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To cite this article: Alex John London (2019) Freedom From Subjection to the Will of Others: Study Payments, Labor, and Moral Equality, *The American Journal of Bioethics*, 19:9, 32-34, DOI: [10.1080/15265161.2019.1630506](https://doi.org/10.1080/15265161.2019.1630506)

To link to this article: <https://doi.org/10.1080/15265161.2019.1630506>



Published online: 16 Aug 2019.



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Freedom From Subjection to the Will of Others: Study Payments, Labor, and Moral Equality

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If the institutions of research involving human subjects are to be justifiable to democratic citizens as a means through which they might advance the common good, then those institutions must respect the status of study participants as free and equal persons (London 2012, 941–943). Payments intended to promote study participation can be problematic if they provide a lever through which stronger parties manipulate, control, or commodify the vulnerability of others, inducing them to “do something to which they are averse” (Grant and Sugarman 2004, 728). To avoid commodifying vulnerability and sanctioning the subjugation of our moral and political equals, payment schemes should be regulated with an eye toward ensuring that individuals participate in research because they value either the direct medical benefits of participation or the opportunity it presents to contribute to the common good (London 2005, 31). To avoid inducing people to participate in research when they do not share either of these motives, and to ensure that research results are representative of the larger population, payments intended to encourage research participation—payments over and above reimbursement for time and expenses—should remain relatively low.

In “How Payment for Research Participation Can Be Coercive,” Joseph Millum and Michael Garnett (2019) argue that payments for study participation can be morally problematic precisely because they result in a particular type of unfreedom, namely, the person receiving the offer is subjected to the will of another and forced to participate without sharing a commitment to the ends or purposes of the activity their participation supports. However, they stop short of arguing that this provides a strong reason to restrict study payments. I argue in the following that their reasons for resisting this conclusion are unpersuasive. In “Paid to Endure: Paid Research Participation, Passivity, and the Goods of Work” Erik Malmqvist (2019) explores a possible response to these worries: What if both researchers and participants

engage in research as a form of work? Malmqvist is rightly skeptical about research participation as an undertaking in which people can experience the goods of work, and I argue that there are also practical reasons—related to research as an undertaking intended to produce the social good or representative and reliable medical evidence—to discourage research participation as an occupation.

SUBJECTION TO THE WILL OF ANOTHER

Millum and Garnett draw a distinction between what they claim are two distinct forms of coercion. “Consent-undermining coercion” occurs when A imposes a choice on B by threatening to make B worse off unless B chooses the option(s) that A prefers. For example, the highwayman who, at gunpoint, demands your money or your life imposes a choice on you in which the threat of murder is intended to bring you to choose the highwayman’s preferred option of handing over your money. This scenario is a paradigm case of coercion, even though the highwayman does not bypass your will entirely. For instance, the highwayman could physically grab your arm and stick it into your own pocket, using brute force to override your will. Instead, the highwayman gives you a choice, relying on your own agency to procure your money. Although there is a nonmoral sense in which you choose to take out and hand over your wallet to the highwayman, your action is not “morally free” because the highwayman’s threat of lethal force undermines the validity of your consent. The highwayman imposes his will on yours in a way that unfairly limits your freedom, undermining the moral conditions necessary to make giving your wallet to the bandit morally transformative (to make it, rightfully, his property).

In this scenario, coercion undermines the validity of B’s consent when (a) B’s choice is made in the face of a threat to make B worse off unless B chooses A’s

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preferred option and (b) A has no right to impose this choice on B. When these conditions are met, (c) A's conduct is morally wrong because it violates a prior right of B. If we define a genuine offer as an option that makes its recipient better off relative to the appropriate normative baseline, and that does not transgress a prior right of B, then it follows by definition that genuine offers cannot be coercive and, therefore, cannot undermine autonomy. Some have tried to infer from this that "coercion is not a valid or relevant concern when evaluating offers of payment" (Largent and Lynch 2017, 105), but this inference is too quick. As shown in the following, offers of payment that involve violating a prior right of B are not genuine offers. Thus, even if this were the only concern about coercion, institutional review boards (IRBs) would still have to evaluate all actual offers of payment to determine whether they represent genuine offers or covert threats.

In contrast, Millum and Garnett argue that A can coerce B in a second sense, called "coercion as subjection," if B is "(1) forced to act (2) by and in accordance with a will (3) that is foreign" (24) to B's own will. Genuine offers, they argue, can coerce in this sense. B can be forced to choose act x if B chooses x because "it is her only way of avoiding an eventuality that she regards as unacceptably bad" (24). In choosing x, B is subjugated to the will of A, if A has offered option x to B as a way of avoiding this bad eventuality. If B is facing starvation, indigency, or some other outcome that B regards as unacceptably bad, then A can get B to act in accordance with A's will by offering option x—which might be participating in research for money—as a way of avoiding this bad outcome. If B and A share an interest in advancing the same goals through x, then A's offer is not coercive. Rather, A's will is foreign to B's if the considerations that motivate A to offer x to B are disjoint from the considerations that motivate B to choose x.

All instances of consent undermining coercion are instances of coercion as subjection, but Millum and Garnett argue that not all instances of coercion as subjection are instances of consent-undermining coercion. Their rationale for this claim boils down to this: Consent-undermining coercion involves a threat and a violation of a right, whereas subjection to the will of another involves neither. But there are three responses to the claim that these forms of coercion are morally different, one stronger, and two weaker.

The stronger response holds that if every individual has a right to autonomy and if this includes a right not to be subjected to the will of another, then the distinction between these two forms of coercion breaks down entirely. On this strong position, coercion as subjection does violate a right—the right to be recognized as a free and equal person who is not to be regarded as a tool or a mere means to the purposes or ends of others. Given this claim, if an offer violates a right then it is not a genuine offer. Relative to the baseline of B's moral entitlements, the "offer" of x is a masked threat to make B

worse off by leaving B victim to an eventuality that B regards as morally unacceptable. To say that B is entitled to an offer that is morally better than x is not necessarily to say that A has a duty to make a more lucrative offer than x. It is to say, rather, that A has a moral duty to, as Kantians would say, make sure that her ends *harmonize* with those of B by only offering options to B that are aligned with concerns or considerations that B shares.

This stronger position may seem overly demanding against the backdrop of a conception of autonomy as negative freedom, freedom from interference. But for neo-Kantians, neo-Aristotelians, and others who are sometimes grouped under the heading of Civic Republicanism, freedom from interference is too anemic to account for the way that subjugation to the will of another undermines an individual's autonomy and, ultimately, their status as a free and equal person (Pettit 1997). For theorists of this bent, each of these forms of coercion undermines autonomy, and Millum and Garnett's chosen nomenclature simply begs the question.

A second, weaker response is willing to grant the claim that Millum and Garnett have identified distinct kinds of coercion. But it holds that even if there is no prior right not to be subjugated to the will of another, it is unclear why threats and rights violations are necessary conditions for undermining the validity of consent. After all, it is commonly held that in order to be morally transformative—in order for consent to transform a morally problematic activity (unwanted touching, or unilateral taking of your wallet) into something permissible (consensual touching, or free trade)—consent must be both free and informed. And if, as Millum and Garnett admit, being subjected to the will of another is a kind of unfreedom, then consent that is offered under these conditions should also be seen as morally tainted.

Millum and Garnett don't address the relationship between this form of unfreedom and autonomy. Instead, they treat this form of unfreedom primarily as a diminution of individual welfare—as a respect in which one's life can go badly. But the reason one's life goes badly when one's will is controlled by the will of another is precisely that one is no longer acting as a fully autonomous agent—one is being forced to choose an option because it is valued by someone else for reasons that one does not also share or embrace. Even if the "force" comes not from a threat that another person will inflict harm on you, but from the prospect that they will only help you avert a harm if you do what they want, your aversion to harm is used to get you to choose an option to which you are averse, that advances the goals or ends of some other person, for reasons that you do not share.

A third, still weaker, response notes that treating subjection to the will of another as a form of welfare loss enables Millum and Garnett to argue that coercion of this sort should be permitted, as long as the risk that it will occur is outweighed by sufficient prospect of social benefit from research. Even if we reject the criticisms I've offered here and we accept most of their analysis, it is

not clear that we ought to endorse or permit social systems that allow vulnerable individuals to be routinely forced into research activities because they are subjected to the will of other, more powerful individuals. Rather, a just society should seek to forge and maintain social systems, including systems of medical research, that respect the status of individuals as free and equal persons by eliminating, and when this isn't possible, minimizing, the prospect of coercion, domination, and other forms of unfreedom (London 2012).

RESEARCH PARTICIPATION AS WORK

A possible response to the preceding analysis is that it treats research as exceptional, when in fact research is no different from any other form of labor. We can reframe this objection in terms of the preceding analysis as holding that when research participants agree to join a study for money they act as a moral partner with researchers and other stakeholders, since these other parties conduct or support research, at least in part, as a way of making money. Thus, this new objection runs, sharing the desire to make money should alleviate concerns about subjection to the will of another and raising the level of study payments should alleviate worries about exploitation or unfairness. Again, two responses are in order.

First, Malmqvist expresses skepticism about the claim that research participation is a form of work because, as other have also argued (Jonas 1969; Różyńska 2018), the valuable aspect of the “worker” in this case has nothing to do with human agency, cultivating and expressing practical rationality, skill, or other excellence. What is valuable is access to and control over a person, and it is this access that is treated as a commodity when we create a market in research participation. Without agency, research cannot be an outlet in which individuals realize the “goods of work,” since those goods include excellence, social contribution, community, and social recognition. Without access to the goods of work, workers cannot truly be partners in the enterprise to which they are subject. When the only work available to a person offers no outlet for expressing individual personality, creativity, or excellence, then being paid to do it does not thereby transform the relationship between the parties to one of moral equality.

Nevertheless, Malmqvist argues that although raising the wage of study participants will not advance their interest in accessing the goods of work through research participation, it might enable them to subsidize other activities in which they can realize those goods. In that sense, Malmqvist, like Millum and Garnett, is willing to support a social system in which some individuals are subjected to the will of others as long as it might advance the ends of science and it pays enough to assist

participants in finding the goods of work in some other outlet.

Second, even if one is unpersuaded by the arguments offered so far, there is a key respect in which research participation differs from work. Unlike other jobs, where experience fosters expertise and therefore makes a person more productive over time, repeated study participation in research makes a person less representative of the larger population. Even if a volunteer cadre of study participants could be constructed that is demographically representative of the larger community, repeated exposure to novel chemicals creates concerns about the validity of results generated from people with such an unusual history of exposure to a wide range of chemical entities. As a result, not only should we resist endorsing social structures that permit coercion, domination, and other forms of unfair and unequal treatment, but creating a cadre of professional study participants is antithetical to the scientific goals of research. Because research participation is different from work in this way, there are practical, scientific reasons to resist incentivizing repeat study participation. ■

REFERENCES

- Grant, R. W., and J. Sugarman. 2004. Ethics in human subjects research: Do incentives matter? *Journal of Medicine and Philosophy* 29(6): 717–738. doi: [10.1080/03605310490883046](https://doi.org/10.1080/03605310490883046).
- Jonas, H. 1969. Philosophical reflections on experimenting with human subjects. *Daedalus* 98(2): 219–247.
- Largent, E., and H. F. Lynch. 2017. Paying research participants: The outsized influence of “undue influence.” *IRB: Ethics & Human Research* 39(4): 1–9.
- London, A. J. 2005. Undue inducements and reasonable risks: Will the dismal science lead to dismal research ethics? *The American Journal of Bioethics* 5(5): 29–32. doi: [10.1080/15265160500245105](https://doi.org/10.1080/15265160500245105).
- London, A. J. 2012. A non-paternalistic model of research ethics and oversight: Assessing the benefits of prospective review. *The Journal of Law, Medicine & Ethics* 40(4): 930–944. doi: [10.1111/j.1748-720X.2012.00722.x](https://doi.org/10.1111/j.1748-720X.2012.00722.x).
- Malmqvist, E. 2019. “Paid to endure”: Paid research participation, passivity, and the goods of work. *American Journal of Bioethics* 19(9): 11–20.
- Millum, J., and M. Garnett. 2019. How payment for research participation can be coercive. *The American Journal of Bioethics* 19(9): 21–31.
- Pettit, P. 1997. *Republicanism: A theory of freedom and government*. Oxford: OUP Oxford.
- Różyńska, J. 2018. What makes clinical labour different? The case of human guinea pigging. *Journal of Medical Ethics* 44(9): 638–642. doi: [10.1136/medethics-2017-104267](https://doi.org/10.1136/medethics-2017-104267).