6. NON-VOLUNTARY COMPLIANCE

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ABSTRACT. It is often assumed that one cannot be forced to accept an offer as one can always reject it and be no worse off than one would have been had the offer not been made; offers involve benefits rather than the pains associated with threats. The confusion arises from the fact that we often also assume that in all cases where Q is forced to choose to do what P wants him to do, P coerces Q. I have argued that coercion is only one "mode of non-voluntary compliance". By distinguishing the different ways one can be forced to comply with another's wishes, I have attempted to sketch out the various ways that non-voluntary compliance can operate with offers as well as threats.

In the past few years a good deal of attention has been paid to the issue of coercion and the possibility of being forced to comply with an offer. On the face of it, it seems that one cannot be forced to accept an offer as one can always reject the proposal and be no worse off than one would have been had the offer not been made; offers, after all, involve temptations and benefits rather than the pressures and pains associated with threats. Much of the confusion, I would suggest, comes from the common sense tendency to assume that in all cases where Q is forced to choose to do what P wants him to do, P coerces Q. I will argue that coercion is only one "mode of non-voluntary compliance", or one way in which a person can be forced to do what another person wants him or her to do. By distinguishing the different ways one can be forced to comply with another's wishes, I hope to sketch out the various ways that non-voluntary compliance can operate with offers as well as threats.

I

When an individual is physically forced to act by either some external source or an internal compulsion he acts involuntarily. Involuntary actions admit of no choice whatsoever; the will is in no way involved. So when A physically forces B to act, by for example pushing him off a cliff, B falls involuntarily. The act of falling off the cliff is not controlled by B's choice, intention, or any other aspect of his or her will.
Similarly, internal causes such as reflexes or instincts may compel a person to act independently of his will. Reflexive responses to stimuli and instinctive actions operate without the aid of choice. Where no such control or choice is available, where no act of will is involved, the action is involuntary.

Of course, one may deny that involuntary movements, lacking the requisite volition, should properly be called actions. As my main concern lies with forced choice, I will not delve into this problem here. It is sufficient for our purposes to note that calling such movements involuntary actions agrees with ordinary discourse.

Involuntary actions contrast sharply with the case where someone is forced to choose to do something, where the action is non-voluntary. In such cases an agent is forced to will some action; he or she is forced to choose the lesser of two evils. We often say that someone who is forced to choose "has no choice but to do that act". But this is misleading. While such an agent may face a limited or restricted range of choices, the options are surely not eliminated entirely (as with involuntary actions). Unless a person is entirely overwhelmed with fear and submits as an involuntary instinctual response, he or she can choose not to comply, and thus have some other alternative.

Instead of asserting that one who is forced to choose has no alternative whatsoever, we might say more accurately that he or she has no choice but to do the act or else suffer some unacceptable alternative. But what is an unacceptable alternative? I will argue that non-voluntary action is necessarily bound up with the notion of harm. Where there is such action, the agent under duress pursues an undesired course of action as a necessary means of avoiding some unacceptable harm. Since the choice involving the lesser of the two evils is the only alternative that does not involve some unacceptable harm, it is a necessary means for avoiding such danger.

Harm, as should be obvious, involves a matter of degree, some harms being greater than others. At what point the degree of harm suffices to render an alternative unacceptable, and hence the action taken to avoid it non-voluntary, will depend, in part, on the situation or perhaps the disparity between the harms entailed in either choice. The issue becomes more illusive when we add in personal preferences; what is unacceptable to one may be acceptable to another. To make things simple, we can limit ourselves to the rather conservative claim that when the degree of harm is as high as death, the action taken as a necessary means of avoiding such harm is non-voluntary. Death, in most all situations and for almost all people will count as unacceptable. Hence, I will adopt this minimal standard for purposes of discussion.

Of course few things in life are ever assured. There will always be the possibility, no matter how well founded the fear of death is, that some bizarre chain of events may follow. The bandit who threatens death if his victim does not hand over her money may have a gun that will misfire. But the probability of such a case is so remote that she can hardly be expected to refuse. To be more accurate we may say that non-voluntary action obtains when someone faces a very high probability of death if he or she does not pursue a certain action.
I have so far avoided the term 'coercion'. Coercion is often taken to be coextensive with non-voluntary compliance. But this is mistaken. Coercion obtains when an agent's actions are sufficient to produce the unacceptable harm that his or her recipient is forced to avoid. Coercers, in short, create a situation where the recipient has no acceptable alternative other than compliance. When the agent's threatened action is a sufficient condition for producing the unacceptable harm that the recipient is forced to avoid, the proposal counts as coercive. In the standard highwayman case, for example, bandit P says to traveler Q, "your money or your life". P threatens to inflict the unacceptable harm of death if and only if Q refuses to comply with the proposal. Facing a situation where compliance is a necessary means of avoiding the unacceptable harm of death, Q is forced to comply. And since P's action would be sufficient to cause the unacceptable harm in the event of non-compliance, this is a case of coercion.

Where the agent has no relationship whatsoever to the harm that the recipient is forced to avoid, the agent "exploits" or "takes advantage of" the recipient's necessity. In this case the recipient is forced to do something by some set of circumstances that are independent of the person making the offer. Exploiters discover opportunities rather than create them. They take advantage of situations where someone is dependent and in need, but where the situation is not of the exploiter's own making. Here the recipient is forced to comply with the proposal out of the necessity of the situation rather than some action taken by the agent.

A group of textile manufacturers, for example, may take advantage of a large pool of desperate illegal immigrant laborers who have fled across the border in search of any means of subsistence they can find. The migrant workers face poverty and starvation in their own country, and have no alternative means of employment in their new country other than working for one of the textile manufacturers. That these laborers must work for some member of the textile manufacturing class as a necessary means of avoiding the unacceptable harm of death shows that they are forced to do so. Since these workers are fleeing poverty and violence in their own country, a situation for which the class of textile manufacturers have no causal responsibility, the manufacturers exploit an independently produced need. Using their superior bargaining position to extortion labor at a minimal wage, a position they did not actively seek to bring about, the manufacturers exploit the dependency and need of the migrant workers.

In some cases, however, an agent will contribute to the compelling features of the situation, but his or her actions will not be sufficient to produce the relevant harm that his or her recipient must avoid. Here the agent takes advantage of some independent conditions, but also contributes to the maintenance of a situation that leaves his or her recipient dependent and in need. Since he or she takes advantage of independent conditions it is exploitative; since he or she contributes to the compelling features of that situation it is, to the extent that he or she contributes, coercive. I will call this form of non-voluntary compliance "coercive exploitation".
We can develop a useful model for coercive exploitation by taking a simplified picture of the economic and social situation in a hypothetical rural mining region in South Africa. The white mine owners in this area exploit or take advantage of the cheap labor available from black workers. The political and social structure of apartheid is such that the blacks in the town are refused the right to own property, unable to move to find better work, and effectively denied access to the political machinery which fosters their dependence. Close connections with local and national political leaders enables the mine owners to contribute to the maintenance of a racist system that ensures their supply of cheap labor. Though the mine owners did not create apartheid, they help to maintain the system that leaves black workers without a means of subsistence beyond compliance with their wage offers at their terms. Since "working for some member of the mine owning class" amounts to a necessary means for avoiding the unacceptable harm of starvation, lacking any other way of staying alive, these black laborers are forced to work for some member of the mine owning class. The mine owners neither issue direct coercive threats nor do they simply take advantage of an independent situation. Rather their role in maintaining and developing the system of apartheid makes the mode of non-voluntary compliance "coercive exploitation".

To sum up, the mode of non-voluntary compliance depends on the causal relation of the agent to the unacceptable harm that his recipient is forced to avoid; where such causal relation is complete we have coercion, where it is non-existent we have exploitation, and where it is partial we have coercive exploitation.

III

Where one person is forced to choose to comply with another's wishes, it is typically the case that he complies with some sort of a proposal, usually an offer or a threat. In other words, P will try to get Q to do A by proposing to do (or not do) B if Q does (or does not do) A. By promising benefit B for Q's doing (or not doing) A, P tries to raise the utility of A beyond that of any other alternative Q may have. Here P makes Q an offer since Q can accept the offer, if he thinks he would be better off, or reject it and be no worse off than he would have been had the offer not been made. Should P try to get Q to do (or not do) A by attaching a harm to Q's not doing (or doing) A, P tries to get Q to do (or not do) A by threatening him. With a threat, Q is worse off in either case than he would have been counterfactually. However, for the threat to be successful, Q must find non-compliance to be significantly more unpalatable than compliance. 5

Threats, of course, are typically associated with coercion. In the highwayman example, P coerces Q as P is fully responsible for the unacceptable harm that Q must avoid. The proposal is also a threat in that Q is worse off for complying, that is losing his money, than he would have been counterfactually; and Q gets an even worse deal if he fails to comply. Hence, in the highwayman case Q is coerced via a threat. I will leave aside the question of whether or not threats can operate in the other two modes...
of non-voluntary compliance as my interest here centers on the possibility non-voluntary compliance with offers.

I believe that offers can operate in any mode of non-voluntary compliance. With regard to coercion, Q may entertain a coercive offer if, at some time prior to the proposal, P places Q in a situation of dependency and need. For example, if the textile manufacturers had previously destroyed the economic base of the migrant workers' home area, we may call the wage offer coercive. In this case the manufacturers bear full causal responsibility for the desperate situation. However, they are not now threatening to inflict the harm. The harm involved is a product of the situation, a situation that the manufacturers are not now threatening to bring about, albeit a situation that they caused to begin with. Granted this time differential does not provide a cut and dry distinction. In some sense, to be sure, coercers always place their victims in an exploitable situation. The difference in the above case rests on the fact that it was not by virtue of the proposal itself that the workers were placed in an exploitable position. Unlike the gunman who will bring about the harm if his victim does not comply, the manufacturers do take advantage of a pre-existing situation. But since they were causally responsible for that situation, the offer is coercive. It must be clear, however, that even if this point fails, and there is no such thing as a "coercive offer", it does not follow that a person cannot be forced to comply with an offer. Both exploitation and coercive exploitation involve such non-voluntary compliance even if coercion does not.

Exploitative offers have already been discussed and are, on this account, unproblematic. An offer is exploitative when the victim is compelled to comply out of a necessity that is independent of any action taken by the agent. So when the manufacturers, in the initial formulation of this example, step in and take advantage of the migrant workers' situation, they exploit the necessity already existing such that workers are forced to comply. Since the wage proposal makes them better off than they were prior to entertaining it, or at least no worse off, they entertain an offer. Thus the migrant workers are forced to accept an exploitative wage offer.

Similarly, offers that involve coercive exploitation have previously arisen. The South African example entailed such an offer in that the workers were placed in a dependent position by the system of apartheid. It was coercive exploitation since the mine owners participate in that system of racist domination. The wage proposal is an offer since the black workers are better off for compliance (i.e., employed), or at least no worse off for refusing to comply than if the option were not available (i.e., starvation). Hence, the black workers are forced to accept a wage offer that is coercively exploitative.

It has been my intent to show that one can be forced to accept an offer such that one is either coerced, exploited, or even coercively exploited. By distinguishing three different modes of non-voluntary compliance it becomes clear that "forced compliance" operates with offers as well as threats. While I cannot claim to have exhausted this issue, I hope to have shown that one can be forced to accept an offer.
ENDNOTES


3 Feinberg, 208.

4 I have argued elsewhere that coercive exploitation also best describes Karl Marx's understanding of the capitalist mode of exploitation. That workers are forced to labor for capital due to property relations that leave them without an alternative means of subsistence-property relations enforced by a state that is relatively autonomous from the bourgeoisie—suggests that capitalists coercively exploit workers. Their participation in the state apparatus shows that capitalists help to maintain the system. The relative autonomy of the state suggests that they don't control the state, and hence don't indirectly coerce. The only plausible conclusion then is that the bourgeoisie coercively exploit the working class.

5 In "Coercion", Robert Nozick suggests an extremely complex two baseline approach for determining the counterfactual situation. He fluctuates between what P was morally required to do to Q and what P was normally expected to do. In some cases he even suggests that we must look to what "a person in P's situation" would do rather than what this particular person would do. I have chosen to avoid Nozick's formulation as it is entirely too cumbersome and counterintuitive. Furthermore, an explanation and refutation of Nozick's position here would draw the line of argument too far afield from the ideas I am pursuing here.