

Seminar “Reading Levy’s *Neuroethics*”
Session 10 (13:30-15:30, January 11, 2008)
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In this session, we read the chapter 7 “The neuroscience of free will” (pp. 222-57). In this chapter, Levy tackles one of the oldest problems in philosophy: free will. Many philosophers have struggled to answer the question of whether we have free will. Some argue that since the world is deterministic, we have no free will. Others riposte by insisting that the world is indeterministic, and thus we are free. Or others try to reconcile determinism with free will. Levy scrutinizes whether neuroscience can shed light on the problem of free will. According to Levy, recent developments in neuroscience and psychology pose a serious challenge to free will. That is, recent neuroscientific and psychological studies show that “we do not consciously cause our intentions, decisions or volitions, and therefore our actions” (p. 226). Hence we are not free. Levy endorses that we do not consciously cause our actions; however, he denies that we are not free. Levy argues as follows: “*even if* they [the experiments] successfully establish that consciousness does not play a direct role in action-causation, we can still be free and morally responsible agents” (Ibid.; Italics in the original).

Levy first examines Benjamin Libet’s and Daniel Wegner’s views of consciousness. Although they work independently, Libet and Wegner suggest that we do not consciously initiate or cause our actions, and thus we have no free will. According to Levy, Libet suggests that “consciousness of the decision to act or of the volition comes too late to be causally effective” (p. 227). That is, consciousness comes after the event. Wegner provides further evidence for the above claim. He differentiates between the phenomenal will and the empirical will, and argues that the latter produces the former. The empirical will is subpersonal and unconscious mechanisms of our behavior. The phenomenal will is an illusion. That is, we mistakenly take it as real. According to Levy, neither Libet nor Wegner has convincingly shown that we do not consciously initiate action. In this regard, Levy argues that their critics, that is, philosophers, have defeated Libet and Wegner. Nevertheless Levy claims that philosophers will lose. In Levy’s view, both Libet and Wegner and their critics presuppose that if we are to be free, consciousness must have an active causal power, but this presupposition is mistaken. We shall return to this point later.

What do Libet and Wegner’s arguments against conscious will imply in terms of the criminal law? Levy says that the idea that consciousness is necessary for moral responsibility seems central to the criminal law. This sounds commonsensible to me. Yet, according to Levy, “Libet and Wegner seem to think that demonstrating that consciousness lags behind decision-making shows that agents do not genuinely *control* their actions” (p. 232; Italics in the original). Thus the agents are not morally responsible for their actions. This means that all of us can be excused, as was Ken Parks who stabbed his parents-in-law, but claimed that he was sleepwalking at that time. As to Libet and Wegner’s point that we lack control over our actions, Levy argues as follows:

We are properly free, they [Libet and Wegner] seem to suggest [*sic*], only if we possess the power actively to intervene in our decision-making right up to (quite literally) the very last microsecond, thereby altering its course. Call this, the alleged requirement that we [be] able to exercise such as active causal power in decision-making, the *decision constraint*. Libet and Wegner seem committed to denying that the decision constraint is ever satisfied, while most of the philosophical responses to them seem aimed at showing that it might be satisfied after all. I suggest that this is wasted effort (pp. 233-4; Italics in the original).

In Levy’s opinion, the decision constraint will not be satisfied, and we do not need that consciousness has an active causal power because this would reduce our freedom rather than enhance it.

To explain why an active causal power does not enhance our freedom, Levy examines the

difference between weighing our reasons and weighting them. “We *weigh* reasons when we try to find out how significant they are for us, given our beliefs, values, plans, goals and desires. We *weight* reasons when we assign them a weight and thereby a significance for us, either ignoring any preexisting weight they might have had, or varying it” (p. 234; Italics in the original). In Levy’s view, an active causal power is the power to *weight* reasons, that is, to give a weight to reasons, and thus it is arbitrary, not rational. Unless you decide rationally, then your decision is not free. Hence an active causal power reduces our freedom. For this reason, Levy contends that we need not have consciousness as an active causal power.

But if consciousness does not have an active causal power, what about moral responsibility? Are we not morally responsible for our actions, as Libet and Wegner argue? Referring to Bernard Baars’s idea of a global workspace, Levy argues that information from different sources such as modular brain systems and the environment is globally available to subpersonal mechanisms for controlling behavior. Here consciousness does not play an active role in deciding our behavior. Consciousness functions as a global workspace where subpersonal mechanisms communicate with each other, and they can do well without consciousness. Yet Levy contends that “we have good reason to think that without consciousness agents are not morally responsible, because they act only on a subset of the information that normally guides them, and this subset is likely to be inadequate” (p. 241). Although it does not causally initiate action, consciousness monitors the whole process to deliberate consciously, so to speak. Such conscious deliberation reflects our deepest and real values. The reason people such as Ken Parks are not morally responsible for their actions is that they are not conscious, and thus their actions do not reflect their deepest and real values. That is why consciousness is necessary for moral responsibility.

Then Levy goes on to examine positive lessons from neuroscience. He argues that “our growing understanding of the brain and its pathologies is directly relevant to our moral and legal treatment of one another” (p. 244). For instance, if an agent has brain abnormalities, then this could be used to reduce sentences. But some scholars such as Michael Gazzaniga and S. J. Morse deny that neuroscience is directly related to our responsibility ascriptions. Here is a disagreement between them. To make his case, Levy refers to the case of psychopaths. Psychopaths usually cannot distinguish between moral and conventional transgressions. Conventional transgressions are based on authority or rule; moral transgressions are not. According to Levy, normal children can distinguish between moral and conventional transgressions by thirty-six months of age. But why do psychopaths have problem with differentiating between moral and conventional transgressions? Levy says, recent studies suggest that psychopaths have problems with the amygdala that is relevant to their emotions. Because of the problems with the amygdala, psychopaths cannot differentiate between moral and conventional transgressions. Since their brains are different from ours, we would need to punish or blame them differently. This sounds plausible to me. But here is a problem. Even if they have problems with the amygdala, it does not necessarily follow that agents would commit crimes. Damage to the amygdala would not be a sufficient condition for a crime. If so, then we would need to know precisely which brain condition could cause a criminal behavior. I am not so sure whether neuroscience can provide such detailed information. We have yet to wait for the development of neuroscience.