Lowering the Bar for Addicts

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Introduction

In public discussions of addiction and responsibility, it is common to find both those who are sympathetic to addicts who act badly and those who are not, holding, often merely tacitly, that addict responsibility is all or nothing. “It’s a disease!”, one side says, suggesting that we can hold the addict no more responsible for wrongdoing than we can the person with laryngitis who keeps quiet when speech is called for. “No, it’s a matter of personal responsibility!”, says the other side, suggesting that wrongdoing by addicts is only cosmetically different, if even that, from wrongdoing by nonaddicts. What both sides overlook is the possibility that addicts should be given some kind of break, but not excused entirely. In fact, as this paper will argue, in overlooking this possibility, both sides overlook the truth.

Part of the reason that the all-or-nothing position tempts is that the alternative position raises vexing questions. The two central questions, in fact, seem to the pessimistic to be intractable: If addicts are not to be excused entirely, what should they be held responsible for? And, if addicts are to be given a break, what should they not be held responsible for? What we seem to lack is a principled way of drawing the line, and this nudges us towards thinking that we must either take a stand for or against addict responsibility, period, or else give up on even trying to answer the question. But, as will be argued here, we oughtn’t to let pessimism get the best of us. Both questions
are answered here, albeit at a level of abstraction that makes it difficult to know what to say about borderline cases. Still, even an answer of this sort marks progress.

What will be argued here, in short, is that an addict is not responsible for violating a norm if he could comply with it only by giving up control of his behavior to someone or something that is independent of his own decisionmaking capacities. We cannot expect people, that is, to give up their autonomy in order to comply with norms. However, it is also argued that in virtually every case of a norm violation by an addict, if not all, there is a less stringent norm that the addict can be held responsible for violating, precisely because he would not have to give up his autonomy in order to comply with it.

The structure of the argument for this view is as follows. Sections 1 through 3 argue that, with some important qualifications, people cannot be expected to comply with norms when compliance would require them to guide their behavior without recourse to their own conception of the reasons for and against action. Towards this end, section 1, through a discussion of the analogy sometimes suggested between addiction and duress, distinguishes excusing someone on the grounds that he cannot comply with the norm he violated, on the one hand, with excusing him on the grounds that he cannot be expected to take on the burdens that compliance would require, on the other. Section 2 identifies a very special sort of burden that compliance sometimes requires one to take on, namely the burden to compensate for defects that one has that make it more difficult for one to comply than for normal people to do so. Section 3 identifies a condition that, when a burden of this kind meets it, the agent cannot be expected to bear that burden in order to comply with the norm. The section also specifies what norms those who face such burdens can be expected to comply with. Section 4 argues briefly that a mounting pile of evidence from the neuroscience of
decisionmaking generally, and from the neuroscience of addict decisionmaking, in particular, suggest that compliance with norms would often require the addict to bear a burden that meets the condition identified in section 3. The result is that we ought to lower the bar for addicts: there is much that we cannot hold them responsible for doing wrong, but there is also much that we can and should. Exactly where the line should be placed in borderline cases turns out to be, in part, an empirical matter and one that, hopefully, further scientific work, especially in neuroscience, will help us to specify in a way that does justice to the facts about addicts.

1. Addiction and Duress

The view of addict responsibility to be defended in this paper rest crucially on the idea that addicts are to be excused, when they are, not because addiction disables, but because, instead, it is too much to demand that addicts exercise their ability to comply with the norms that apply to nonaddicts. In this way, there is some analogy in responsibility between action performed as a result of addiction, and action performed under duress—action performed in response, that is, to powerful threats.

Theorists have often suggested that duress undermines responsibility by showing the agent to have had diminished opportunity to comply with the law or with what morality requires. Consider the person who robs a bank at the bidding of those who threaten to kill his child if he does not. Such a person does not have the same opportunity as the rest of us to refrain from robbing the bank; the reason is that, unlike him, we can refrain from robbing the bank without thereby sacrificing our children’s lives. This explanation of the responsibility-undermining force of duress, however, is easily misconstrued. If a person who robs a bank lacks the opportunity to refrain from
robbing the bank, then that shows that he cannot refrain; and that might be enough to excuse him for the robbery.¹ But someone who admits that he could refrain, but notes that he would have had to bear a very great burden to do so (namely the loss of his child’s life), offers a different kind of argument in his defense. Such a person notes that there was a road to compliance that he could have travelled; he claims, however, that he should not have been expected to travel such a rocky road. There is a gap, that is, between “can’t” and “can’t be expected to”. When they assert truths, both of these pleas excuse. But they excuse for different reasons and this is obscured by the claim that duress undermines responsibility by showing opportunity to have been lacking. The opportunity lacked—namely the opportunity to refrain from the robbery and at the same time preserve the child’s life—is not needed for it to be the case that the agent could have complied with the norm he is charged with violating, namely the norm against robbing banks. Rather, the fact that the agent lacked the opportunity he lacked shows that compliance would have required him to take on a substantial burden of the sort that we do not demand people to take on when complying with the norm. This is why the person who robs the bank when he is threatened with exclusion from a gang if he does not—imagine that this is part of a gang initiation ceremony—cannot excuse himself on the grounds of duress. He also lacks an opportunity—namely an opportunity to both refrain and join the gang—that he would like to have (and, perhaps, others enjoy), but the burden that he would have to bear in order to comply with the norm, namely exclusion from the gang, is not of the sort that supports the claim that he cannot be expected to comply.

A number of theorists have explored the possibility that addiction undermines responsibility for the reasons that duress does.² The idea is that addicts lack opportunities that the rest of us enjoy in something like the way in which those under
It is attractive to elaborate this point by noting that nonaddicts have the opportunity to refrain from drug use without suffering withdrawal, while addicts lack such opportunities. Assuming that withdrawal is the sort of burden that we cannot expect people to suffer in order to comply with the norms that addicts routinely violate, it would follow that addicts lack responsibility for reasons parallel to those involved in duress. It is not that they cannot comply; it is, rather, that they cannot be expected to bear the burdens of withdrawal that compliance would lead them to suffer.

Three problems plague this line of thought. First, the variation in the nature of withdrawal is far greater than the variation in the responsibility-diminishing force of addiction. To explain, compare one of the common and leading symptoms of methamphetamine withdrawal, namely sleeplessness, to one of the common and leading symptoms of cocaine withdrawal, namely craving. What one cannot be expected to do when doing it would involve sleeplessness is likely to be very different from what one cannot be expected to do when doing it would involve unsatisfied craving. Both sleeplessness and unsatisfied craving are bad things. But they are different bad things and so will have differential impact on the responsibility of the agent who fails to comply in order to avoid them. Yet methamphetamine addicts and cocaine addicts appear to be alike in the respect crucial to the question of responsibility; namely, they are both addicts. Addiction’s relevance to responsibility, that is, does not seem to vary with the nature of the withdrawal involved, as would be expected if addiction were appropriately analogized to duress in which the threatened consequence of compliance with the norm at issue is withdrawal.

Second, addiction seems to be relevant to responsibility, in some elusive way, even when the addict violates a norm that has nothing to do, *per se*, with drug use. Consider, for instance, a heroin addict with a $30 per day habit, whose family calls in
favors to get him a dull job that will pay him $130 per day. He has no other means for earning anything close to this amount of money. If he were to turn down the job, he would find himself feeding his habit through a mixture of pressuring family members for handouts, panhandling and petty crime, all of which would add up to much less than $130 per day. When the addict fails to do the job competently and is fired, it seems that his failure is due in some way to his addiction. This isn’t to say that we necessarily provide him with a full excuse for such behavior in light of his addiction. We might fully recognize that he deserves to be fired. But his addiction is surely relevant to the question of the degree to which he is responsible for his bad behavior at work. He might be responsible enough to warrant being fired, while nonetheless not being as responsible as a nonaddict who did the same objectionable things. But if this is right, then it cannot be the prospect of suffering withdrawal that is of relevance to the addict’s responsibility. In fact, in this case, his chances of suffering withdrawal would be lower were he to behave well at work since he would then have enough money to feed his habit and pay his rent. The point is that addiction’s relevance to responsibility seems to extend beyond the limited context in which drugs are involved. The addict’s condition seems to infect a great deal of his behavior beyond his use of drugs or even his pursuit of use.

Third, even addicts who will suffer withdrawal if they comply with the norms they violate, rarely pursue drugs in order to avoid withdrawal. Although it is not limited to this case, the most obvious support for this contention comes from cases of relapse. By the time relapse occurs, the addict is past the point at which refraining from use would result in withdrawal, so avoiding it cannot be his reason for use. But even addicts who would suffer withdrawal often use for other reasons than in order to avoid it. Now, imagine that while it is shown that the child of the man in our earlier example
will be murdered if he does not comply with the threat and rob the bank, it is also shown that he robs the bank for independent reasons—merely for the money, for instance. Perhaps it is clear that he would have robbed the bank even if he hadn’t been under duress. Perhaps there is evidence that he was making plans to do so prior to the issuance of the threat. This undermines his duress excuse, a fact which is reflected in many criminal codes. The relevant section of the Model Penal Code, for instance, which has been imitated in many jurisdictions, reads,

It is an affirmative defense that the actor engaged in the conduct charged to constitute an offense because he was coerced to do so by the use of, or a threat to use, unlawful force against his person or another… (Model Penal Code, §2.09(1), v. 1, p. 37)

The crucial word here is “because”. While the man in our example is coerced, he does not comply because he is coerced, and so he would not have an affirmative defense under this section of the Model Penal Code. Similarly, the addict who would suffer withdrawal, but uses for some other reason, would not have diminished responsibility thanks to the fact that not using imposed the burden of withdrawal. And yet such an addict seems to have as much a claim to diminished responsibility as the addict who uses because he would otherwise suffer withdrawal. Something has gone wrong in the analogy between addiction and duress when the burdens of withdrawal are thought to do the excusing work for the addict.

2. Burdens of Compensation
In rejecting the most natural analogy between addiction and duress, there is a danger that the baby will be thrown out with the bathwater. Perhaps there is some other burden that the addict would bear, were he to comply with the norms he violates, which we cannot expect him to bear, and which is distinct from the suffering of withdrawal. In fact, as will be argued, this is the case, although in some important ways that will become clear, the analogy between addiction and duress breaks down once we appreciate the nature of the burdens that the addict would have to suffer to comply. The burdens of relevance are what will be called here “the burdens of compensation”: burdensome steps that one needs to take in order to compensate for obstacles to one’s compliance with norms. In order to comply with certain norms, addicts must take steps to compensate for defects that they suffer from thanks to their addiction.

In fact, all of us suffer from burdens of compensation thanks to our weaknesses. Consider people who find it difficult to wake up in the morning. Imagine someone, for instance, who invariably falls back to sleep for thirty minutes after turning off his blaring alarm clock. It is harder for this man to make it to work on time than it is for the person who jumps from the bed to the shower immediately when the alarm goes off. In order to be at work on time, the late sleeper has to take steps to manage his weakness, and these steps involve burdens. For instance, he might have to buy himself an alarm clock with a “snooze” button. Or he might need to buy more than one alarm clock. Or he might need to set his first alarm thirty minutes earlier than those who do not have this problem, and so go to sleep earlier the night before. These are the burdens of compensation. A sentry with a small bladder may need to endure a certain degree of thirst thanks to the fact that he must drink less than those with larger bladders if he is to remain at his post for the full length of his watch. An epileptic may need to suffer the
sometimes substantial side-effects of anticonvulsant drugs if he is to meet his obligations as a father. A construction worker may need to spend money on an electric tool if lacking the arm strength to use the manual tool supplied by the employer. The list goes on and on. Norms apply, in the first instance, to the normal. Those of us who are less than normal in some way or another—as all of us are—find that compliance with norms often requires that we compensate for our weaknesses, and such compensation almost always involves undertaking a burden of some sort.

The burdens of compensation differ in an important way from the burdens involved in standard duress cases. In duress, a threatener attaches some abnormal consequence to compliance with the norm that is in some way bad for the agent he is aiming to manipulate, or he attaches some abnormal consequence to non-compliance that is in some way good for the agent, or both. In all such cases, the burdens in question become consequences of compliance with the norm. If the man in our example complies with the norm against robbing banks—if he does not rob the bank—then the result is that his child dies. The burdens of compensation, by contrast, are suffered prior to compliance with the norm, and so are not causal consequences of it. The money must be spent to buy a second alarm clock in order to be on time to work; this contrasts with a case in which a fine is issued for being late. The burdens of compensation are undertaken in order to enable compliance; not so with the burdens involved in duress.

The very idea of the burdens of compensation shows there to be unexpected room for error in classifying an excusing condition as showing that the agent can’t comply, or, instead, as showing that he can’t be expected to comply. Does the late sleeper lack the ability to get up on time without the aid of a second alarm clock? It is because of something intrinsic to him that he cannot do this, and so his problem is one of ability. This is the conclusion we reach when we phrase the question with respect to
the ability to get up on time without the aid of a second alarm clock. But notice that his inability to get up on time without the aid of a second alarm clock does not amount to an inability to get up on time, period. If he has the ability to get a second alarm clock, he has the ability to get up on time. So if he says, when he’s late, “But I couldn’t be on time!” , what he says is not literally true and this is why his irate boss would be justified in replying, “Yes, you could have have; you could have gotten a second alarm clock.” Now it is true that a failure to exercise one’s ability to bear the burdens of compensation can result in a change in what one can do later. And this is the case here. The late sleeper cannot get up on time given that he failed to buy a second alarm clock. Given this complexity, it is easy to get mixed up about what fact is, in fact, ameliorating an agent’s responsibility when burdens of compensation are involved. When the burdens of compensation are so great that we cannot expect someone to undertake them in order to comply with a certain norm, and so we excuse his noncompliance on those grounds, we are likely to get confused as to whether we are excusing on the grounds of absence of ability or on the grounds that his opportunities are different from those who do not face such burdens. Such a person faces the burdens because of something intrinsic to him, and so it seems that it is something about his limited abilities that excuses him. But, in fact, it is not. His limited abilities are nonetheless great enough to make compliance possible for him, since he has the ability to bear the burdens of compensation, and so his excuse is not one of ability. Rather, his limited abilities have resulted in a limitation in his opportunities: he lacks the opportunity to comply without suffering the burdens of compensation. And, if, unlike the late sleeper, those burdens are very great, it is this fact about his opportunities that makes it inappropriate to hold him accountable for noncompliance.
What kinds of burdens associated with compliance with a norm are sufficient to excuse, or at least ameliorate, responsibility for violation of the norm? This is an extraordinarily difficult question that requires an answer in particular cases whether the burdens in question are burdens of compensation, or not. For instance: Does a person who anticipates injury to himself from a threatener if he does not inflict injury on a victim deserve reduced responsibility for inflicting that injury on the victim? Surely, the answer turns, in part at least, on both the nature of the injury that was anticipated and the nature of the injury inflicted. The fact that your pinkie would otherwise be scratched, or your feelings would otherwise be hurt, is of little or no relevance to your responsibility for maiming another. But darkness descends when the burdens anticipated are closer in value to those imposed. How close do they need to be to support reduction of responsibility? And close on what scale and in what way? These are hard questions to answer even in this kind of case, and the issue is that much harder when loss of apples is anticipated if a loss of oranges is not inflicted. It is not clear that we can even hope for a complete theory in this domain. It may be simply impossible to identify necessary and sufficient conditions of the needed sort, namely conditions that a burden B associated with compliance with a norm N meets just in case the fact that B is associated with compliance excuses or mitigates responsibility for violation of N.

But even though we may not be able to hope for a full theory in this domain, we can, as will be argued in this section, make this much progress: we can identify a sufficient, although not necessary, condition. We can identify, that is, a condition that, when a burden associated with compliance with a norm meets it, an agent cannot be expected to comply with the norm. As we will see, the sufficient condition to be
identified is such that only burdens of compensation ever meet it. Hence, what is to be proposed here does not help us to understand the circumstances under which duress excuses. But it does help us to understand the circumstances under which addiction does. As we’ll see, however, frequently when this condition is met, and so the agent in question is excused on the grounds that he could not be expected to comply with the norm he violated, there is another, distinct norm that he can be expected to comply with and which he may not have complied with. Addicts cannot be expected to comply with all of the norms that nonaddicts are held to; but they can be expected to comply with closely related norms and so are often responsible for their failures to comply with those. The bar is lower for addicts. But there is still a bar over which they can be expected to go and can be held responsible for failing to go over. This position will become clearer in what follows.

Consider an agent with the following problem: he cannot comply with a particular norm, at a particular time, so long as he makes the decision about how to act himself. However, if he simply defers to some other trustworthy person, or commits himself to slavishly following a rule without consideration of the reasons for and against following it, or relies without rational reflection on the position of the spots on the sun (which happen, inexplicably, to be an accurate guide) then he can comply with the norm. What he cannot do is to comply through appreciation of the reasons that actually favor compliance. Such a person faces a very peculiar and particular burden of compensation: to compensate for his problem, and so to comply with the norm, he must give up autonomous control of his behavior; instead of making decisions himself, he needs to decide to let someone or something make them for him. Since he has the ability to give up autonomous control of his behavior, he has the ability to comply. His problem is not one of inability. But can he be expected to comply? For reasons to be
explained in a moment, and with some important qualifications, the answer is no. In
general, people cannot be rightly held responsible for norm violations when compliance
involves this kind of burden of compensation. If this is right, then we have identified a
condition such that, when a burden meets it, a person cannot be expected to suffer that
burden in order to comply with a norm: this is true when the burden is to have one’s
behavior guided by a mechanism (such as another’s decision, or the position of the
sunspots) that does not involve an appreciation of the reasons for the behavior.

By way of example, consider those with mental disabilities that make them much
slower than the rest of us to appreciate what they do and do not have reason to do.
Such disabilities interfere radically with one’s capacity to recognize what it is best for
one to do when the time to act is now, even in situations in which one is clear about the
facts. There is every reason to believe that people with such problems will face
situations in which their only chance to do what they ought—their only chance to
comply with moral and legal norms—is to allow their decisions to be made by others.
Compliance requires giving up autonomy. This is the burden of compensation of
people with such mental disabilities. When such a person fails to comply with a norm
thanks to the fact that he does not give up autonomous control to another, is he
responsible for his failure? It seems that his responsibility is at least diminished. Or,
put another way, he has the right to risk noncompliance in order to maintain
autonomous control over his behavior. To bring out the intuition here expressed,
compare such a person to someone who also does not comply but was fully able to
appreciate the reasons for and against the act he performed. Surely the mentally
disabled person is not responsible in the same way, or to the same degree, if at all, in
comparison, even though he, too, had the ability to comply? How can we ask the slow
to give up their autonomy in order to act quickly?
It is important to note that the decision to give up one’s autonomy can be, itself, an exercise of one’s autonomy. The mentally disabled person may be given all the time he needs to decide whether to give up control of his later decisions to a caretaker. There is, therefore, a derivative sense in which he is autonomous when deferring, later, to his caretaker: he has autonomously decided, earlier, to defer, and the autonomy of this earlier decision may color our judgment about whether his conduct later is or is not autonomous. This is true, but it is compatible with recognizing that there remains an important sense in which his later conduct is not autonomous: it does not spring from an exercise, on his part, of his capacities for recognizing the reasons for and against that behavior. There is, therefore, a kind of autonomy that he gives up in order to comply with certain norms, even if there is another kind that he maintains, and it is the giving up of this kind of autonomy that is the burden of compensation for compliance.

Consider a somewhat different example. Imagine a soldier heading into battle who tends to panic quite easily. Enough loud noises, and flying shrapnel, and he’s simply unable to think clearly and finds himself with a powerful desire to flee, even when he would be fleeing into the arms of the enemy. Let’s stipulate that there is one and only one thing that he really lacks the ability to do in such circumstances: weigh the reasons for and against fleeing versus staying the course and guide his conduct in accordance with the outcome of such a process of weighing. In particular, in such circumstances, he has the ability and the opportunity to flee and he has the ability and the opportunity to stay the course. (If there are intuitions to the effect that he cannot stay the course, these derive from the fact that what he can do is determined by more than ability and opportunity; perhaps he can stay the course only if he can try to do so, and perhaps he lacks the ability to do that.) If it turns out that, in the heat of battle, the right thing to do is to stay the course, then our soldier has a problem, for so long as he
makes the decision himself, in the heat of battle he will flee, since he won’t be able to recognize the good reasons for staying the course. To solve this problem, he needs to take steps before he goes into battle to see to it that, during the battle, his conduct is not guided by his judgment at the time about what he has most reason to do. Depending on what he is like, various strategies might be open to him. He can’t just decide to stay the course no matter what since, for all he knows, there will be better reason to flee. Rather, he needs to depend on something that will have a differential response depending on what he actually has good reason to do, and he must guide his behavior by its response. For instance, he might commit himself to slavishly following a friend, or a superior, whom he knows will not panic, someone he can count on to see what the right thing to do is. If he does that, then, when the time comes, and his panic sets in, everything in him will be telling him that he should flee, while what he will do is whatever it is that the person whom he is relying on is doing.

Let’s imagine that our soldier does not give over control of himself to something else, but, instead, heads into battle and, at a moment when he should stay the course, he flees. He’s violated a norm—he should have stayed the course—but is he as responsible for doing so as someone who kept a clear head in battle, but who also fled? Or, to put the question in the language developed here, could the soldier be expected to take on the burden of compensation in this case, the burden of giving up his own autonomy for a time, or is that too great a burden to demand that he take on in order to comply with the norm he’s violated? It matters to the answer whether the soldier has made a prior decision to be a soldier, recognizing that in so deciding he commits himself to giving up autonomous control of his behavior in various ways, including the one at issue here. If he has made that decision—if he is not an involuntary conscript and was properly informed about his role when recruited—then he is under an independent obligation to
give up his autonomy by committing himself to blindly follow his sergeant. He therefore has no reduced responsibility for his failure to comply with the norm and stay the course. However, such cases are importantly different from those of greatest concern to us here. To see this, imagine a conversation with the soldier who fled when he should have stayed the course:

Judge: You should have stayed the course.
Soldier: But to do so I would have had to give up my autonomy.
Judge: But you agreed to give up your autonomy in this respect when you agreed to be a soldier.

Notice that the judge’s rejoinder does not involve citing the obligation to obey the norm requiring the soldier to stay the course; rather, the judge identifies an independent source of normative pressure to do that. Imagine that the judge were to respond to the soldier’s remark in this dialogue differently:

Judge: Well, then in order to stay the course you should have given up your autonomy.

In this case, the judge takes the very norm the soldier violated, the norm requiring him to stay the course, to require him to give up his autonomy. The judge, that is, asserts that people can be expected to take on the burden of compensation at issue in order to comply with the norm independently of any other norms to which they are subject. At this point, the judge makes an error. The soldier who has agreed to be a soldier can be expected to give up his autonomy as he would need to in order to comply with the
norm; but he cannot be expected to do so merely because he is expected to comply with the norm he violated. This kind of case, then, is similar to a duress case in which the victim has previously agreed, without coercion, to suffer the burden that the threatener threatens. In such cases, the fact that compliance would require taking on the burden does not ameliorate responsibility for non-compliance.

What the example of the soldier helps us to see is a qualification to the claim that people cannot be expected to give up their autonomy when that’s what’s required to comply with a norm: this is true if there is no independent normative pressure to give up their autonomy, as there is in the soldier case. But we still have a sufficient condition of the sort we seek:

If S, in order to A in circumstances C, would have to give up his power to decide whether or not to A in C on the basis of appreciation of the reasons for and against A-ing in C, and if S is not under independent normative pressure to give up his autonomy in this way, then S is not responsible for failing to A in violation of a norm requiring agents to A in C.

This seems true, but is there any reason other than its seeming so for thinking it is? One possibility is that the burden of giving up one’s autonomy has particular importance to responsibility—greater importance than other sorts of burdens—because of the nature of blame and punishment, because, that is, of the kinds of acts that blaming and punishing are. Blaming and punishing for a norm violation are both examples of what Stephen Darwall has called “the second personal address of second personal reasons”. That is, to blame or to punish is to generate, through the act of blaming or punishing, an additional reason for a person not to have acted as he did.
Blaming and punishing, then, are special forms of communication that are to be addressed to those who are capable of uptake. To blame or to punish is not merely to assess or grade a person’s conduct; it is also to thereby alter the landscape of reasons. The act itself generates reasons for the agent to act otherwise than he did. Further, and importantly, to take place the act of blaming S for what he did at time t, requires that at time t S was equipped to guide his behavior in accordance with the reason for action generated, later, by the act of blaming. Put more intuitively, blaming makes sense only when the agent blamed was in a position, at the time of the act for which he is blamed, to comply with the norm from a recognition that a later act of blame would generate a reason for him to comply. Given this, to say to someone, in blaming him, “You should have given up your autonomy in order to A” is the equivalent of saying to him, “You should have taken steps to make yourself an inappropriate object of this very act of communication.” The person who insists that another should have given up his autonomy in order to comply with a norm expresses the desire that the other person appreciate, at the time of noncompliance, the reason that is generated, through the act of address. But, at the same time, such a person expresses the desire that the other have complied without exercising the capacity to appreciate reasons of the very sort that are generated by the assertion. Such a person is involved in a kind of incoherence that undermines the success of his act of blaming or punishing. If we were to say to the involuntarily conscripted soldier, in the earlier example, “You should have just blindly followed your sergeant”, then we are saying to him that among other things he would not have been subject to this very act of blame had he blindly followed the sergeant, and that itself is a reason to have done so. But the soldier has an apt reply: “Had I blindly followed the sergeant, I wouldn’t have been in a position to appreciate that your blaming me was a reason not to flee. So how could you have expected me to guide
myself in accordance with that reason?” The very purpose of the act of blaming, in such a case, is undermined by what the agent is told he should have done.

It is important to see how different this explanation is from the sort that might be issued to explain why a person cannot be expected to bear the threatened burden in duress. In the usual duress case, such as the case of robbing the bank to prevent the threatener from killing the child, assessing whether the agent can be expected to comply with the norm he violated requires weighing the values of the threatened consequence and the harmful, or otherwise objectionable, act performed by the agent. You can be expected to suffer a scratch to your finger in order to avoid maiming another because a scratch to the finger is so much less bad than the maiming you inflicted. But the burden of giving up one’s autonomy in order to comply with a norm makes it inappropriate to expect compliance with the norm independently of any comparison between the value of the autonomy to be given up and the (dis)value of the act performed in violation of the norm. People cannot be expected to give up such autonomy (when they are not under independent normative pressure to do so) even if it would be much less bad all told for them to do so than for them to fail to comply with the norm. The reason is that to demand that someone give up such autonomy is to demand that he do something that would make demanding it of him pointless or inappropriate. The act of demanding (which is what blaming and punishing are), in such a case, is self-undermining. Not so in most cases of responsibility-diminishing duress in which the demand can be coherently made, but what would be demanded oughtn’t to be.

4. Why We Should Lower the Bar
What does all of this have to do with addiction? We will be in a position to answer that question after one more step is taken. Consider someone who suffers from the following defect: he just cannot learn correctly from his mistakes about what value to assign to particular alternative actions and outcomes. An animal in the wild that had this problem would be very lucky to survive long enough to reproduce. A butterfly with this defect, for instance, might initially judge that the red flowers are better sources of nectar than the yellow. But when it discovers that, in fact, the red flowers have no nectar at all, it does not update its judgment in a way that will guide it next time when faced with the choice between red and yellow flowers. If it can’t learn from its disappointment, it will spend its energy flying to and attempting to harvest nectar from a red flower next time, and the time after, and so on, and thereby give up the opportunity to expend those energies in at least exploring the possibility that the yellow flowers are a better choice. Such a butterfly might have no defect at all, relative to other butterflies, when it comes to learning the facts. It might learn from its experience, for instance, that red flowers don’t have nectar in them, just as any other butterfly would. What it has trouble doing is recognizing that fact as a reason not to expend energy to fly to red flowers. Animals must update their algorithms for determining what reasons they have to perform various acts, or pursue various outcomes, in light of the factual information they have about those acts and outcomes. An animal that has a defect in this regard has a serious defect indeed.

People, of course, vary rather radically in their capacity to learn from their errors about what reasons they have. And they vary radically in this capacity across different domains of action. Someone capable of making excellent assessments about what stocks to buy and sell—someone who can recognize subtle differences in the facts about companies as reasons for and against betting on their success—might find himself, over
and over, getting involved with women with characteristics that provide him with powerful reasons to run the other way, reasons that, for some reason or other, he just cannot learn to recognize in a way that will guide his behavior. But imagine that someone fails to comply with a norm in a domain of action in which he is much less good than most people at learning from his errors about reasons and values. Consider the extreme case first: he is not just less good at learning from his errors about what characteristics of mates are worth pursuing and avoiding, he is incapable of such learning; he will always, and invariably, take himself to have a powerful reason to pursue a woman like his mother, say, no matter what other toxic qualities she happens to possess. When such a person should not pursue the woman he pursues—when he is in violation of a norm in doing so—is it true that he is unable to avoid violation? No, for he could allow someone else to make his decisions for him. He could, for instance, sign on to a service that arranges marriages; or he could just slavishly follow the advice of his level-headed friends. What he cannot do is to comply with the norm through a recognition of the reasons for compliance. He thus faces a burden of compensation of the sort identified in the previous section. To compensate for his learning problem he would need to give up guidance of his conduct in this domain by his own decision-making capacity. Can we hold him responsible for doing what he should not when the burden of compensation in such a case is as described? If the sufficient condition identified earlier is correct, we cannot. His learning problem saddles him with a burden of compensation that we cannot ask him to take on in order to comply with the norms he violates (assuming that he is not under independent normative pressure to give up his autonomy in this way). Imagine the following conversation with such a man:

Friend: You shouldn't be chasing her.
Defective Man: But I can’t help it.

Friend: Not true. You could pursue whoever I tell you to pursue, independently of your predilections.

Defective Man: That’s too much to ask.

Defective Man’s claim that he lacks the ability to comply, as Friend notes, is simply false. But Defective Man is right in responding to Friend’s rejoinder when he says that the burden of compensation in this case is more than he can be expected to take on. People simply cannot be asked to give up their autonomy in order to compensate for defects in their capacity to learn from mistakes about what reasons they have for action.

Now consider the case in which Defective Man’s learning problem is a deficit, not an inability. His problem is that he learns much more slowly than the rest of us, and requires more radical disappointment, in order to come to recognize and guide his conduct in accordance with the reasons he has for avoiding relationships with women with certain characteristics. Where one bad date would be enough for normal people, he requires three bad divorces and years of misery in order to get the message. But he does get it eventually. When he has not yet had as much experience as he needs and is, once again, pursuing a woman he ought not to pursue—he is in violation of a norm—what should be said about his responsibility? In moving towards an answer, imagine, as is often the case, that there are different degrees of non-compliance. In this case, imagine that Defective Man can pursue the woman he ought not to pursue either zealously or weakly (fill in your own details about what zealous and weak pursuit amount to). We now have two norms: He ought not to pursue her weakly, and he ought not to pursue her zealously. Since both zealous and weak pursuit would be in violation of the first norm, but only zealous would be in violation of the second, the
second norm is less stringent, or less demanding, than the first. “If you must pursue her,” Friend might say, “at least don’t pursue her zealously.” Let’s assume that given his defects, in order to avoid violation of the norm against weak pursuit, Defective Man would have to give up his autonomy; if he’s going to make his decisions himself, he’s going to pursue her either zealously or weakly. But in order to avoid violation of the norm against zealous pursuit, he does not need to give up his autonomy. He has learned enough, let’s assume, to see that there’s reason not to pursue her zealously. What he can’t yet see is that there is reason not to pursue her at all. Giving up his autonomy is not one of the burdens of compensation for compliance with the norm against zealous pursuit; but it is one of the burdens of compensation for compliance with the norm against weak pursuit. We now have two cases to consider—he pursues her weakly or he pursues her zealously—and two norms—the norm against zealous pursuit and the norm against weak. Consider the following table:

<table>
<thead>
<tr>
<th></th>
<th>Norm Against Zealous Pursuit</th>
<th>Norm Against Weak Pursuit</th>
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</thead>
<tbody>
<tr>
<td>Pursues Zealously</td>
<td>I. Violates; can be expected to comply</td>
<td>II. Violates; cannot be expected to comply</td>
</tr>
<tr>
<td>Pursues Weakly</td>
<td>III. Complies</td>
<td>IV. Violates; cannot be expected to comply</td>
</tr>
</tbody>
</table>

What we learn from this chart is that a person with Defective Man’s problem can be held responsible for zealously pursuing the person he ought not pursue, but cannot be held responsible for pursuing her weakly. He oughtn’t to pursue her at all, but his defect diminishes his responsibility only for weak pursuit. If he goes ahead and pursues her zealously, he cannot shield himself from blame or punishment on the grounds that he could only avoid such conduct by taking on a burden that he cannot be
expected to take on. He could have pursued her only weakly, and thus complied with the norm against zealous pursuit, without taking on any such burden.

The lesson of this example can be generalized. When a person has a learning defect of the sort under consideration—a defect in learning what value to attach to actions and outcomes in light of his experience—that makes it harder for him to learn, but does not undermine the possibility entirely, we can often identify a less stringent norm from the one that we hold everyone to that he can be expected to comply with.

The relevant norm is the most stringent norm that he could comply with without giving up his autonomy. In the example above there are just two kinds of pursuit, zealous and weak, and it is stipulated that the man in the example can comply with the former without taking on the burden of giving up his autonomy while he cannot comply with the latter without doing so. In real cases, things will be much messier. There are often many different ways of failing to comply, differing both in degree and in kind from one another. And the burdens of compensation associated with compliance with each can vary only by degree from one another, or can vary in kind in some respects and not in others. What such messiness shows is that it is not as though the approach that the analysis of the example recommends takes moral reasoning out of our hands. But, still, it helps us to see how the issue needs to be framed when a person suffers from this kind of learning deficit.

Now consider addiction. A growing body of work in neuroscience, particularly in the subfield of neuroeconomics, is providing support for the claim that those addicted to various drugs suffer from a learning deficit of just the sort under consideration here: they are much less good than the nonaddicted at learning from their mistakes about the values of actions and outcomes in a way that guides their behavior. Much, although not all, of this work concerns the functioning of the midbrain dopamine
system, which is known to be affected by drugs of abuse. A large amount of evidence, provided primarily by studies in monkeys, indicates that the dopamine signal represents not the value that a subject attaches to a particular action or outcome, but the value that the subject attaches to the difference between that value and the value the subject expected it to have. When a monkey is shown a signal and then, a few seconds later, given a reward, the dopamine signal goes up, initially, when the reward is received. But after the monkey has learned that the signal precedes reward, dopamine goes up when the signal is received, and remains flat when the reward is obtained. Further, when the signal is issued and no reward is given, the monkey’s dopamine signal goes up initially on seeing the signal, but goes down when it realizes that it will not receive a reward. A plausible explanation for these observations is that the initially unexpected reward shows the monkey’s condition to be better than it expected it to be, and so the dopamine signal goes up. Later, when the monkey has learned to associate the signal and the reward, it finds on seeing the signal that its condition is better than expected, and so, again, the dopamine signal goes up on seeing the signal. But, since the appearance of the signal resets the monkey’s expectations—having seen the signal it now expects the reward—the dopamine signal remains flat when it receives the reward, and its expectations are met. And the signal goes down when it does not receive the reward, and things turn out to be worse than expected.

What function could be served by a representation in the brain of the difference between the value one expects an act or outcome to have and the value it turns out to actually have? It is plausible to think that the information carried by such a representation is of particular use for learning what value to attach to particular acts and outcomes in light of experience. It helps the organism to update its algorithm for determining what reasons it has to act in light of the facts as it sees them. In fact, many
of the most predictively powerful computational algorithms of evaluative learning use this piece of information, among others. What this strongly suggests, then, is that dopamine signals play a crucial role in learning from one’s mistakes what values to attach in prospect to actions one is considering performing, and to outcomes one is considering pursuing. Further, there is a growing body of evidence to suggest that the dopamine signal in addicts is defective in comparison to nonaddicts. In the first instance, this is because many drugs of abuse directly drive up the dopamine signal independently of the experienced and expected value of the action of using. The experienced cocaine user may have a perfectly accurate expectation about the value of his next experience of use. So, when he uses and finds that it is just as good as he expects, a correctly functioning dopamine signal would remain flat; things are no better or worse than expected. But since cocaine drives up the dopamine signal, the cocaine user’s dopamine signal goes up on use, thereby representing use as better than expected. Thus an error is registered of just the form that would be found were use to have been found through experience to be worth much more than the cocaine user expected it to be at the time he decided to use. If it is this signal that informs the cocaine user’s evaluations of alternatives next time, then next time he is considering using he will represent that act as that much better than he represented it as being last time; he will correct his “error”. Among other things, this means that he will be moved to act as though he thought use was worth that much more money than he was willing to pay for it last time. Or, more generally, there is now more that he would be ready to sacrifice for use, including things of tremendous non-monetary value.

Importantly, there is evidence to suggest that the dopamine signal in addicts is disrupted not just when they are using drugs, but even when they are not. Their defects in evaluative learning extend, that is, to times at which they are not intoxicated.
In addition, these defects appear to extend to at least some domains of action in which drugs are not at stake. In experimental settings, for instances, addicts do not appear to learn from evaluative errors in investments games, and other games in which they are not being asked to make choices about using or refraining from use. As more work in neuroscience is completed—especially in conjunction with psychological and computational work on decisionmaking—more and more will be learned about the exact nature and extent of the addict’s learning deficits.

What do these results from the neuroscience of addiction show about addict responsibility? When combined with the sufficient condition identified above under which a burden of compensation ameliorates responsibility for a norm violation, we find that addicts face just the same kind of burden of compensation as the man in our earlier example who needs much deeper and more troubling disappointment than the rest of us before he can learn who he has reason not to pursue romantically. In the domains with respect to which the addict has trouble learning from his mistakes about what reasons he has—most notably, but not confined to those cases in which he is considering using or pursuing use of drugs—the addict cannot be expected to conform to the most stringent norms that are appropriate for nonaddicts. To conform to such norms, the addict would have to give up reliance on his own decisionmaking capacities and so sacrifice his autonomy in a significant respect. But, still, we can ordinarily identify a less stringent norm that he could comply with without undertaking any such burdens. Imagine, analogously to before, that the addict can pursue drugs zealously or pursue them weakly; he can, for instance, kill people for them, or he can merely deceive and manipulate his relatives in order to get them. He should not do either. But imagine, further, that to avoid even weakly pursuing drugs he would need to give up control of his behavior; he would need to rely entirely on someone or something else to
make his decisions for him. But he knows enough to see the reasons against zealous pursuit and is capable of guiding his behavior in accordance with such reasons; he thus need not give up his autonomy in order to comply with the norm against zealous pursuit. If what has been said here is correct, it follows, as in the earlier example, that the addict cannot be expected to comply with the norm against weak pursuit, but can be expected to comply with the norm against zealous pursuit. There are thus some things that we can hold the addict responsible for doing in service of his addiction, and others we cannot. The line between these two is determined by the burdens of compensation involved in performance. Where the addict would have to compensate for his learning deficit by giving up his autonomy, we cannot expect compliance, and so cannot hold the addict responsible for failure; but where he would not, we have no reason to believe that we cannot and so we should.

Conclusion

Even if the view of addict responsibility presented here is correct, darkness surrounds the details. When an addict deceives and manipulates his family members in order to get them to give him money to buy drugs, is he responsible? And if so, what, exactly, is he responsible for? The answer is that he’s responsible for whatever he did that he could have avoided doing without giving up his autonomy to do so. But this isn’t the answer that his family, or police, prosecutors and judges, seek. They want a more specific answer. They will find this answer all but useless until they know whether the addict was, in fact, in a position to recognize and guide his conduct in accordance with reasons not to push quite as hard as he did, or not to tell lies of such great significance as he did, or something else of that nature. They want to know the
precise content of the norms that the addict is and is not responsible for violating. All that can be said in response to this concern is that we have to wait and see. All we can do is to make the best guesses that we can on the basis of the best empirical research available. But we can also have hope that more empirical research will give us more guidance. How much more experience does the addict need in order to learn what reasons he has and how weighty they are? It’s an empirical question. But if what has been said here is correct, at least now we know what to look for.\textsuperscript{13}

\textsuperscript{1} In fact, I don’t think it does all by itself since I follow Harry Frankfurt and many others in rejecting the so called Principle of Alternate Possibilities, according to which the ability to do otherwise is a necessary condition of responsibility for wrongdoing. There is a large literature on this topic. For a start, see Harry Frankfurt, “Alternate Possibilities and Moral Responsibility” in \textit{Journal of Philosophy}, vol. 66, pp. 829-839, 1969. See also the essays collected in David Widerker and Michael McKenna (eds.), \textit{Moral Responsibility and Alternative Possibilities: Essays on the Importance of Alternative Possibilities}, Burlington: Ashgate Publishing, 2006.


It is possible to construct duress cases in which the burden is suffered prior to compliance with the norm because it becomes clear to the threatener prior to the moment of compliance that the agent will, in the future, comply with the norm. In such cases, the burden is still a consequence of compliance, but it is not a causal consequence.


13 Thanks to Doug Husak for thoughtful comments on an earlier draft.