



Varieties of unfreedom

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Chapter 11: Varieties of unfreedom

John O'Neill

Prologue

The chapter has a long history. It was written as part of an ESRC seminar series on Unfree Labour between 2009 and 2011. A version was published in 2011 as working paper in the Manchester Papers in Political Economy. Since then, it has gone under many updates and revisions. I offer it here as an example of the influence of conversations with Andrew Sayer on my own thinking. The ideas in this chapter owe much to a number of particularly fruitful conversations with Andrew when he was writing his classic book *Why Things Matter to People*. Three themes in particular are central. The first is the centrality of vulnerability and dependence to human life: 'Concepts of human agency emphasise the capacities to do things, but our vulnerability is as important as our capacities . . .' (Sayer 2011: 5). Andrew in his work notes how the failure to recognise human neediness and vulnerability permeates the social sciences: 'the literature on social ontology rarely gets beyond discussion of structure and agency and fails to recognise humans as needy and vulnerable social beings' (Sayer 2011: 140). However, as Andrew notes this is true not just of the social sciences, but also of philosophy. My conversations with Andrew echoed conversations I also had with Soran Reader in which she was developing her criticism of the 'agential conception of person' in philosophy according to which the persons and human beings are characterised purely by their agency and in particular their capacities for rational choice and action (Reader 2007). 'The other side of

agency’, the particular human forms of vulnerability and dependency, human ‘patience’, are also constitutive of our personhood and matter just as much.

A second theme that was central to my conversations with Andrew was the significance of everyday human relationships to human lives:

The *relational* character of humans being – our dependence on others for our individuality and sense of self – is fundamental, though this is inadequately acknowledged in the liberal conception of human being dominant in modern western society . . . There is not first an individual who then contingently enters into social relations; relations are constitutive of the individual and their sense of self. (Sayer 2011: 119)

The way in which everyday human relationships are central to the constitution of the self became particularly significant to me later in a project I did with Annie Austin on living well with dementia. As a person loses memory, the ways in which social relationships hold a person into their identity become particularly evident (Lindemann 2009; 2014). As such affiliation with others becomes a ‘fertile functioning’ to a person with dementia (Austin 2018). It is a human functioning that is not only central to human well-being in itself, but sustains and maintains other human functionings such that its loss is ‘corrosive disadvantage’ (Wolff and de Shalit 2007: 121-125). It is through social relationships that a person’s identity, her standing and her well-being are sustained as dementia develops. The conversations during the project on unfree labour pointed at the same time to another dimension of social relationships, the ways in which they are a source of vulnerability exploited by others. A feature of many migrant workers, one that Andrew Sayer also noted, was the way in which their migration was the result of the need to discharge their

obligations to family members. Relationality becomes a source of their vulnerability. The claim is central to what follows.

A third related theme that arose in conversations I had with Andrew was the significance of labour itself to human life. Good work is a central constituent of human well-being but it is unequally distributed (Sayer 2005: 111-121; 2009). This chapter explores another dimension of labour, unfree labour and its persistence in modern capitalist society.

This chapter owes much then to my conversations with Andrew and I would like to take this occasion to mark my thanks to him and to look forward to future conversations. I would also like to dedicate the chapter to the memory of both Annie Austin and Soran Reader.

1. The varieties of unfreedom

Modern capitalist societies are marked by an apparent persistence and growth in unfree labour. They are marked by the continuation of existing forms of unfree labour such as debt-bondage and an increasing number of new forms associated with trafficked and migrant labour. The 2017 ILO report *Global Estimates of Modern Slavery* put the figure of at least 24.9 million people in forced labour (ILO 2017). 16 million people were in forced labour in the private economy in 2016 – 51% in debt-bondage. By sector this included domestic work (24%), construction (18%), manufacturing (15%), and agriculture and fishing (11 %). The estimate for forced sexual exploitation was 3.8 million adults and 1.0 million children. There is a clear gender dimension to unfree

labour where women and girls form 99% of victims of forced labour in the commercial sex industry and 57.6% in other sectors. This persistence and growth of unfree labour is reflected in policy documents addressing the issues of forced labour and trafficking (ILO 1930; 2001; 2005; 2009; 2016; Experts Group on Trafficking in Human Beings 2004; UNGA 2000a; 2000b; UNODC 2009). It is also reflected in academic debates, particularly within the Marxist tradition, about the nature and explanation of these forms of unfree labour.¹

The continued existence of unfree labour raises problems for both classical liberal and classical Marxist accounts of the development of modern capitalism. For both, a feature of commercial society or capitalism are free labourers who are in possession of their skills or labour-power and who are able to sell them to whom they choose. The free-labourer is contrasted with the unfree labourer of pre-capitalist society, with the slave, the serf or the bonded labourer who is tied to a particular master. The continued existence of unfree labour raises explanatory questions as to why forms of unfreedom appear to persist. How far should the continued existence unfree labour be understood as survivals of old forms of unfreedom? Are there specific and distinctive forms of unfreedom in modern capitalist conditions? What are the conditions for reproduction of unfreedom? These questions raise prior conceptual questions about how we should characterise the unfreedom of workers in modern conditions. It is these conceptual issues that I address in this chapter. The central argument of this chapter is that only if we attend to the varieties

¹ Lerche (2007) provides a useful overview of the debate. For different views see Brass and van der Linden 1997; Brass 1999; Rao 1999.

of unfreedom will we be in a position to understand the reproduction and distinctive nature of unfree labour in modern capitalist societies.

Before going on to more substantive discussion, I start with a methodological observation about how the characterisation of unfree labour should be addressed which informs the arguments of the chapter. One obvious starting point to a characterisation of unfree labour would be to begin with a characterisation of freedom and then to consider forms in which unfree labour departs from the conditions of freedom. In this chapter, I approach the problem from opposite direction – from a characterisation of the varieties of unfreedom. Austin makes the point thus:

While it has been the tradition to present [‘freedom’] as the ‘positive’ term requiring elucidation, there is little doubt that to say we acted ‘freely’ . . . is to say only that we acted *not* un-freely, in one or another of the many heterogeneous ways of so acting (under duress, or what not) . . . In examining all the ways in which each action may not be ‘free’ . . . we may hope to dispose of the problem of Freedom. Aristotle has often been chidden for talking about excuses or pleas and overlooking ‘the real problem’: in my own case, it was when I began to see the injustice of this charge that I first became interested in excuses. (Austin 1956: 6)

Not the ‘positive’ but the ‘negative’ term does the work.

There are a variety of different ways in which labour can be unfree. Consider the different sites of unfreedom in labour. Unfreedom can occur at the point of entry. Entry into the labouring process is forced or involuntary. Unfreedom can occur at within the labouring process itself: violence and force can be features of the workplace; the worker may have no control over the length of the working day; the relationship might be

marked by personal dependence and domination. It is in principle possible to enter a relationship that is unfree in some of these dimensions through voluntary acts. Finally, unfreedom can occur at the point of exit. There are a variety of limits to the possibilities of exit from the relationship: legal ownership of the person; debt-bondage; the absence of citizenship rights, labour rights and other protective legal and social liberties; the loss of freedoms of movement through passport confiscation. At different sites of unfreedom, different liberty-restricting concepts are invoked: involuntariness, domination, dependence, force, and so on. Both characterising and responding to new forms of unfreedom requires attention to the heterogeneity in the varieties of unfreedom, rather than the assumption of some particular conception of freedom.²

The chapter will be concerned with some of the varieties of unfreedom. For most of the chapter, I focus on unfreedom at the point of entry. However, I should stress at the outset that the point of entry may not be the most significant in understanding the nature of unfree labour. Features of the relationship at work itself and the constraints on exit which keep a worker within conditions of unfreedom might matter more. I return to these in the final section of the chapter. However, unfreedom at the point of entry is important to understanding the reproduction of unfree labour. A feature of much, although certainly not all, unfree labour in modern conditions is the absence of force at the point of entry. Consider for example, Breman's discussion forms of debt-bondage in India:

² The methodological point is not one that is confined to the concept of freedom. Similar points may apply to other concepts, for example, to the concept of justice. It might be argued that the negative term, 'injustice', does the work and that, correspondingly, the most appropriate starting point is a consideration of the variety of different forms of injustice. Compare Sen 2009.

The manner of recruitment is the same as that of the earlier hali, who was not forced to become a farm servant but offered his services ‘voluntarily’ to a master who was prepared to pay him an advance, usually to enable him to marry. The bondage relationship usually started with a debt, which is also true of the laborer nowadays, who surrenders his freedom of movement at the moment he accepts an advance from the jobber. Just like the hali – the bonded farm servant who had to work for his master until the debt was paid off – the seasonal worker cannot leave the brick kiln until he has worked off the advance payment. (Breman 2010: 49-50)

The defining feature of unfree labour here is unfreedom at the point of exit. At the point of entry, the worker ‘voluntarily’ offers his services. A related feature of unfree labour is that workers who have been rescued and freed ‘voluntarily’ return to unfreedom. What are conditions for this of reproduction of unfreedom? Breman uses scare quotes around the ‘voluntarily’ in his characterisation of this point of entry. He is right to do so. What is it for entry into unfreedom to be ‘voluntary’ or ‘involuntary’?

Consider as a starting point two influential characterisations of varieties of unfree labour from the ILO convention on forced labour and from the UN protocol on trafficking:

forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. (ILO Forced Labour Convention 1930: No. 29)

Trafficking in persons shall mean [1] the recruitment, transport, transfer, harbouring or receipt of a person, [2] by use of threat, force, coercion, abduction,

fraud or deception, abuse of power or a position of vulnerability or giving or receiving payments or benefits to achieve the consent of a person having control over another person, for the purpose of the exploitation. [3] Exploitation shall include, at a minimum, exploitation of prostitution of others or other forms of sexual exploitation, forced labour or services, slavery, practices similar to slavery, servitude or the removal of organs. (UNGA 2000a: Article 3)

Both ILO and UN Protocol are concerned in part with entry. The implicit characterisation of absence of freedom at the point of entry under [2] in UN protocol calls upon a heterogeneous range of conditions. Putting it in terms of the ILO definition, there is a variety of ways in which persons can fail to ‘voluntarily’ offer themselves into work or a service. The UN definition goes beyond the minimum conditions of ‘threat, force, coercion, abduction, fraud or deception’ which are included in most standard liberal accounts of unfreedom. It includes also the abuse of a person’s position of vulnerability. In an interpretative note the protocol offers the following characterisation of vulnerability: ‘the reference to the abuse of a position of vulnerability is understood to refer to any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved’ (UNGA 2000b: para. 63). How should the phrase ‘no real and acceptable alternative’ be understood? What relationship does it stand to involuntary action? Sections 3-5 of the chapter will be concerned with these questions.

2. Agents, victims and vulnerability

In answering these questions about the senses in which the worker is vulnerable and workers entry into unfreedom might be involuntary, I will also address a second set of

worries that runs through the literature on modern forms of unfree labour about the acknowledgement of both the unfreedom and the agency of workers. There is a much discussed tension between vulnerability-assigning and agency-assigning descriptions of workers, between the treatment of unfree workers as vulnerable victims and at the same time as agents who are able to make choices about their own lives. The worries are captured in the following passage for the 2004 EU Experts Group on trafficking:

Although the Experts Group explicitly wants to stress the reality of trafficked persons as victims of a severe crime and human rights abuse, it also shares the concern that the use of the word ‘victim’, because of its emphasis on vulnerability, passivity and powerlessness fails to recognise the dignity, courage, aims and choices of the individuals concerned. Therefore, the term ‘victim’ is exclusively used in direct relation to the status of trafficked persons as a victim of crime and human rights abuses. (EU Experts Group on Trafficking in Human Beings 2004: 59-60)

The worry expressed in this passage is that reference to the abuse of vulnerability and the relative powerlessness of those compelled into unfree labour might appear to undermine the ‘dignity, courage, aims and choices of the individuals concerned’. How is the apparent conflict between vulnerability-assigning and agency-assigning descriptions to be resolved? Indeed, how far is there a conflict between such descriptions at all?

Here I make three observations about this putative conflict. The first is simply to note that one possible insidious effect of unfreedom can be a loss of agency. Consider for example, the following passage from an interview with a labourer in debt-bondage who inherited money that allowed him to buy himself out of bondage:

After my wife received the money, we paid off our debt and were free to do whatever we wanted. But I was worried all the time – what if one of our children was sick? What if our crop failed? What if the government wanted some money? Since we no longer belonged to the landlord, we didn't get food everyday as before. Finally, I went to the landlord and asked him to take me back. I didn't have to borrow any money, but he agreed to let me be his halvaha [bonded ploughman] again. Now I don't worry so much; I know what to do. (Bales 2002: 83)

Debra Satz comments on this passage that the ploughman 'places little value on his ability to make decisions' (Satz, 2010: 184). He exhibits a condition of 'servility' (Satz 2010: 184). The interpretation is contestable. The problem might be the objective insecurity of the situation and options that the ploughman faces rather than a failure to properly value his ability to make decisions. One would need to know more about the details of the case. However, it may be that the ploughman has, through the experience of bondage, lost his sense of agency. Habituated to others making choices on his behalf he has lost his capacities of choice. Adaptation to a situation of powerlessness through a shift in a person's own views of their efficacy might be one way of coping with that situation. Correspondingly, one cause of the reproduction of unfree labour can be failures of agency itself. To break the cycle of reproduction of unfreedom requires programmes that address and develop anew the capacities of agency (Bale 2002). However, cycles of reproduction of unfreedom need not be of this kind. Workers with no loss of personal agency may through objective insecurity and the absence of other options place

themselves in conditions of unfree labour. It is these sources of reproduction that will be the central concern of the following sections of this chapter.

The second observation is that there are serious problems in the way the conflict between agency-assigning and vulnerability-assigning descriptions is framed by the EU Experts Group, a framing that is widespread in the literature. Why should ascriptions of ‘vulnerability, passivity and powerlessness’ be taken to involve a failure to recognise the ‘dignity’ of the workers involved? This passage and others like it in the literature on unfree labour assume what Soran Reader has usefully characterised as an ‘agential conception of person’ (Reader 2007). The person or human being is defined purely by agency – by capacities for rational choice and action. To describe a person as a victim, as passive and vulnerable, is taken to deny her full status as a human person. Hence, it implies a failure to recognise dignity and worth. It is to treat the person as an object and as less than fully human. However, this is to distort what it is to be a human person.

Human persons are not simply agents. As Marx puts it ‘A human being as an objective sensuous being is therefore a suffering being . . .’ (Marx 1844: 390). The agential conception of the person fails to acknowledge the other side of agency, vulnerability. Human persons are beings that can be dominated, subjugated, humiliated, oppressed and exploited. In this condition, they are an object of personal or structural powers. The persons are in that sense passive. However, it does not follow that they become mere things (Reader 2007: 593). Persons do not necessarily lose their personhood and humanity in being passive. Rather the obverse is the case. Being the object of certain kinds of humiliation, exploitation, oppression and domination is only possible if one is a human person. Mere things cannot be the objects of these relations. Some non-human

animals may be the objects of versions of such relationships. However, there are specific forms of humiliation, exploitation, oppression and domination that only human persons can suffer. Being an object of these relationships is not a form of agency, although agency can and is exercised in response to them. They are specific ways in which human beings are acted upon. Workers suffer as objects of humiliation, exploitation, oppression and domination *as* human being (cf. Sayer 2011: 5ff. and 112ff.).

It is a mistake to see agency as what is peculiarly distinctive of personhood and humanity. Personhood and humanity are also revealed in the specifically human forms in which we are patients. As such to describe a person as powerless or passive is not in itself to deny the person dignity. Being an object of domination or humiliation will normally involve a failure to recognise the dignity of the person by those who dominate or humiliate. However, the *description* of a worker as being in that condition does not involve any such failure. It is rather to properly describe that condition. One term that might be quite properly used in this context is that the person is a victim. Being a victim involves a particular kind of human passivity and dependence. It involves being the object of human violence and coercion that harms and injures the person. If an agential conception of the human person is assumed then this is taken to reveal a failure to realise human powers: 'The agential conception conceptualises victimhood as a failure, a falling-short of full humanity' (Reader 2007: 596). To describe a person as a victim is thereby taken to fail to recognise those features that make her human, to fail to recognise her 'dignity, courage, aims and choices'. However, this is, for the reasons just outlined, an error. While part of the injury of being a victim of violence and coercion might involve

the perpetrator's failure to recognise the dignity of the worker, the description of the person as being a victim need involve no such failure.

Humans are constituted by their passive powers not just their active powers: 'Full persons – all of us – are passive, needy, constrained and dependent as well as active, capable, free and independent (Reader 2007: 603-4). Such passivity is not just involved in relations of oppression and domination. It is a ubiquitous feature of human life. Humanity and personhood are revealed in the ways we are cared for, looked after in illness and health, supported, taught, loved and in various other forms the objects of relations with other human beings in which we are dependents and acted upon, not just agents who act. It is a mistake to see autonomy and independence as an escape from dependence. The very exercise of active powers of choice and agency is only possible against the background of constraints and dependencies. It relies on networks of social support through which needs are met and through which social powers can be realised (O'Neill 2006; 2011). Those dependencies are particularly evident in the earlier and later years of life. However, they exist throughout life. They place particular kinds of obligations on those on whom dependents depend. These facts of human dependency and the obligations they create also render workers vulnerable to particular kinds of unfreedom which I discuss in more detail in section 5.

The third observation is that vulnerability-assigning descriptions need not deny the agency of the worker. Some vulnerability-assigning descriptions, for example those rooted in the absence of options for workers, are quite consistent with agency-assigning descriptions. Indeed, workers exercise their agency in responding to such vulnerabilities. One way of approaching this relationship between agency- and vulnerability-assigning

descriptions is through the questions I raised at the end of the last section about the relationships between the voluntariness of actions and the presence or absence of options. The interpretative note on vulnerability in the UN protocol on trafficking reads: ‘the reference to the abuse of a position of vulnerability is understood to refer to any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved.’ The questions I raised earlier were these: How should the phrase ‘no real and acceptable alternative’ be understood? What relationship does it stand to involuntary action? It is to these questions and their implications for the relation between vulnerability and agency that I turn in the next section.

3. Voluntary and involuntary action

Like Austin I start my discussion of voluntariness with Aristotle – specifically, with Aristotle’s distinction between voluntary and involuntary acts in Book III of *Nicomachean Ethics*, and in particular the category of acts which Aristotle described as mixed acts, acts that look in one sense to be voluntary, in another involuntary. Discussion of this class of acts allows insight into the ambiguities around the ‘voluntariness’ of the entry into unfree labour, and resolves some of the apparent tension between vulnerability-assigning and agency-assigning descriptions of workers. Aristotle’s account of the category had particular influence on later medieval discussions of ‘compulsion by necessity’. It survives in the work of Marx who, in this regard at least, is as Tawney put it

the ‘last of schoolmen’ (Tawney 1938: 48). It stands in contrast with at least one important strand of liberal theory on the distinction between free and unfree labour.³

Aristotle’s account of voluntary and involuntary action starts from the observation that voluntary actions are the objects of praise or blame, involuntary actions the objects of pardon and pity: ‘Virtue, then, is about feelings and actions. These received praise and blame if they are voluntary, but pardon, sometimes even pity, if they are involuntary’ (Aristotle 1999: III.1). The clear cases of involuntary actions outlined by Aristotle are those that are the result of external force or ignorance. Further qualifications need to be made to Aristotle’s claims here, for example, about culpable ignorance (Austin 1956). However, here I leave these aside and turn to the category of actions which appear to be a ‘mixture’ of the voluntary and involuntary. The category is that of ‘actions done because of fear of greater evils or because of something fine’ (Aristotle 1999: III.1).

Aristotle’s account of mixed actions starts from two much discussed examples, the person forced by a tyrant into shameful acts through threats to family members, and the captain who throws his cargo overboard to save a ship:

Suppose e.g. a tyrant tells you to do something shameful, when he has control of your parents and children, and if you do it, they will live, but if not, they will die.

These cases raise disputes about whether they are voluntary or involuntary.

However, the same sort of thing also happens with throwing a cargo overboard in storms; for no one willingly throws the cargo overboard without qualification, but

³ Hobbes’ negative concept of liberty in particular involved an explicit rejection of the Aristotelian framework (Hobbes 1651 [1968]: II.21 p. 262).

anyone with any sense throws it overboard [under some conditions] to save himself and the others. (Aristotle 1999: III.1)

In one sense these acts look voluntary: The actor ‘does it willingly . . . it is up to him to do them or not to do them’ (Aristotle 1999: III.1). In another sense, they look to be involuntary: ‘the actions without qualification are involuntary, since no one would choose any such action its own right’ (Aristotle 1999: III.1).

One way of capturing the puzzle here for Aristotle is that in such mixed cases the responsibility-attributing attitudes of praise and blame that voluntary actions invoke can come apart. One might praise the captain for the action of throwing the cargo overboard, for his decisiveness in acting the way did to save the ship and the lives of those aboard. At the same time one might deny that he is blameworthy for the loss of the goods. One might say that he had no choice. So here is the puzzle:

- a. the act is the result of a choice for which praise is due;
- b. the captain is not liable to blame since he had no real choice.

The attitudes appear to both presuppose and deny the existence of a choice.

The puzzle is not a deep one. The term ‘choice’ is being used in two different senses. The object of praise of the captain’s decisiveness is the *act* of choice. Choice is being used to refer to the act. In contrast in denying blameworthiness, in saying the captain had no choice, the term ‘choice’ is being used to refer to the options or alternatives over which choice is exercised. To say that the captain ‘had no real choice’ is to say he had no acceptable option or alternative but to throw the cargo overboard.

The distinction dissolves some of the apparent opposition between agency-assigning and vulnerability-assigning descriptions of workers. The claim that ‘emphasis on vulnerability, passivity and powerlessness fails to recognise the dignity, courage, aims and choices of the individuals concerned’ is a worry that the person is being denied the capacity to make her own choices. To assign agency is to say the person has the ability to engage in deliberation and to be author her own actions. Her choices are her own, and one might praise ‘the dignity’ and ‘courage’ of those who make those choices. However, making that agency-assigning description of the worker is quite consistent with a vulnerability-assigning description in the sense that it is used in the UN interpretive comment on trafficking – that the person has ‘no real and acceptable alternative’ but to choose a particular act. This is a claim about the alternatives that are available to an agent. It is not a claim about the attributes of the agent and her capacities to engage in acts of choice in these contexts. It involves no ascription of an incapacity to exercise agency.

4. Compulsion by necessity

One way in which an act can be involuntary is that there is as it ‘no real and acceptable alternative’ but to choose that act (cf. Cohen 1983; Olsaretti 1998). By what criteria is an alternative acceptable or not? One possible answer is to appeal to subjective criteria to define what is unacceptable – to appeal to the desires and preferences of the agent. However, any such account looks implausible. It falls foul of the problem of expensive tastes. A person who finds warm champagne simply unacceptable is not thereby drinking the port involuntarily. Neither can a person complain that they had no alternative but to

work long hours in the city since it was a condition of their maintaining their yacht in the Caribbean. A second possible response is to appeal to objective criteria, for example to the demands of survival, welfare or ethical obligations. It is this second line of response which I develop further in the following sections. In particular, I will explore one line of argument that is central to treatments of voluntary action from Aristotle through the scholastic tradition to Marxism which appeals to an objective account: the individual is compelled by necessity.

What is it to be compelled by necessity? One starting point for an answer to that question is Aristotle's account of necessity in *Metaphysics*:

We call NECESSARY (a) that without which, as a joint cause, it is not possible to live, as for instance breathing and nourishment are necessary for an animal, because it is incapable of existing without them; and (b) anything without which it is not possible for good to exist or come to be, or for bad to be discarded or got rid of, as for instance drinking medicine is necessary so that not to be ill, and sailing to Aegina so as to get money.' (Aristotle 1971: V.5)

This Aristotelian account was typically appealed to in scholastic accounts of compulsion by necessity.⁴ The problem with this response is that as an account of compulsion by

⁴ The concept of compulsion by necessity was central to scholastic debates on the just price and usury (Langholm 1998). Exchange in conditions when one agent makes use of the need of another to enforce a particular price is unjust. The arguments typically appealed back to Aristotle's discussion of voluntary action and necessity. Typical is Aquinas' criticism of usury in *De Malo* (XIII, Article 4). Usury is unjust in exploiting a person's neediness (XIII, Article 4 reply to seventh argument). Aquinas' defence of the claim inherits problems from Aristotle's account of necessity noted in the text. Aquinas acknowledges a potential

necessity it is either too restrictive or too liberal. The problem is one that has been noted by Wiggins (1998: 25-26). On the one hand, clause (a) is too restrictive: only the avoidance of death makes an alternative below conditions of necessity. On the other hand, clause (b) is too liberal: it includes any goods that are instrumental to the achievement of some end, where that end itself is optional. If in characterising compulsion by necessity one includes only that which falls under clause (a), then only where the alternative is death can an act be said not to be free. However, if one follows clause (b), the problem of expensive tastes returns. One is not compelled by necessity when one must act in some way to fund a Caribbean yacht tip.

Wiggins' distinction between purely instrumental and absolute or categorical uses of the concept of need goes some way to resolving this problem with offering an account of compulsion by need (Wiggins 1998). Some needs-claims specify needs that are purely instrumental to the realisation of an end that is itself optional. If I am to have a Caribbean yacht trip, then I need to borrow £6000. One is not compelled by need since the end itself is optional. A person might respond by asking 'Do you really need the yacht trip?'. Other claims of need are not like this. They are absolute or categorical in that the ends themselves are not optional but 'unforsakeable'. A person can be said to be harmed if they are not met.

The concept is characterised thus by Wiggins:

objection with his claim: 'people sometimes borrow with interest without any great need.' (XIII, Article 4 eighth argument). Aquinas' response appeals to Aristotle's account of necessity in *Metaphysics*. An alternative is unacceptable if it either falls below the conditions for life at all or more liberally if one cannot live 'so well or suitably' without it (XIII, Article 4 reply to eighth argument). The problem with Aquinas's argument is one inherited from Aristotle and noted in the text: the account of compulsion by necessity is either too restrictive or too liberal.

I need [absolutely] to have x

if and only if

I need [instrumentally] to have x if I am to avoid being harmed

if and only if

It is necessary, things being what they actually are, that if I avoid being harmed then I have x. (Wiggins 1998: 10)

Absolute needs should not be confused with needs grounded in a person's biological nature. Not all biological needs are absolute, for example the dietary needs of the fashion model. Not all absolute needs are biological. A child is deprived of education and an adult is deprived of the chance to make choices about her own life are harmed even if all biological needs are met. Some absolute needs are relative to specific cultural settings and social arrangements. They include, as Smith puts it, goods which while not 'indispensably necessary for the support of life' are such that 'the custom of the country renders it indecent for creditable people, even of the lowest order, to be without' (Smith 1776: V.11.k, p.869).

Given this account, one is able to characterise at least one dimension in which a person might be said to be compelled by necessity. The person lacks acceptable alternatives, where the concept of an acceptable alternative will appeal to something like conditions for a person to live a minimally flourishing life or realise some basic capacities for human functioning. The person has no choice but to perform some act X in the sense that her life would fall below some minimal conditions of human flourishing if she fails to do so and hence that she will be harmed. Necessity of this kind I will call 'prudential

necessity'. Prudential necessity is what is typically appealed in observing that workers are forced into bondage through poverty. A life of extreme poverty is a 'life without options' (Bales et. al. 2009: 56) in just this sense. However, prudential necessity, while it is involved in the point of entry of much unfree labour, is not the only kind of compulsion by necessity. It needs to be distinguished from a distinct class of necessities, necessities of obligation.

5. Necessities of obligation

Prudential necessities do not exhaust what it means to be compelled by need. Moral and ethical considerations also determine the scope of acceptable alternatives. Consider again Aristotle's examples of mixed actions. A man does something shameful because a tyrant threatens his children. The captain throws the cargo overboard since saving the ship and its passengers is what is required of her as a captain. In both cases they have no choice in the sense that this is what is ethically required of them as inhabitants of that particular role, where in this context the role is itself both ethically permissible and unforsakeable. The qualifications are important. There might be requirements of a role that is itself ethically objectionable, say of the conscientious bureaucrat in Nazi Germany or of the loyal hit man. In neither of such cases would there exist the excuse 'I had no choice . . .'. The roles themselves should be rejected. Being a parent or a captain of a ship are not ethically objectionable in this sense. Neither is being a parent or a captain of a ship forsakeable at the point of action. While the captain may make a decision to give up the job when she steps ashore, at the point of action that option is not available. Some roles which are voluntarily entered into carry obligations that are not foresakeable at all.

Obligations of parenthood are of this kind. Finally, some roles which are not optional at the point of entry carry obligations that are not forsakeable. Ties of kinship such as being a daughter or son, a sister or brother are of this kind. Necessities of obligation refer to what is required of person ethically or from within an ethically permissible and unforsakeable role. A person is compelled by necessity in the sense that there is no acceptable alternative to a particular action since that action is ethically required or alternatives are ethically impermissible.

Necessities of obligation are of particular importance for understanding the grounding of many modern forms of unfree labour. They are particularly evident in accounts of unfreedom of women in which care roles involving dependents falls within the gendered division of labour. Consider for example, the following observation about sex workers in Tijuana:

All the sex workers I talked to had a clear understanding of the societal conditions they grew up in and knew that they had had very limited options. Almost all of them mentioned ‘necessity’ as the reason for entering the sex industry. This necessity stems often from them being the single heads of households with care duties for children and other dependents. (Hofmann 2009)

The necessities the workers here are necessities of obligation grounded in the position of head of household responsible for dependents. Prudential necessities if they enter here enter indirectly. The needs of those dependents ground the particular obligations.

Consider another example of entry into indentured sex work in Cambodia:

Somnang’s entry into sex work and indenture was primarily in response to her mother’s illness and, as her daughter, she felt obligated to look after and support

her: 'My mum is very sick and when I found out about this, I came here [to work] so I could look after her. She isn't well and she needs a lot of money to look after herself with, and so I did this for her.' (Interview, Somnang, 22 November 2003)
(Sandy 2011: 14)

There is a prudential necessity here – the illness of the mother. However, it is the necessity of obligation to care for a dependent person that compels Somnang to enter indentured labour as a sex worker.

References to necessities of obligation are prominent forms of unfree labour women enter to meet gendered obligations to care for dependents. They can lead to paradoxes of unfree labour where separation is a condition of caring for dependents:

It is terrible for us, because we are far from our children, but we are giving them food education, we are giving them everything, although staying here you are dying because everything depends on you. (Peruvian domestic worker quoted in Anderson 2000: 118)

While necessities of obligation are particularly evident in descriptions of women's entry into unfree labour, they are not gender specific. They are evident also in reasons that male unfree workers give for entering conditions of unfreedom. For example, the need to meet obligations to provide for dowries for sisters and daughters is common in descriptions of debt-bondage in India and among migrant workers without rights in the Middle East. Sugar cane workers report entering into unfree labour in order to meet the needs of family (McGrath 2010: 102). An Algerian migrant male worker in France echoes the dilemma noted by the Peruvian domestic worker quoted above: 'What kind of

life is it when, in order to feed your children, you are forced to leave them; when in order to “fill” your house, you start by deserting it’ (Sayad 2004: 39 cited in Sayer, 2011: 9).

One form of involuntary entry into unfree labour stems from the fact that the worker as a relational being is enmeshed in obligations. Women enter domestic service tied to a particular employer or forms of debt-bondage in order to provide their children or parent with prudential necessities. Male workers enter unfree labour in order to discharge obligations to family members. The worker suffers from necessities of obligation in the sense that the action is required of him or her from within an ethically permissible and unforeseeable role.

There are objections that might be raised to the claim that the worker in these cases suffer from necessities of obligation. One objection might be to simply deny that any roles are unforeseeable. All are optional. Thus one form of radical liberalism might limit obligations to others to those that agents voluntarily incur. If that is the case it might be argued all ethical bonds to others associated with social roles are ultimately optional. There are at least two problems with this argument. First, many roles and the obligations associated with them are not voluntarily incurred. Relations to kin – for example to parents and siblings – are relations into which people are embedded without choice and which make ethical demands on the person. Somnang’s relationship to her mother is not a chosen relationship. It is one that makes serious demands upon her. Second, even where roles and attachments are engaged in voluntarily and are in that sense optional at the point of entry, once they are entered the role is not forsakeable and makes demands on the person. The choice to be a sea captain is optional. Some choices on how to act within that role are not. The captain has no choice but to throw the cargo overboard. The choice

to be a parent may be optional. Once entered there are demands required by the role that are not forsakeable.

A second and more important objection is that while the particular role may not be unforsakeable, the background structure in the distribution of roles may be itself both socially optional and ethical and politically objectionable. The gendered division of labour that places women in particular roles of care for dependents, patterns of dowry obligation, and other patterns in the social distribution of care and dependency are not themselves ethically defensible or necessary. For that reason they should be the object of political contestation and change. These points are right. However, that the patterns of distribution in responsibilities are not necessary does not entail that those who inhabit particular places within those distributions of responsibility and obligation are not subject to necessities of obligation. Moreover, the roles themselves – for example, being a parent, daughter, sister, brother or son – are not objectionable. What are objectionable are the particular patterns of obligation that people are placed within and the ways in which they are exploitable. One way people are oppressed is through the exploitation of relations of care – and in the nature and extent of those obligations of necessity. The worker is trapped within cycles of social reproduction from which escape is difficult or impossible. What does follow from this observation is that tackling the reproduction of unfree labour is not simply a matter of addressing the condition of individual workers, but addressing the background social conditions that mean the worker is subject to patterns of necessities of obligations that render them open to exploitation as unfree labourers. The social support and provision for dependents, social welfare and health provision for the young, old and ill can be key to freeing the agents of exploitable necessities of obligation.

6. Domination, dependence and unfreedom

I noted at the start of the chapter the different sites of unfreedom. Unfreedom can occur at the point of entry, within the labour process itself and at the point of exit. At different sites, different liberty-restricting concepts apply such as involuntariness, domination, dependence. In the last three sections, my main aim has been to understand the ways in which the point of entry into unfree labour, while the result of an act of choice by the worker, cannot be understood to be a simple voluntary act. The worker enters into the condition through a lack of reasonable alternatives. They are in this sense compelled by necessity. These necessities include not just prudential necessities, but necessities of obligation. Recognising such necessities is important to understanding the reproduction of unfree labour. However, it is important to note the lack of reasonable alternatives at the point of entry does not define the nature of unfree labour. The lack of reasonable alternative can be why workers enter into forms of labour contract in which subsequent relations of dependence are absent and from which exit is possible. For example, the lack of reasonable alternatives can be why workers engage in dangerous forms of labour which need not be forms of unfree labour (Cohen 1983). Conversely it is possible to enter a relationship that is itself unfree through voluntary acts. The involuntariness or otherwise of the point of entry into an exploitative relationship of unfree labour is independent of the nature of the relationship itself. The voluntariness of the point of entry matters for an understanding of the social reproduction of unfreedom – of why workers enter into and indeed often return to conditions of unfreedom. It does not answer the

question of how unfree labour, and in particular modern forms of unfree labour should be characterised and understood.

This final section will consider unfreedom at the point of exit and in the relationship itself. The background questions addressed are those raised at the start of the chapter: What is the relation between capitalism and the persistence and spread of unfree labour? Are there distinctive features of the nature of unfree labour in modern capitalist society? In what sense, if any, is modern unfree labour distinctively different from older forms of unfree labour? Classically, the contrast that is used to characterise unfree labour is with the free wage-labourer who owns their own labour power and is free to sell it (Marx 1976: ch.26). The wage labourer must sell their labour power to some capitalist, and in that sense there may be a collective unfreedom (Cohen 1983). However, the worker is not compelled to sell it to any particular capitalist (Marx 1976: 1032).

On this account unfreedom at the point of exit becomes central to characterising unfree labour. Unfree workers cannot change their master as they wish. The slave cannot exit since they are owned by the master. The bonded worker is similarly unfree at the point of exit: the unfree element lies not in the bondage being imposed from the start but in the worker's 'inability to break the bond once it has been contracted' (Breman 1993: 12). Both these forms of unfree labour persist, in particular debt-bondage. Repayment of the debt is tied to bondage to a particular master. Debt-bondage is also central to the unfreedom of many migrant workers. However, the constraint of exit often lies not just in debt, but in the absence of protective labour and citizenship rights. This is most clearly evident in confiscation of passports by employers. It exists in legal and social systems in

which the migrant worker is tied to a particular employer. Consider for example, *Kafala* labour in the Middle East in which the worker is sponsored by a particular employer:

Workers are prohibited from changing employers or quitting without their sponsor's permission. The *kafeel* (sponsor), who is in most cases the employer, has the power to send the worker back to his or her country at any time. Within this rigid legal framework, foreigners are effectively bonded to their employers for the terms of their service, which typically last two years. (Frantz 2009)

While the worker may enter the contract freely, they have no possibility of exit. However, even where the legal powers of the kind in the *Kafala* system are absent, the worker may be unfree simply through the absence of positive protections. In particular, the illegal status of many migrant workers robs workers of social protections that allow them to exit.

Here the forms of unfreedom stressed in the tradition of republican political theory which was developed through the contrast with classical slavery are particularly relevant. The concepts of domination and dependence are the central liberty-restricting concepts employed. Acting as an independent agent is in part a matter of being protected as citizen from domination. An individual is dominated if they are subject to arbitrary power of another. As such freedom requires positive protections of citizens from the powers of others: '[f]reedom as non-domination is a social good that comes about . . . by virtue of checks on the capacity of other people to exercise domination' (Pettit 1999: 122). Central to many modern forms of unfree labour is the absence of such checks on domination through the absence of those protections that the status of citizenship provides. While the worker is often formally free, she is unprotected from the arbitrary powers and violence

of others in virtue of the absence of those forms of protection that are included in the rights of a legal citizen. The worker loses capacity to act as an independent agent. She is effectively tied to a particular employer.

The concept of dependence is also of significance in understanding distinctive features of unfreedom in the relationship itself. Both Smith and Marx employ the concept of dependence to characterise the differences between capitalist or commercial societies and their precursors. Consider for example, Marx's distinction between pre-capitalist and capitalist modes of production in the *Grundrisse* in terms of a shift from 'relations of personal dependence' to '[p]ersonal independence founded on *objective [sachlicher]* dependence' (Marx 1973: 158). Pre-capitalist societies in which market exchange relations are not fully developed are characterised by individuals defined by social roles which make some personally dependent on others (Marx 1973: 165). The full development of market relations within capitalist society breaks ties of personal dependence. Through contract, individuals enter into relations with each other as personally independent and free agents who are not tied to a particular social definition: 'In . . . the developed system of exchange . . . the ties of personal dependence, of distinctions of blood, education, etc, are in fact exploded, ripped up' (Marx 1973: 165). Personal dependence is replaced by the 'objective' dependence of agents on the impersonal workings of the market.

The claim that commercial society fosters independence is central to Smith's defence of commercial society. Commerce secures 'the liberty and security of individuals, among the inhabitants of the country, who had before lived almost in a continual state of . . . servile dependency upon their superiors' (Smith 1776: III.IV.4). In pre-commercial

society the worker is dependent on the wealthy through the power of patronage and gift (Smith 1776: III.IV.5-6). Commercial society breaks these ties of personal dependence. Through exchange and the division of labour, the interdependence of individuals is disassociated from personal dependence since the income of each worker is no longer tied to that of any particular individual (Smith 1776: III.IV.11).

What is distinctive about unfree labour in modern capitalist society is that older forms of personal dependence are largely absent. While forms of personal dependence do survive in modern forms of unfree labour, including forms of personal dependence founded on birth into a particular role, these are less evident. The kinds of reciprocal dependence of older forms of unfree labour have been eroded. Unfree labour takes a contractual form. Thus for example, what Breman characterises as neo-bondage involves more contract-like forms of debt-bondage. Relations of personal dependence which involve a reciprocity of duties and patronage are absent. The bondage is for limited periods of time. Intergenerational inheritance of dependence disappears. Consider Breman's observation on the condition of bonded cane cutters and kiln workers in India:

The non-economic aspects of patronage that were so characteristic of halipratha, the halis' function as an indicator of their masters' power and prestige, play no part . . . They are not feudal patrons who surround themselves with clients but capitalist entrepreneurs who satisfy their time-bound demand for labor . . . (Breman 2010: 50)

Similar points apply elsewhere. Consider the *Kafala* system in the Middle East. The *Kafala* system appears as a continuation of older relationships of patron and client, with the ties of dependence and reciprocity these involve. However in its modern form, *Kafala* is a husk of the system. The relation is one with an employer who contracts with a

labourer for a set period of time. In both cases ties of personal dependence are no longer present in the forms they were in pre-capitalist society.

There are good reasons then to claim that many modern forms of unfree labour we are not persisting pre-capitalist forms but rather new forms without relationships of personal dependence with individuals tied to particular roles. These new forms of unfree labour take place in a global market place for labour which is highly mobile. The blocks on the exit of the worker are increasingly bound up with the very mobility of labour which removes it from legal and social protections against domination. The confiscation of the passport as a way of tying labour to a particular employer in many ways exemplifies the combination of high mobility of labour with new forms of blocks on exit. The unfreedom of the worker is often time-bound and contractual in nature. Intergenerational inheritance of unfreedom is absent. The personal dependence of patron and client, lord and serf, of caste and estate are replaced by impersonal relations without traditional forms of reciprocity and patronage.

While pre-capitalist modes of unfree labour do survive, it would be a mistake to see the continued existence and growth of unfree labour simply as survivals of pre-capitalist forms (Rao 1999). Rather they are specifically modern ways in which unfree labour is realised. Central questions about unfree labour should be about the new forms of unfreedom and not simply the persistence of older forms. What I have tried to show in this chapter is that the key to understanding modern forms of unfree labour and its reproduction is an appreciation of the varieties of unfreedom involved. Understanding that variety is required if political and social responses are to be successful.

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