantial respect for persons, and consequently a moral right to be respected, must be essential to obtaining what we all regard as important moral rights. Otherwise respect for persons won't count as foundational, because it would not be a precondition of those important rights. Suppose, for example, that (a) substantial respect implied a requirement not to murder you, (b) the right not to be murdered was the core of strict rights respect for persons, but (c) some other key element of our moral outlook, something like respect for life, *also* implied this key right. Then we could hardly regard respect for persons as fundamental because it implied a right not to be murdered. Respect for persons must be *unique* in its capacity to give us, if not *all* our fundamental moral rights, at least a lot of them.

These requirements, coupled with an awareness of what is *not* a requirement, can be used as a filter to see what properties are likely sources of substantial respect.

VII Respect and Autonomy

When we move from metaphorical or technical to substantial conceptions of respect, their ability to confer appropriate rights seems quite limited even when persons possess very admirable but *non*-universal qualities. I respect the leading philosophers and am convinced they have a right to substantial respect. I am also convinced I have important moral obligations to those philosophers. But there seems to be no clear reason to suppose that those obligations derive from their admirable qualities. For instance, I have obligations not to murder these philosophers, perhaps to provide for their basic needs, perhaps to see that they are fairly

treated. But these obligations don't seem to derive from substantial respect, because my respect doesn't vary with my fulfilment of them. When I have acknowledged the greatness of these philosophers, I seem to have satisfied any moral claims that respect alone can impose.

Even the appeal to 'peripheral rights' doesn't seem to help much. Peripheral rights protect the value of core rights. For example, my core right to vote may have value only if protected by peripheral rights to education and a certain level of well-being.²⁰ But a philosopher's right to respect doesn't seem to need this sort of protection. If I regard you as the world's greatest metaphysician, that regard is neither increased nor diminished by awarding you a guaranteed annual income: the payments may be evidence of my respect, but they do not themselves make you any more or less respected. Moreover, the respect you get is not hollow or meaningless without the payments, the way your right to vote is hollow or meaningless if you're not educated enough to make an informed decision about the candidates. Provided I do not actually subject you to humiliating treatment, I cannot see, at this point, how I will violate any peripheral rights to substantive respect.

If non-universal excellences fail to provide important rights, one wonders what universal properties will succeed. On the one hand, the genuinely *universal* and rights-upholding properties, like Bentham's 'ability to suffer' and unlike Kantian rationality, tend not to be respectable. On the other, it seems as if the genuinely '*respectworthy*' properties lack universality.

Respect-for-persons theorists have found two closely related responses to this problem. First, they may identify autonomy itself as the respectable property, or, second, they may seek some property whose possession ensures that our autonomy should be respected. Why focus on autonomy? Because it is very rights-upholding, and therefore potentially foundational: it implies extensive peripheral rights of the sort that constitute at least a large part of morality. If I am murdered, or lack basic needs, I cannot function as an autonomous being.

The first approach is not promising because (a) it is unclear that autonomy can command the right sort of respect; (b) it is unclear that we *have* the sort of autonomy that would command respect. This difficulty emerges when we can think of 'autonomy' as having a *strong* sense, where we in fact enjoy considerable independence from influences of

20 Rawls discusses these considerations in *A Theory of Justice* (Cambridge, MA: Belknap Press 1973), 224ff. Also relevant is the discussion of a right's 'core' and 'periphery' in L. Wayne Sumner, *The Moral Foundation of Rights*, (Oxford: Clarendon Press 1987), 47ff., 77ff.

others, and a *weak* sense, where we may have no such independence, or very little, but are quite *capable* of making our own decisions.

Autonomy in the strong sense varies with our actual situation. In the weak sense it varies, if at all, only with brain damage and similar radical changes to our physical condition. In prison I am just as weakly autonomous as outside, but I am much less strongly autonomous. Strong autonomy may be in some way admirable, and a world containing strongly autonomous persons may, many other things being equal, be morally preferable to a world lacking them. But we cannot be respected for our strong autonomy because, generally speaking, we don't have it. We are greatly influenced by others. Perhaps, with great effort and training, we *could* exercise some control over our influences, but clearly we don't do this, and probably most of us can't. So strong autonomy doesn't have the universality required to found substantial respect for persons.

Instead of a low level of strong autonomy, we all have weak autonomy (perhaps this is what strong autonomy becomes below a very low threshold.). But since weak autonomy is the mere *capacity* to make our own decisions, it generates substantial respect only if our decision-making capacities are in some way admirable. If we simply made decisions by flipping a coin, or reading tea leaves, our capacities would not be 'respect-worthy.' If we are all to be respected for our weak autonomy, it will be because we can assess our situation, take account of evidence, set goals, weigh means and ends, argue for one alternative or another. In short, substantial respect for our weak autonomy will turn out to be respect for our rationality.²¹

This view conforms to a wide range of thinking about respect for persons. Sometimes it is said that we should respect one another *as autonomous beings*. Applied to everyone, this would be hopelessly optimistic unless read as weak autonomy.²² Sometimes it is said that we

21 Ronald Dworkin expounds a very similar view in *Taking Rights Seriously* (Cambridge, MA: Harvard University Press 1977), 272f. Adina Schwartz is explicit about the connection between rationality and autonomy: 'Individuals are only free, or autonomous, persons to the extent that they rationally form and act on some overall conception of what they want in life.' (This is slightly stronger than weak autonomy, but Schwartz is not speaking here of some minimal capacity that *found*s substantial respect.) See 'Meaningful Work,' *Ethics* 92 (1982), reprinted in Patricia H. Werhane, A.R. Gini and David T. Ozar, eds., *Philosophical Issues in Human Rights: Theories and Applications* (New York: Random House 1986) 268-85, at 269.

22 See, for example, the use of the phrase 'respect for autonomy' in Mary B. Mahowald, 'Reproductive Genetics and Gender Justice,' in *Women and Prenatal Testing: Facing the Challenges of Genetic Technology*, K.H. Rothenberg and E.J. Thomson, eds. (Co-

should *respect one another's autonomy*, and this seems to mean that we should not infringe on the freedoms secured by strict rights respect. Here weak autonomy is seen as the ground for right to strong autonomy.²³ As rational beings, we *ought* to be free to decide certain things for ourselves, and this is because we *can* do so — because we are rational — and because we ought to have the opportunity to exercise this valuable capacity.²⁴ (It's not that 'can' in general implies 'ought,' but that valuable 'can's do.) And it is of course often said that we should be respected *as rational beings*, i.e., as weakly autonomous.²⁵

Suppose, then, that the property underlying substantial respect for persons is what might be called *minimal practical reason*: the capacity nearly all of us have to make decisions based on inferences from principles and information about our world. That property is at least a kind of weak autonomy. The capacity is taken to merit substantial respect, and

lumbus: Ohio State University Press 1994) 67-87. (Also available, 3 June 2004, at <http://www.bioethics.net/genetics/genetics.php?task=view&articleID=717>)

23 Tom Beauchamp seems to espouse this view: 'The second principle ... is sometimes referred to as the Principle of Respect for Persons, by which is usually meant that individuals should be allowed to be self-determining agents making their own evaluations and choice when their own interests are at stake. However, to be more specific, I shall refer to this principle as the Principle of Autonomy' (Tom L. Beauchamp, 'Suicide,' in Tom Reagan, ed., *Matters of Life and Death* [Philadelphia: Temple University Press 1980], 80).

24 See, for instance, the pronouncement of the Nuffield Council on Bioethics: 'Mental Disorders and Genetics: The Ethical Context' (London: Nuffield Council on Bioethics 1998), 3.

Respect for persons is shown by treating others as persons who can make their own decisions and lead their own lives; it is expressed in action and procedures that give due weight to personal autonomy and integrity, to human (including patients') rights, and to the obligation of doctors and researchers to seek informed consent, to preserve confidentiality, to respect privacy and to communicate effectively with patients.

Here it seems that we are given rights to strong autonomy because we have weak autonomy: we are 'persons who can make our own decisions.'

The report is available (3 June 2004) at <http://www.nuffieldbioethics.org/filelibrary/pdf/mentaldisorders2.pdf>. Onora O'Neill chaired the council until May 1998.

25 See Alan Donagan's 'fundamental principle': *It is impermissible not to respect every human being, oneself or another, as a rational creature* (emphasis in original). Alan Donagan, *The Theory of Morality* [Chicago: University of Chicago Press 1977], 66). Charles Taylor holds that '... one absolute requirement of ethical thinking is that we respect other human agents as subjects of practical *reasoning* on the same footing as ourselves' (my emphasis. Taylor, 130). See also his *Multiculturalism and 'The Politics of Recognition'* (Princeton: Princeton University Press 1992), 41.

is seen as something that ought to be exercised. It is therefore protected by a right to strong autonomy, which is a core component of strict rights respect, and a source of other important rights.²⁶ In this manner, substantial respect for persons becomes morally fundamental.

VIII Valuing Practical Reason

But does it? Can respect for persons be foundational if it is built on respect for minimal practical reason? Let's assume, to start with, that minimal practical reason does indeed succeed in making people valuable objects of respect and admiration. *How* valuable? That rationality or rational persons have intrinsic value is sometimes taken to mean they have enormous value, and this simply doesn't follow. Even to those who possess it, minimal practical reason may not be very valuable, either objectively or subjectively. Certainly there are other forms and levels of rationality and decision-making capacity, some of them widespread in human beings, that are far more valuable from several standpoints. They involve intelligence, wisdom, courage, imagination, conscience, trustworthiness, a spirit of cooperation, and compassion. It is hard to see why minimal practical rationality should be so enormously valuable from the moral point of view.²⁷ And, presumably, it cannot impart to humans more value than it itself possesses.

Since assuming that rational persons are enormously valuable is a neo-Kantian move, one may suspect that polite compartmentalization is at work here. Rational decision-making did once seem worthy of great

26 One clear, non-'Kantian' link between rationality and respect for persons is articulated by Herbert Morris:

When we talk of not treating a human being as a person or 'showing no respect for one as a person' what we imply by our words is a contrast between the manner in which one acceptably responds to human beings and the manner in which one acceptably responds to animal and inanimate objects.... when we 'look upon' a person as less than a person or not a person we consider the person as incapable of rational choice.

Since Morris speaks of how 'human beings pride themselves in having capacities that animals do not,' it is likely that he is speaking of something like substantial respect. See 'Persons and Punishment' *The Monist* 52 4, reprinted in Werhane, Gini, and Ozar 364-76, esp. 372, 370.

27 It is worth noting, in this connection, Wayne Norman's critique of the notion that autonomy might have great value as a constituent or necessary condition of some other very valuable thing, such as a good life. See W.J. Norman, 'The Autonomy-Based Liberalism of Joseph Raz,' *Canadian Journal of Law and Jurisprudence* 2 2 (1989) 151-62, esp. section 4, 154ff.

respect. But the numerous paradoxes and critiques of decision theory show us that we can no longer trust Reason to steer aright, even if Passion keeps to whatever its proper place may be. This should restrain our rush to regard minimal practical reason as priceless.

When it comes to valuing minimal practical reason, there are qualitative as well as quantitative issues. Unlike Aristotelian practical reason, it has no intimate link with wisdom; unlike Kantian practical reason, it has no intimate link with the moral law. What if its value is substantial, but only partly moral? Certainly a large part of that value is value for *me*, that is, prudential rather than moral value, and it can be used for a variety of immoral purposes. Oddly enough, this doesn't actually prevent it from having some intrinsic moral value: presumably some virtues do, and they, too, can be used immorally.²⁸ But its potential for evil, often actualized, must at least *diminish* its intrinsic moral value. Like virtues, minimal practical reason has value, not unconditionally, but other things being equal, and what has value to me only conditionally has less intrinsic value than what does not. So it is quite unlikely that minimal practical reason can confer on us the really quite enormous amount of respect we must command if respect for persons is to support all, or almost all, of morality.

It may even be that minimal practical reason has no intrinsic moral value at all. When intrinsic moral value is attributed to things like happiness and courage, it is said that *in themselves*, and apart from any bad causes or effects they may have, they are good. Can we say this about minimal practical reason? It may seem so. There seems to be nothing obviously objectionable, in itself, about people being able to make the decisions that govern their lives. Perhaps this capacity, in itself and apart from its abuse, is good.

Things may come to look different if we substitute the term 'behavioural rationality' for 'practical reason.' 'Practical Reason' is an honorific. It conjures up Aristotle's well-functioning individual living according to virtue, or Kant's kingdom of ends in which practical reason is synonymous with morality. It also has libertarian connotations: we think of each person asking only for the chance to pursue his own good in his own way. This may be what induces David Gauthier to see practical reason as a broad category whose moral and prudential elements are not always readily distinguishable:

28 Bernard Williams makes a very similar assessment of the virtues in *Ethics and the Limits of Philosophy*, (Cambridge, MA: Harvard University Press 1985), 9.

We may talk about moral judgements, referring to those based predominantly on moral considerations, or on considerations of moral obligation or duty. We may talk about prudential judgements, referring to those based predominantly on consideration of the interests of the agent. But these divisions do not deny the essential unity of the genus, practical judgement — a unity indicated by the unambiguous practical use of “ought.”²⁹

This characterization reinforces the idea that, while practical reason may ‘go wrong,’ there is nothing essentially wrong about it: it’s just figuring out what to do, which might rest on moral or on nonmoral considerations. This would put practical reason in the same category as virtues such as courage, which have their moral and nonmoral face.

Gauthier’s description may fit some fulsome version of practical reason. It is nice to think that the pursuit of my interest is barely distinguishable from the pursuit of what is good, which in turn has both prudential and moral faces. Formally, behavioural reason requires only that I should seek my ‘most preferred outcome’³⁰, and my preference order might conceivably be determined by the noblest of moral principles. But when we interpret ‘practical reason’ as that minimum of behavioural rationality attributable to all moral agents or moral persons, these happy ambiguities recede.

Minimal practical reason must be something possessed by even the most mean-spirited and short-sighted moral agent. It can make no concessions to moral niceties. Its followers will not fit into some elaborate scheme for reconciling morality with self-interest. They are, in the terminology of Gauthier’s later work, straightforward maximizers, not constrained ones: the very demanding intricacies of constrained maximization require far more than some minimal capacity to pursue

29 David Gauthier, *Practical Reasoning: The Structure and Foundations of Prudential and Moral Arguments and their Exemplification in Discourse* (Oxford: Clarendon Press 1963), 23.

30 This is the phrase used by Anatol Rappoport in his standard introduction to the field: *Two-Person Game Theory: The Essential Ideas* (Ann Arbor: University of Michigan Press 1966), 17. There are many more recent views on what constitutes, or should constitute, minimal behavioural or practical rationality. For the purposes of this discussion, what matters is that ‘minimal’ should not be taken to mean ‘minimally adequate’ from some moral or neo-Kantian standpoint. Instead the minimum in question may be thought of almost in judicial terms: is the person fit to stand trial? Such persons fit means to ends in some way that indicates adequate intellectual capacity, but certainly not some commitment to morality or any higher standard of rational conduct. Though I identify minimal rationality with straightforward maximization, making allowances for practices like satisficing or other non-cooperative but non-maximizing strategies would not change the argument.

self-interest. Minimal behavioural rationality is therefore not simply a tool that can be misused, like some virtues.³¹ The virtues incorporate no rules of action. They do not dictate any particular choice in any situation, much less an immoral choice. But minimal behavioural rationality often prescribes behaviour directly contrary to what most people, and certainly respect-for-persons theorists, consider morality. It commands us to prefer, when there are no obvious indirect effects, any amount of others' pain to the slightest net loss for ourselves. Minimal behavioural rationality is not merely amoral or morally neutral; it is an immoral set of rules in competition with moral principles. It cannot therefore, even *in itself*, or *caeteris paribus*, have intrinsic moral value. It cannot be the source of substantial respect for persons.

Faux-Kantianism aside, the casuistry of respect-theorists obscures the crudity of minimal practical reason. Their discussions tend to emphasize two things: (a) approaches to paternalism; and (b) explications of why violence, invasions of privacy, and other incursions on personal autonomy violate respect for persons. But these are not the hard cases, which typically involve sins of omission. What of people who exercise their autonomy by reading gardening magazines rather than helping the person dying of dysentery at their gate, or by collecting show tunes while their neighbours are abducted by police torturers? These individuals, peacefully pursuing their own life-plans to achieve their own goods, whose opinions and choices, whether we like them or not, are their own, are perfect exemplars of behavioural rationality. But Innocent III was, to this extent, correct: such people ought not to be respected. They may have rights, and we may call the observance of these rights 'respect' if we insist, but that will be no more than loose rights respect, a name bestowed on practices entirely distinct from substantial respect for persons. Neither that sort of respect, nor the rights it requires, can possibly be grounded in any universally human 'rationality.'³²

31 On this point see Bernard Williams, *Ethics and the Limits of Philosophy*, 9.

32 Sarah Buss agrees that the rationality of persons can't ground respect, but seeks such a ground in the fact that 'other points of view (other points of view on the *same set of motives*) are relevant to what we have reason to do — that they may yield genuine insight which is inaccessible from our own point of view.' To my mind this is far too optimistic an assessment of others' points of view. As I understand it, these points of view are not mere perspectives, which in themselves would not be respectworthy. They are the real judgements of real people, and at least potential sources of insight. But, in the first place, only actual, not potential sources of insight would make someone genuinely worthy of respect. More important, perhaps, is the fact that both actual and potential insight must be fully balanced against actual and potential error and evil.

IX The Case for Disrespect

Even if morality does not rest on any substantive conception of respect, there are undoubtedly consequentialist reasons why we should show substantial respect for others. The weight of these reasons is a complex empirical question that lies beyond the scope of this paper. It may be appropriate, however, to close by noting a few negative consequences of instituting rights to substantial respect.

Genuine respect is neither a merely formal recognition that you have *some* sort of rights, nor is it some mere willingness to leave you alone. It imposes limits on the extent to which, even in private, I can look down on you. Perhaps, for example, I needn't respect your faith in order to respect you. But if I do actually respect you — as autonomous, as a rational being — then my respect must go deeper than a grudging, indeed contemptuous observance of your right to worship. Your personal choices, though not beyond criticism, must be held in a certain awe: your faith is very important to you, and, thus far, it is very important to me, because *you* are very important to me.

This presents at least two problems. The first is that, as already observed, rights have a periphery of subordinate protective rights. Any subordinate protective rights attached to a substantial rights respect would have to be very extensive: an awful lot of things might damage my self-esteem, threaten my identity, frustrate my life-plans, interfere with my conception of the good, and so on. This can get very oppressive without interfering with anyone's respect for *me*, so there is no 'compro-

Buss admits that 'each practical reasoner must reach her conclusions from her own unique point of view,' but then compares the situation of the practical to that of the theoretical reasoner, who finds intersubjectivity very useful. The two cases are not comparable. In the world of experience, whatever the claims of scepticism, we find it hard not to accept that others are, under suitable constraints, a systematically valuable source of insights. In morals, matters are different. We find others' judgements abhorrent, incomprehensible, and misleading to an extent unthinkable in 'theoretical reasoning': we need not discount nearly so many premodern judgements about, say, colours, as we do about slavery, or justice, or pretty much any other moral matter. History is not full of cases of people being monstrously misguided by others about perception, but it is full of cases of people being monstrously misguided about the most important matters of morality, precisely because they had Buss's sort of respect for persons. And I can see no reason to suppose that, in this case at least, the future does not resemble the past. So Buss's case for respect seems as plagued by the same excessively sanguine attitude to others' moral judgement as the faux-Kantian tactic of basing respect on practical reason.

cf. Sarah Buss, 'Respect for Persons,' *Canadian Journal of Philosophy* 29 4 (1999) 517-45, esp. 541f.

mise' to be contemplated here. One might wonder how much such a thick protective layer around persons might actually inhibit their development, but that's not for us, paternalistically, to decide. Though persons can presumably waive their own rights to respect, we cannot waive those rights *for* them.

A second problem makes things even more stifling. We have noted that I cannot have a right to have you feel respect for me, because feeling respect for me is not a voluntary action. However, I might have a right to have others *conditioned* so that they show respect for me. This might be a right held, not only against those who can condition themselves, but also against those capable of conditioning those who can't manipulate their own reactions. Quite conceivably, we should, if there is a right to substantial respect, construct a culture of incurably respectful people. Note that such a policy might be obligatory even if, in some cases, it was better *not* to be so respectful, because the general cause of respect for persons might be best served by such measures.

Is it hard to escape the conclusion that genuine, substantial respect for persons can demand, not merely some formal observances and public actions, but also a transformation of our hearts and minds. If respect is so important as to found the very core of morality, then there is at least a very strong *prima facie* case that we should do a lot less questioning and challenging of other people's beliefs, for the sole reason that those beliefs are cherished by their holders.

Not so long ago, saying that someone 'respects nothing and no one' expressed a certain admiration. It was understood that, in the pursuit of truth and justice, neither persons and cultures could expect reverence toward their 'conceptions of the good.' The destruction of prejudices and the flowering of sometimes acerbic debate, were, it was thought, worthwhile, even at the cost of someone's self-esteem: damage to 'identity' was yet undiscovered. It is possible, of course, that we have evolved beyond these crudities. As matters stand, however, it will take more than the theory of respect for persons to validate this optimistic prognosis.³³

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