



Undue Influence in Policy and Practice Handout

Lisa Nerenberg MSW, MPH
www.Lisanerenberg.com
lisa.nerenberg@sbcglobal.net

Enhanced Multidisciplinary Team Conference
Upstate Elder Abuse Center, Lifespan and
The Weill Cornell Medicine/ New York City Elder Abuse Center
September 18, 2019

Psychological perspectives on undue influence

1. How totalitarian regimes control populations
2. How captors induce prisoners of war (POWs) to denounce their countries, collaborate with their captors, and turn on fellow prisoners
3. How cults recruit and maintain members
4. Why victims of domestic violence do not leave abusive relationships or take action against their batterers
5. How caregivers maintain control over those care for
6. Hostages who bond with their captors
7. How professionals exploit relationships of trust and confidence toward clients
8. How white-collar criminals and con artists use manipulation and deception for financial gain

Lifton's 8 criteria used by the Chinese to explain thought reform

- Milieu control." Control of information and communication, which results in isolation from society.
- "Mystical manipulation." Manipulation and reinterpretation of events and experiences.
- The "demand for purity." Exhortations to conform to the ideology of the group to achieve perfection. May induce guilt and shame.
- Confession. Sins and faults (as defined by the group) must be confessed and exploited by leaders.
- Sacred science. The group's doctrine or ideology is considered to be the ultimate truth, beyond questioning or dispute. The leader is above criticism.
- Loading the language. The group uses words in new to alter members' thought processes and conform to the group's thinking.
- Doctrine over person. Members' personal experiences are subordinated to the sacred science and contrary experiences are denied or reinterpreted to fit the group ideology.
- Dispensing of existence. The group decides who has the right to "exists." Outsiders who are not saved, unenlightened, or unconscious must be rejected by the members.

Tactics used against prisoners during Korean War

- Dehumanizing by keeping in filth
- Sleep deprivation
- Partial sensory deprivation
- Psychological harassment
- Inculcation of guilt
- Group social pressure

- Withholding information

Margaret Singer's 6 conditions for thought reform

- Keep the person unaware of what is going on and changes.
- Control the person's time and physical environment.
- Create a sense of powerlessness, covert fear, and dependency.
- Suppress people's old behaviors and attitudes.
- Instill new behaviors and attitudes.
- Put forth a closed system of logic; allow no real input or criticism

BITE Model (Steven Hassan): 4 Types of Control Used by Cults

- **Behavior Control.** Regulation of physical reality, including where, how, and with whom people live and associate; their clothes; food; sleep; money; and time. Behavior may be controlled through rules, rewards, and punishments, and forcing people to ask permission for major decisions.
- **Information Control.** The use of deception or the withholding or distorting of information.
- **Thought Control.** Discouraging thought, critical thinking, and analysis.
- **Emotional Control.** Inducing guilt and fear, producing extreme emotional highs and lows, vilifying outsiders.

Stockholm Syndrome

- A person held in captivity cannot escape and depends on the hostage taker for life.
- Captors control their captives' basic needs and their lives.
- Hostages are isolated and have only their captors' perspectives available. Captors keep information about the outside world's response to their actions from captives.
- Hostage takers threaten to kill victims and give the impression they will do so. The captives judge it safer to align with the perpetrators, endure the hardships of captivity, and comply with their captors than to resist and face murder.
- Captives see the perpetrators as showing some degree of kindness. Although kindness is viewed as the cornerstone of the syndrome, some have noted that captives often misinterpret a lack of abuse as kindness or benevolence.

Battered Woman's Syndrome

- Victims believe that the violence was their fault
- They are unable to place the responsibility for the violence elsewhere
- They fear for their lives or their children's lives
- Victims have an irrational belief that abusers are omnipresent and omniscient
- "Fight" or "flight" responses. The body and mind prepare to deal with danger by becoming hyper vigilant, resulting in an exaggerated startle response. Individuals become focused on self-defense, which impairs concentration and causes physiological responses usually associated with high anxiety. In serious cases,

fearfulness and panic disorders are present and phobic disorders may result. Irritability and crying are typical symptoms of this response.

- The "flight" response. When the natural inclination to run away from danger is perceived as impossible, mental escape may be triggered. This is the avoidance or emotional numbing stage where denial, minimization, rationalization, and disassociation are used to psychologically escape from the threat or presence of violence.
- Impaired cognitive ability and memory: Victims may begin to have intrusive memories, including flashbacks, or may not remember events or details. They may become distracted or disassociate from painful events, memories, and reoccurring nightmares.
- Learned helplessness (Seligman, 1991). At first, victims believe they can control the violence by doing what abusers want or refraining from certain conduct. When they discover that this doesn't work, they become passive and lose the ability to perceive alternatives.

Cialdini’s Principles

- The Rule of Reciprocity. Culture instills a natural inclination to repay others for gifts, favors, or considerations, which can be manipulated to induce compliance.
- Commitment and Consistency. The desire to appear consistent can be exploited by manipulators to lead people to take initial positions that are consistent with the behaviors they want to induce.
- Social Proof. When prompted to behave in ways that are new or unfamiliar, people are likely to follow the lead of others. Compliance can therefore be induced by informing people that others, particularly role models, have performed the desired behavior.
- Liking. People are more likely to comply with people they like. Enhancing influencers’ likeability can therefore, increase their effectiveness.
- Authority. Socialization instills belief that obedience is “correct” and that people who have achieved authority have done so because they are knowledgeable, wise, and powerful.
- Scarcity. People assign greater value to opportunities and objects that are less available.

Legal Perspectives on Undue Influence

SODR

Category I Victim characteristics	Category II Influencers’ characteristics and source of power	Category III Actions or tactics, including emotional	Category IV Unfair, improper, “unnatural,” or unethical
---	--	--	---

contributing to vulnerability		and psychological, legal manipulation	transactions or outcomes
-------------------------------	--	---------------------------------------	--------------------------

Elder Abuse and Undue Influence

In recent years, analysts have drawn from psychological, legal, and elder abuse to create new models.

- Hall, Hall, Myers, & Chapman (2009)
- Turkat, I. D. (2003)
- Brandle/ Heisler/ Steigel
- Blum’s “IDEAL” model (See www.bennettblummd.com)
- Bernatz’s “SCAM”

Summary of elements of undue Influence described in literature

Category I	Category II	Category III	Category IV
Victim characteristics contributing to vulnerability	Influencers’ characteristics and source of power	Actions or tactics, including emotional and psychological, legal manipulation	Unfair, improper, “unnatural,” or unethical transactions or outcomes

California's Undue Influence Definition
Probate Code §86 and W&I Code § 15610.70

In 2014, California enacted AB 140 to modernize the definition of undue influence to read:

(a) "Undue influence" means excessive persuasion that causes another person to act or refrain from acting by overcoming that person's free will and results in inequity. In determining whether a result was produced by undue influence, all the following shall be considered:

- **The vulnerability of the victim.** Evidence of vulnerability may include, but is not limited to, incapacity, illness, disability, injury, age, education, impaired cognitive function, emotional distress, isolation, or dependency, and whether the influencer knew or should have known of the alleged victim's vulnerability.
- **The influencer's apparent authority.** Evidence of apparent authority may include, but is not limited to, status as a fiduciary, family member, care provider, health care professional, legal professional, spiritual adviser, expert, or other qualification.
- **The actions or tactics used by the influencer.** Evidence of actions or tactics used may include, but is not limited to, all of the following:
 - Controlling necessities of life, medication, the victim's interactions with others, access to information, or sleep.
 - Use of affection, intimidation, or coercion
 - Initiation of changes in personal or property rights, use of haste or secrecy in effecting those changes, effecting changes at inappropriate times and places...
- **The equity of the result.** Evidence of the equity of the result may include, but is not limited to, the economic consequences to the victim, any divergence from the victim's prior intent or course of conduct or dealing, the relationship of the value conveyed to the value of any services or consideration received, or the appropriateness of the change in light of the length and nature of the relationship.

(b) Evidence of an inequitable result, without more, is not sufficient to prove undue influence.

Bibliography

- AARP. (2003). *Off the hook: Reducing participation in telemarketing fraud*. Washington, DC: Author.
- American Bar Association Commission on Law and Aging & American Psychological Association. (2008). *Assessment of older adults with diminished capacity: A handbook for psychologists*. Washington DC: American Bar Association and American Psychological Association.
- American Psychological Association, Board of Social and Ethical Responsibility for Psychology, 1987, "Memo to the DIMPAC Committee." Washington D.C.: American Psychological Association.
- Bejerot, N. (1974). The six day war in Stockholm. *New Scientist*, 61(886), 486-487.
- Cialdini, R. (2008). *Psychology of Persuasion* (5 ed.). New York Allyn & Bacon.
- de Fabrique, N., Romano, S. J., Vecchi, G. M., & Van Hasselt, V. B. (1999). Understanding Stockholm syndrome. *FBI Law Enforcement Bulletin*.
<https://www.ncjrs.gov/App/publications/Abstract.aspx?id=240963>
- Donohue, W. A. (1985). *The politics of the American Civil Liberties Union*. New Brunswick, NJ: Transaction Books.
- Hall, R. C. W., Hall, R. C. W., & Chapman, M. J. (2005). Exploitation of the elderly: Undue influence as a form of elder abuse. *Clinical Geriatrics* 13(2), 28-36
- Hunter, E. (1951). *Brainwashing in Red China*. New York: Vanguard.
- Introvigne, M. & Center for Studies on New Religions. (1998). "Liar, Liar": Brainwashing, CESNUR and APA. Retrieved from http://www.cesnur.org/testi/gandow_eng.htm
- Lifton, R.J. (1989) [1961]. *Thought reform and the psychology of totalism; A study of "brainwashing" in China*. Chapel Hill: University of North Carolina Press.
- Mandeville, H., & Hanson, M. (2000). Understanding caregiver abuse as domestic violence: Systemic change in Wisconsin. *Impact* 13(3), Retrieved from <http://www.ici.umn.edu/products/impact/133/133.pdf>

- Nerenberg, L. (1996). Hornswoggled? An interview with Margaret Singer on undue influence. In *Nexus: A Publication for SCPEA Affiliates*. 2: 4-6. San Francisco: National Committee for the Prevention of Elder Abuse Affiliate Program.
- Packard, V. (1957). *The Hidden Persuaders*. New York: McKay.
- Pratkanis, A. R., & Shadel, D. (2005). *Weapons of fraud: A source book for fraud fighters*. Seattle, WA: AARP Washington.
- Quinn, M. J. (2001) Friendly persuasion, good salesmanship, or undue influence. *Elder's Advisor: The Journal of Elder Law and Post-Retirement Planning*. 2(4), 49-56.
- Quinn, M. J., Nerenberg, L. Navarro, A.E., & Wilber, K.H. (2017). Developing an undue influence screening tool for adult protective services. *Journal of Elder Abuse & Neglect* 29(2-3), 157-185.
- Romero, M. (1985) .A comparison between strategies used on prisoners of war and battered wives. *Sex Roles* 13 (9,10), 537-547.
- Rusch, J. J. (1999). The social engineering of Internet fraud. Report of the U.S. Department of Justice, INET'99 Conference. Retrieved February 6, 2007, from:
http://www.isoc.org/isoc/conferences/inet/99/proceedings/3g/3g_2.htm
- Schein, E.H. (1961). *Coercive persuasion; A socio-psychological analysis of the "brainwashing" of American civilian prisoners by the Chinese Communists*. New York: Norton & Company.
- Seligman, M.E. (1991). *Helplessness: On depression, development, and death* (2nd ed.). New York: W.H. Freeman
- Singer, M. T. (1995). *Cults in our midst*. San Francisco: Jossey-Bass.
- Titus, R., Heinzelmann, R. F., & Boyle, J. (1995). Victimization of persons by fraud. *Crime and Delinquency*, 41(1), 54-72.
- Turkat, I. D. (2003). Psychological aspects of undue influence. *Probate & Property* 17, 36.
https://www.americanbar.org/groups/real_property_trust_estate/publications/probate-property-magazine/rppt_publications_magazine_2003_jf_turkat/

Walker, L. (2009). Battered woman syndrome: Key elements of a diagnosis and treatment plan. *Psychiatric Times*, 26(7).

Walker, L. (2000). *The battered woman* (2nd ed.). New York: Springer.

Washington Post. (1997). The cult controversy. Retrieved September 5, 2009 from <http://www.washingtonpost.com/wp-srv/national/longterm/cult/cultmain.htm>

Resources

- **Undue Influence Toolkit**

<https://www.elderjusticecal.org/undue-influence.html>

This webpage by the California Elder Justice Coalition includes:

- California Undue Influence Screening Tool and Instructions
- **An interview With Undue Influence Expert Margaret Singer.** Interview with Margaret Singer Ph.D., clinical psychologist and emeritus adjunct professor of psychology at the University of California, Berkeley and expert on cults, brainwashing, and persuasion by Lisa Nerenberg. For **nexus**, a publication of the National Committee for the Prevention of Elder Abuse and Neglect.
- Links to **CEJC's Webinar: "What's New in Undue Influence: Tools, Definitions, and Court Responses"** (November 7, 2018) with included Mary Joy Quinn, Dr. Nancy Hoffman, Cecelia Steiner-Smith, and Dr. Sheila Johnson.

- **[Understanding Undue Influence](https://ncler.acl.gov/Files/Understanding-Undue-Influence.aspx)**

<https://ncler.acl.gov/Files/Understanding-Undue-Influence.aspx>

"Practice tip" produced by the National Center on Law and Elder Rights describes undue influence and its relevance to advance planning.

- **[Undue Influence Committed by Professionals](https://theacademy.sdsu.edu/elearning/undue-influence-elearning/story_html5.html)**

https://theacademy.sdsu.edu/elearning/undue-influence-elearning/story_html5.html E-Learning

This 90-minute free e-learning, which features Candace Heisler, JD, was produced for Adult Protective Services workers by Project MASTER (Multi-disciplinary Adult Services Training and Evaluation for Results), a program of the Academy for Professional Excellence, San Diego State University School of Social Work. It was supported by a grant from the Huguette Clark Family Fund for Protection of Elders, a donor-advised fund of the New York Community Trust