Chapter 5
Coercion, Justice, and Democracy

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1 Two Concepts of Coercion?

I begin with two quotations, one from Alan Wertheimer’s booklength treatment of the concept of coercion, the second from G.A. Cohen’s critique, in his Gifford Lectures, of the Rawlsian doctrine of the “basic structure as subject.”

Wertheimer writes:

At the most general level, there are two views about coercion. One view holds that coercion claims are essentially value-free, that whether one is coerced into doing something is an ordinary empirical question. Another view holds that coercion claims are moralized, that they involve moral judgments at their core. I argue that the second view is correct.¹

These two views offer competing accounts of what Wertheimer calls “coercion claims.” Paradigms of coercion claims are such claims as the following: “He made me do it,” “I was forced into doing it,” “I did it under duress,” “He coerced me,” and “I didn’t act of my own free will.”²

After noting that the “basic structure” of society is sometimes taken by Rawls to comprise a society’s “(legally) coercive” institutions, G.A. Cohen writes:

In this widespread interpretation of what Rawls intends by the ‘basic structure’ of a society, that structure is legible in the provisions of its constitution, in such specific legislation as may be required to implement those provisions, and in further legislation and policy which are of central importance but which resist formulation in the constitution itself.³

Critical though Cohen is of various features of the doctrine of the “basic structure as subject,” it is clear that he finds absolutely no paradox in the Rawlsian view that (legally) coercive institutional rules can satisfy principles of justice.

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² Wertheimer, op cit, p. 3.

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These quotations are of interest for my purposes in this paper because they point to two very different contexts in which the notion of coercion has an application. In one of these—typical of the sorts of cases Wertheimer discusses—the coercing and coerced agents are identified, along with the action performed by the latter under coercion. In this sort of situation, interest focuses on such questions as (a) whether the action was voluntary, (b) whether it’s an action for which responsibility is properly imputable to the agent, and (c) whether the agent should be relieved, wholly or partially, of the blame that would otherwise be appropriate, given the nature of the action. Blame would normally be appropriate because what has been done would typically be regarded as morally wrong were it not for the fact that the agent has been coerced into performing it. The fact of coercion—provided the coercion at issue is of the required sort and degree—normally serves to excuse the agent (wholly or partially) but the action may still have to be viewed as wrong in some important sense. It’s because this sort of case is taken to be central to Wertheimer’s discussion that he devotes so much attention to the status of coercion as an excusing or exculpatory consideration.

In the other sort of context, what is at issue is the coercive character of the institutional arrangements through which the state articulates, interprets, applies, and enforces the rules, substantive and procedural, that give content and structure to the institutional framework within which individuals have to live their lives. While the arrangements and the rules may be characterized as “coercive” in the sense at issue, it seems not to be the case that, whenever an individual member of society does what is required by these rules (or refrains from doing what these rules proscribe), he or she is normally either said or thought to be acting under “coercion.” Acts of law-observance are not normally seen as coerced acts. Relatedly, the acts in question aren’t presumed to be acts that would be wrong if the coercive rules requiring them didn’t so much as exist. Nor do questions typically arise about whether the acts are voluntary, or about whether responsibility for their performance is properly imputable, or about whether (any degree of) blame attaches to their performance. On the contrary, it is entirely consistent with the recognition of a society’s institutions as “coercive” in the sense here at issue to regard the acts of normal law-abiding individuals as (a) entirely voluntary actions, (b) actions for the performance of which full responsibility is normally imputable, and (c) actions that are fully justified rather than fully or partially excused. I say that (a), (b), and (c) are consistent with recognition of the coerciveness of institutional arrangements (in the sense of “coerciveness” under discussion) because it depends, of course, on whether the arrangements in question (and the coercive rules they embody) are themselves morally defensible arrangements (and rules). The point is that their coercive character in no way rules out the possibility that they may well be (found to be) morally defensible arrangements and rules.

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4 Whether these different contexts also point to the need to distinguish two concepts of coercion is a question I don’t pursue here, despite the provocative heading I provide for this section of the paper.