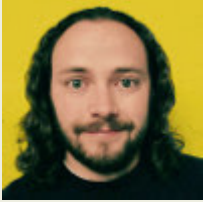


Consent Under Deceit, or Why Fraud is Aggression



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“One Voluntarist’s Perspective” is an original column appearing sporadically at Everything-Voluntary.com, by the founder and editor Skyley J. Collins. Archived columns can be found here. OVP-only RSS feed available here.

My last column titled “Why Adultery is Rape and Robbery” created a lively and enlightening debate across Facebook, reddit, and Liberty.me. After so much back and forth I believe the central area of contention is on what constitutes valid consent. And because this blows major crosswinds into the general area of fraud, I thought I’d look at these things together. Keep in mind that what I write is never permanent and I am constantly changing my mind about things as I learn new information and hear new perspectives. Let us proceed in that spirit.

Consent Under Duress

I don’t think anyone would consider consent under duress as a valid form of consent. If I threaten to kill you or harm you in some way if you don’t consent to something, then the integrity of your consent has been compromised in a major way. That you meet my demand willfully and with volition cannot translate into legitimate permission because I have taken away your ability to choose freely. That you meet my demand can only show that you value whatever I’m threatening more than what I’m demanding, not that I have your genuine consent. The result is a form of aggression. You’ve taken or used my property or that of another without consent. Your trespass is illegitimate, and so is an act of aggression.

Consent Under Deceit

The validity of consent as a result of deceit is not so clear cut, but I consider it the basis for any argument that fraud is a form of aggression. Fraud is the intentional withholding of material facts in order to gain something of value. I want to sell you my car, but I withhold the material fact that the car has been in several major accidents and repaired again and again. I give you my word that the car has never been in any accident. It’s integrity has been severely compromised, and if you knew that you would rescind your offer to buy it. That you are unaware of this material fact means we proceed with the title transfer. You

willfully and with volition give me your money. You have seemingly consented to my receiving it. But have you?

Your consent for me to receive your money (your property) was conditional. That condition being that what I am giving to you is what you believe it is (an accident-free car). Since I am not giving you an accident-free car, I have failed to meet the condition of your consent. Therefore, I don't really have your consent to take your money. That I have taken your money not only makes me a fraudster, but also a thief. I have trespassed onto your property without your permission. That is precisely why fraud is a form of aggression.

Types of Fraud

That fraud is aggression I believe I have shown without error. But the analysis on fraud is incomplete if we don't recognize that fraud is a broad category, and what makes fraud aggression is not the deceit, but what is done as a result of the deceit. When property is transferred as a result of fraud, it becomes theft. That should be clear by now. This is not the only type of fraud, however.

Another type of fraud would result in kidnapping. If I tell you that I own a big luxurious mansion on an island and I create an elaborate deception to get you on my boat, transport you to my island, send the boat and driver away from the island, walk you inland and reveal to you that I have no mansion, I have in essence kidnapped you. The result of my fraud, my deception, was an act of kidnapping. Why? Because your consent to be transported from where you were to my island was conditioned on the fact of my owning a big luxurious mansion. That I don't own such a mansion means I have failed to meet the condition of your consent. Transporting people from one place to another without their consent is called kidnapping.

Here's a type of fraud that would result in battery: If I tell you that I will give you \$1,000,000 if you cut off one of your hands (your choice!) and create an elaborate deception to prove to you that I have such a sum of money, even going so far as to swindle in an escrow agent, and you then cut off one of your hands only to later learn of my grand deception, I have in essence battered you. The result of this fraud, this deception, was an act of battery, the cutting off of a part of your body. You would not have consented to this action, would not have performed this action, had you known that I was defrauding you.

This brings us to my last column. It is my contention that there is also a type of fraud that results in rape: that of an adulterous man or woman continuing to "share their bed" with their defrauded spouse. Monogamy is typically a foundational condition for continued marital copulation. If one spouse is intentionally deceiving the other about their extra-marital affair, the condition for their spouse's consent has not been met. The result of this fraud, this deception, is an act of rape. Now, I don't mean to demean or lessen the

atrocious nature of rape as a result of battery (or drugs). Heavens no! But I think we do victims of rape from deceit a disservice when we fail to recognize it.

An additional thought on the idea of fraud as rape: Some have brought up the practice of women wearing makeup or push-up bras and men dressing nice or renting a nice car all in an effort to impress potential sexual partners. I see no reason to consider these practices as types of fraud or deception because they are all well known by all interested parties. Nobody is truly being fooled by first impressions. It's the mating dance, and is not limited to humans.

Final Thoughts

As I said before, this is all written as an intellectual exercise and nothing is set in stone. My mind can be changed, but I can't currently see how. The result of fraud is some form of aggression: theft, kidnapping, battery, and yes, rape. That's why fraud is a violation of the libertarian "non-aggression principle." Just as theft as a result of fraud doesn't lessen the despicable nature of other types of theft, rape as a result of fraud doesn't, or shouldn't, affect how we view other types of rape. All acts of aggression are despicable and atrocious, from my voluntaryist perspective.

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