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Toward A Theory of Coercion

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I

Virtually everyone agrees that there is a strong moral presumption against the use of coercion. There is, however, considerably less agreement about the nature of coercion. For example, each of the following claims has been the subject of considerable controversy: 1. coercion is an essentially normative concept whose 'conditions of application contain an ineliminable reference to moral rightness or wrongness';[1] 2. it is possi-

1 David Zimmerman, 'Coercive Wage Offers,' *Philosophy and Public Affairs* 10 (1981) 122 (Zimmerman himself, it should be noted, does not subscribe to such a view.)

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ble to coerce someone by means of an especially enticing offer as well as by means of a threat; 3. coercion sometimes consists in nothing more than the direct application of physical force; and 4. exploitation is a form of coercion. In this essay I shall propose and defend an explication of the concept of coercion which will entail the falsity of each of these claims. Such an analysis, although it will naturally start from and be guided by our intuitions about the subject, will not be bound rigidly by them. My primary objective will be to provide a reasonably precise and systematic way of describing a category of human behavior only the *paradigm* examples of which are clearly circumscribed by ordinary usage.

More specifically, the procedure I will follow is this. I shall attempt to articulate an analysis of coercion which will generally square with firm and widely shared intuitions as to what constitute clear cases of coercion and as to what constitute clear cases of non-coercion. Cases whose status is not intuitively obvious shall be subject to the regimentation imposed by the demands of the emerging theory. It is worth pointing out that at least some of those demands clearly will be normative in nature. For example, a decision to classify a certain intuitively problematic range of cases as 'coercive' will sometimes be justified on the grounds that such cases possess morally important features which also characterize standard, uncontroversial instances of coercion. Since normative considerations will therefore play a part in determining what criteria are to be used in classifying something as coercion, there is one clear sense in which my account will not be normatively neutral. This, however, seems to me largely unavoidable and thus not a reason for criticism. What is crucial, in my view, is only that the defining criteria themselves not be normative (as would be the case, for example, if coercion were analyzed in terms of what people have or do not have a *right* to do). For a definition of that sort, being 'morally loaded,' would not be useful to those whose substantive moral views conflict with the presuppositions of the definition. By analyzing coercion as a descriptive rather than as a normative concept, I hope instead to contribute to the construction of a conceptual framework that will permit the relevant issues to be stated in a way that is reasonably clear, precise, and unbiased.

II

For our purposes coercion is most fruitfully conceived of as a four-term relationship between a coercer, the act the coercer performs which is con-

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stitutive of the coercion, the recipient of the coercion, and the behavior of the recipient which serves as a compliant response to the coercer's act. Before turning to our central task, the analysis of the nature of this relation, it will be helpful first to say something about each of the four relata.

The agent of any given act of coercion is typically a single person. Although there are undoubtedly instances in which the coercer is properly identified with either a group of persons or even an institution, I shall be concerned here only with cases of the first sort. I shall, for similar reasons, confine my attention in what follows to cases in which the object of coercion is also a single person. Finally I shall assume that both coercer and coerced must be capable of some form of minimally rational, purposive activity (at least during the time in which the act of coercion is taking place) since we do not ordinarily wish to say that animals, small infants or the comatose can either coerce or be coerced.

The other two terms of the relation are, first, an *action* on the part of the coercer and, second, a corresponding action or *omission* on the part of the victim. By an 'action' I shall mean purposeful behavior, i.e., any bodily motion (or state) initiated and sustained in the appropriate way by the appropriate sort of volition (where a volition is understood to consist in a mental state or process which both expresses a propositional attitude and which tends to initiate behavioral episodes corresponding to the content of that propositional attitude). That is, I shall mean by 'action' what is generally meant by most contemporary action theorists and which I think constitutes a tolerably accurate explication of what is ordinarily meant by the term.[2] The term 'omission,' on the other hand, shall be used only to denote failures to perform actions that one has the ability and the opportunity to perform.[3] It is my contention, which I shall now attempt to justify, that coercion always consists in an action in the strict sense just defined while that which is the proper object of coercion will always be either an action or an omission (and never a mere physical movement).

The paradigm example of coercion is provided by a conditional threat, e.g., 'Your money or your life.' In such a case compliance with the

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2 My own views concerning some of the central features of action may be found in 'Agency and Causation,' *Journal for the Theory of Social Behavior* 9 (1979) 3-14, and 'Willing, Trying and Doing,' *Australasian Journal of Philosophy* 57 (1979) 237-50.

3 For a defense of this view see my paper 'Omissions,' in Robert C. Whittemore, ed., *Studies in Action Theory* (New Orleans: Tulane University Press 1979).

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threat will usually consist in choosing consciously to accede to its terms (e.g., surrendering the contents of one's purse). While I think it is wrong to regard such an act as voluntary (though there is some disagreement about this),[4] it is clear that what is involved is nevertheless purposeful human behavior, i.e., action. On other occasions, however, what may be demanded is not that you do something but only that you refrain from doing something. For example, a criminal wishing to avoid apprehension may threaten a witness by saying 'Keep your mouth shut or I'll kill you.' In this case compliance with the threat will consist in forbearing to perform any action that would communicate to the authorities the identity of the criminal. Though omissions are not a species of action (since they are not things we can be said to *do*), those that can be characterized correctly as resulting from coercion will always be intentional in the sense that they will always be the product of some form of conscious choice.

Some philosophers have argued that there is another form of coercion in which compliance consists neither in an action nor in an omission but in non-purposive ('mere') physical behavior. Coercion of this sort is alleged to take place when a person uses brute physical force sufficient to cause another person to move (or not move) his body in a certain way. An example suggested by Martin Gunderson would be a case in which 'a kidnapper ... physically stuffs his victims into an automobile.'[5] Gunderson (following Michael Bayles[6]) refers to behavior of this sort as 'occurrent' coercion.

While I do not find this way of speaking wholly counter-intuitive, I think there are nevertheless good reasons for adopting a more restrictive notion of coercion. A salient characteristic of (what I would prefer to call) *physical compulsion* is the fact that the behavior of the person being compelled is not under his control, i.e., is not purposive.[7] In the kidnap-

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4 For a wider use of the term 'voluntary' see Bernard Gert, 'Coercion and Freedom' in J. Roland Pennock and John W. Chapman, eds., *Coercion: Nomos XIV* (Chicago Aldine, Atherton 1972) 31-2.

5 Martin Gunderson, 'Threats and Coercion,' *Canadian Journal of Philosophy* 9 (1979) 248

6 Michael Bayles, 'A Concept of Coercion,' in Pennock and Chapman, 17

7 Mark Strasser has pointed out to me that there are other, somewhat different sorts of cases, in which it might be more plausible to speak of physical coercion. Consider, for example, torturing a spy to make him talk. My own view (which I cannot fully defend here) is that cases of this sort characteristically involve elements of both physical compulsion and coercion. For a further discussion of

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ping case described above, for example, the victim's powers of agency are entirely circumvented. This is in marked contrast to the standard case of coercion, viz., compliance with a threat, in which the exercise of the victim's own volition is an essential causal factor in his behavior. To regard the use of physical compulsion as a form of coercion would, therefore, be to downplay the significance of this distinction. This, I think, would be a mistake in light of the fact that the explanation of the *prima facie* wrongness of physical compulsion will have to differ considerably from the explanation of the *prima facie* wrongness of issuing threats. Using physical force against another person is a paradigm case of diminishing the freedom of that other person, an act that is universally agreed to require a special dispensation. The relation between threats and freedom, on the other hand, is considerably more opaque. Anyone who complies with a conditional threat of harm is, in at least some clear sense of the term, 'choosing' to do so and, therefore, acting intentionally. If, as is generally thought to be the case, behavior of the latter sort is nevertheless morally and legally excusable, a different and correspondingly more complex explanation seems called for. Hence I think it better not to assimilate the two kinds of forcing and I have therefore reserved the term 'coercion' for those cases in which the victim's powers of agency are engaged actively.

Let us, finally, turn to the act of coercion itself. Must it always consist in an action in the strict sense I have indicated above? Clearly coercion could never consist in mere physical behavior. A spasmodic nervous tic might cause P's arm to make contact with Q's body, thereby causing Q to collide with R, but it would surely be absurd to maintain that P thereby *coerced* Q into striking R. Elsewhere[8] I have argued that it is not plausible to suppose that an omission, a failure to do something, could ever be the *cause* of another's act (at least not if we are using the term 'cause' in anything like its normal sense). A simple process of elimination, therefore, provides confirmation for what is surely the verdict of common sense, viz., that coercion always consists in some form of active, purposeful behavior. In the next section the nature of that behavior will be spelt out in considerable detail.

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the difference between coercion and the use of physical force, see H.J. McCloskey, 'Coercion: Its Nature and Significance,' *The Southern Journal of Philosophy* 18 (1980) 335-7.

8 'Omissions,' 100-2; see also Eric Mack, 'Bad Samaritanism and the Causation of Harm,' *Philosophy and Public Affairs* 9 (1980) 230-59.

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III

The following analysis of coercion seems to be both intuitively attractive and yet sufficiently precise to be of value for moral theorizing:

By doing A, P directly coerces Q into doing (not doing) B if and only if:

1. A is an action (or combination of actions) on P's part by which P intentionally communicates to Q the proposition that P will intentionally bring about (or intentionally allow to be brought about as a result of prior actions on P's part) some consequence R if and only if Q does not do (does) B.
2. Q does (does not do) B intentionally.
3. Q desires (and P believes that Q desires) that it not be the case that P bring about R.
4. In doing (not doing) B, Q is motivated by his desire that it not be the case that P bring about R.
5. P's bringing about R would not consist in P's simply omitting to perform some action but in P's actively bringing about some state of affairs.
6. It is not the case that Q desires that P not bring about R solely because P's bringing about R would be incompatible with P's bringing about some other state of affairs the obtaining of which Q does desire.

The term 'directly' indicates that this analysis is concerned only with actions or omissions that are *explicitly* required by the terms of the coercer's proposal if the consequences he threatens are to be avoided. Acts that are only *in*directly coerced (e.g., acts which are nomologically necessitated by the performance of the act explicitly required by the terms of the coercive proposal) will not be considered here. This is not because I think such actions are unproblematic but, on the contrary, because I believe they raise difficulties serious and important enough to warrant a separate treatment.[9]

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9 For further discussion of cases of indirect coercion see Robert Nozick, 'Coercion' in Sidney Morgenbesser, P. Suppes, and M. White, eds., *Philosophy, Science and Method: Essays in Honor of Ernest Nagel* (New York: St. Martin's Press 1969) 445-7, and Gunderson, 254-5.

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Let us now consider the analysis itself. Observe that condition 1. does not require (even though it is characteristically the case) that a coercive threat be expressed verbally. As Nozick remarks: 'it may be perfectly clear from actions performed what the threat is, or at least that something undesirable will occur if one doesn't perform some undesirable action.'[10] Condition 1. also explicitly allows for a situation in which, *before* P does A (i.e., before P issues his threat to Q), P arranges things so that R will be inflicted upon Q unless Q does B. If, for example, I secretly add poison to your wine and then, after you have emptied your glass, insist that you give me your money if you desire me to provide the antidote, there is no doubt that, should you comply, you have been coerced.[11]

The rationale for conditions 2. and 3. is, I assume, obvious. Condition 4.[12] requires more comment. First, it should be noted that condition 4. does not require that the threatened consequence constitute an evil or harm. All it entails is that R must be something that Q does not *want* P to bring about. After all, as Gunderson has pointed out, a parent can sometimes coerce his child into doing something merely by threatening to give him a bath.[13] Second, condition 4. also fails to require that Q not want R *simpliciter*. For suppose that what P threatens is to make Q's wife pregnant. Obviously Q may be extremely averse to the prospect of *P's* doing this even though he would have no objection to his wife's becoming pregnant as a result of his own ministrations. Thus all that is necessary for Q's being coerced is that he look with disfavor upon *P's* bringing about R.[14] Third, although condition 4. requires that Q's doing (not doing) B be motivated by his desire that P not bring about R, it is not necessary (though it will typically be the case) that Q would have

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10 Nozick, 444

11 Note that there is no requirement that P intend that Q do B or even that P intend to bring about R if Q does (does not do) B. The former condition is unnecessary because, as Nozick points out (442), one may threaten someone simply to observe how he will react. The latter is unnecessary because as Gunderson points out (253), one can successfully rob a bank by threatening a teller with a fake pistol.

12 This condition is a slightly modified version of one proposed by Gunderson (253).

13 Gunderson, 254

14 I am grateful to Kent Machina for making clear to me the necessity of formulating the condition in this way.

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chosen otherwise in the absence of P's threat. For, as Gunderson has also noted, P may use a combination of threats and persuasion to induce Q to do (not do) B such that '[t]he persuasion by itself would have been enough to get Q to do [B], but when Q does [B] he is in fact motivated by his desire to avoid the threatened consequences. In such a situation Q is coerced even though it is false that he would have chosen otherwise had he not been threatened. Had he not been threatened he would have been persuaded.'[15]

Condition 5. is required on the assumption (to be discussed further later on) that ordinarily we should refuse to count as coercive someone's proposal to *refrain* from bringing about a certain consequence desired by another unless that other performs (or does not perform) some action. Indeed failure to insist on some such condition would have the unwelcome consequence of making all offers coercive.

The final condition is necessary if we are to avoid characterizing as coercive what occurs in the following sort of case: 'Jones would like very much to have Smith's first edition of *Principia Mathematica*. Smith proposes, however, to bring about the consequence of his *continuing to keep and use* the book unless Jones pays him a certain sum of money. Jones complies.'[16] Clearly we ordinarily would regard a proposal of this sort as an offer, not a threat; consequently we would be reluctant to describe Jones as having been coerced into paying for the book. This, I think, is because we naturally would assume that Jones has no special aversion to *Smith's* keeping the book and that what primarily concerns him is only the prospect that *he*, Jones, may *not* get the book. Smith's simply proposing to continue using the book himself rather than giving it to Jones without compensation would, however, ordinarily not count as coercive. Furthermore Jones's aversion to the positive state of affairs consisting in Smith's continuing to use the book is an aversion wholly derivative upon Jones's more fundamental desire that he (Jones) get the book together with the not unreasonable belief that Smith's keeping the book is a state of affairs incompatible with Jones's getting it. If, therefore, it is generally correct not to count as coercive proposals not to bring about desired states of affairs, there is a principled reason for not regard-

15 Gunderson, 254; it should be noted that there may be cases of causal overdetermination in which there will simply be no clear answer to the question of whether or not coercion was involved.

16 I am grateful to Shelley Stillwell for drawing my attention to cases of this sort.

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ing as coercive Smith's declaration that he will keep the book unless Jones pays up.

It is worth noting that things would be otherwise if what Jones primarily objected to were *Smith's* utilizing the book (perhaps because he hates Smith and is upset by the thought that possession of the book will contribute to Smith's happiness). In that rather peculiar case Smith's proposal does end up counting as coercive on my analysis (assuming it is successful in inducing compliance on Jones' part). (The objection that such a threat is not serious enough to be coercive is addressed in the discussion of case C3 in sec. 5.)

IV

Perhaps the central source of controversy in the literature on coercion has been the nature of the coercive act. Must it always be a threat or can it sometimes be an offer? Disagreement has persisted, I believe, largely because of a failure to sort out systematically the issues involved in a clear and careful manner. What follows is intended to help remedy this deficiency.

As Frankfurt has observed, coercive proposals are almost always (at least implicitly) biconditional in nature.[17] Thus, when the highwayman says, 'Your money or your life!' this is usually shorthand for the biconditional assertion 'You may have your life if and only if you give me your money.' Usually, that is, a coercive proposal A issued by P to Q will consist in the communication to Q of a proposition of the following form:

I will bring about consequence R if and only if you do (do not do) B.

Given that p iff q is logically equivalent to the conjunction of the two conditionals if q then p and if not-q then not-p, we may reformulate the content of the proposal as the conjunction of the following:

If you do (do not do) B, then I will bring about R.

and

If you do not do (do) B, then I will not bring about R.

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17 Harry Frankfurt, 'Coercion and Moral Responsibility' in T. Honderich, ed., *Essays on Freedom of Action* (London: Routledge and Kegan Paul 1973), 66

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It is my view that a biconditional proposal of this sort is coercive only if at least one of its constituent proposals is a *threat*. Furthermore, I do not believe that, strictly speaking, an *offer* can ever be coercive in and of itself. My argument for these assertions is implicit in the following analysis of the difference between a threat and an offer:

By doing A, P conditionally[18] threatens Q[19] if and only if:

1. A is an action (or combination of actions) on P's part by which P intentionally communicates to Q the proposition that P will intentionally bring about (or intentionally allow to be brought about as a result of prior actions on P's part) some consequence R if[20] Q does not do (does) B.
2. Q desires (and P believes that Q desires) that it not be the case that P bring about R.
3. P's bringing about R would not consist in P's simply omitting to perform some action but in P's actively bringing about some state of affairs.
4. It is not the case that Q desires that P not bring about R solely because P's bringing about R would be incompatible with P's bringing about some other state of affairs the obtaining of which Q does desire.

By doing A, P makes Q a conditional offer if and only if:

1. Same as 1. above.

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18 Suppose I tell you that I am going to kill you and that there is nothing you or anyone else can do that will make me desist. It seems to me that this is a threat (and not a warning) but, being *un*conditional, it is not obvious how it can be coercive. I suspect, however, that if you were to take evasive actions, it might be proper to describe those as having been *in*directly coerced by my threat. Unfortunately these complications cannot be discussed here.

19 My analysis presupposes that P and Q are different persons. However, as Gregory Trianosky has pointed out to me, this leaves unaddressed an important question: Can a person threaten himself? Since such a 'threat' is revocable at will, I suspect not, though I am unable to argue for my answer here.

20 'If' rather than 'if and only if' since I wish to distinguish clearly the 'threat' component of a typical coercive proposal from what I later characterize as the 'neutral' component.

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2. Q desires (and P believes that Q desires) that P bring about R.
3. Same as 3. above.
4. It is not the case that Q desires that P bring about R solely because P's bringing about R would involve the prevention of a state of affairs (i) that Q finds undesirable and (ii) that poses a threat to Q only because of previous actions on the part of P.

This account of what a conditional offer is makes clear why they are characteristically welcomed by their recipients. For, decision-making costs aside, all rational persons prefer increased opportunities to bring about states of affairs they find desirable. (It should be noted that condition 3. is required because my proposing, in return for some action or omission on your part, not to inflict upon you an unwanted consequence that would not otherwise threaten surely does not constitute an offer. Condition 4. is required because cases of the sort it excludes seem significantly different from ordinary offers in that they involve only someone's proposing to 'remove' what is in effect a *threat* of his own making.) Similarly, the account of what a threat is makes it clear why they are generally unwelcome: a rational person will not normally look with favor upon a proposal to attach an undesirable consequence to the performance of an action that he is now able to perform without fear of such a consequence. Finally this account makes clear the primary relationship between threats and coercion: (direct) coercion is what occurs when and only when a conditional threat is successful in inducing compliance with its terms.

It might be thought that there are counterexamples to the thesis that rational persons always find threats unwelcome. Nozick suggests the following: '... P tells Q he'll give Q $10,000 if in the next week someone, without prompting, threatens Q. Someone does and Q welcomes the threat.'[21] Nozick argues that proposals of this sort are not really exceptions to his thesis since they are welcomed 'for extraneous reasons, because of the special context.'[22] Unfortunately he goes on to admit that he finds it difficult to distinguish such contexts from those which are not so special.

What examples of this sort show, I think, is that the original thesis

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21 Nozick, 460

22 Ibid.

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needs to be restated more carefully. For a proposal to count as a threat it is not necessary (though it will characteristically be the case) that a rational person will not welcome the *making* of the proposal; rather, what he must be averse to is the proposed *consequence* of his failure to accede to the terms of the proposal. In Nozick's example Q may welcome the making of the threat but, if it is to count as a genuine threat, he must not desire that what is threatened actually be done. In cases where a person does welcome the proposed consequence, then I think the proposal ought not to be counted as a threat (even though the person who made the proposal may well have been *trying* to make a threat).

Are the analyses I have suggested still too simple to be both plausible and useful? To support the claim that they are not, I shall contrast the above account of threats with a somewhat more complex one recently suggested by Gunderson. Gunderson's proposal, unlike my own, requires that the recipient of the threat believe that he cannot both easily avoid doing B (the compliant action) and easily avoid R (the threatened consequence). Gunderson's explanation for adding this requirement is that otherwise Q will not regard P as *posing* a threat.[23] Suppose, however, that I propose to beat you up unless you beat Smith up. On Gunderson's view, if you can easily avoid the threatened beating without doing what is specified as necessary to avoid it (say, by simply running away), then I have failed to threaten you successfully. But this, I think, is very counterintuitive – if I didn't succeed in threatening you, then how are we to account for the fact that you ran away? Gunderson, I think, has confused what is required in order to *threaten* someone successfully (simpliciter) with what is usually required in order to induce *compliance* with the threat. In the above example it is true that I did not succeed in getting you to beat Smith up if in fact you ran away without doing so. To threaten someone successfully, however, is simply to inform him that you will make some potential action or omission less eligible for him than it would otherwise have been by proposing to attach some undesirable consequence to it. An ineffectual threat, in other words, is still a threat. A proposal intended as a threat will fail to be one only if, contrary to what is believed by the person making the proposal, the recipient is not averse (at least on balance) to the proposed consequences of non-compliance.

An additional condition of a successful threat, on Gunderson's ac-

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23 Gunderson, 257-8

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count, is that the victim not desire to perform the act necessary to avoid the threatened consequence. But this too seems unnecessary. Suppose the local mafioso threatens me with serious bodily harm unless I sell my business to him, a transaction, let us assume, that I had already come to view favorably on the grounds that I had independently decided to sell and that his was the most generous offer. Since either the threatened consequence or the tendered price would have been sufficient to secure my compliance, my going through with the sale may or may not have been coerced depending upon what my actual motivations were. Nevertheless, it seems mistaken to say that I have not genuinely been threatened by the gangster. For, again, his proposal makes a certain action less attractive for me than it would otherwise have been in virtue of his announcement that he would make an unwanted state of affairs conditional upon its performance. A threat does not cease to be a threat simply because it is unnecessary.

In sum: I have argued that a typical coercive proposal will consist in a pair of conditionals at least one of which is itself a threat. Furthermore, if my analyses are satisfactory, it is clear that it is the threat alone which makes the proposal coercive. This is why I have maintained that, strictly speaking, there can be no such thing as a coercive offer.

Of course not every proposal to bring about (or not bring about) a change in the world is either a threat or an offer. Consider again the paradigm coercive proposal, 'Your money or your life!' As I indicated earlier, this is equivalent to the conjunction of the following two conditional assertions:

1.1 If you don't give me your money, I will kill you.

1.2 If you do give me your money, I will not kill you.

1.1 is clearly a threat (thus insuring the coerciveness of the proposal as a whole). 1.2, however, seems to be neither a threat nor an offer since the speaker is not proposing to *bring about* (or allow to be brought about as a result of his own previous actions) any consequence whatever, desired or undesired. He is, in effect, simply indicating his willingness to take the money without any further ado if the victim chooses to surrender it. Let us therefore term proposals such as 1.2 'neutral' conditional proposals and define them as follows:

By doing A, P makes a neutral conditional proposal to Q if and only if:

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1. A is an action (or combination of actions) on P's part by which P intentionally communicates to Q the proposition that P will intentionally bring about (or intentionally refrain from bringing about) some consequence R if Q does (does not do) some action B.
2. A counts as neither an offer nor a threat.

There are three different ways in which a proposal can qualify as neutral. First, P may indicate his intention to bring about a consequence R where R is something to whch Q is entirely indifferent ('Do this or I'll burn my copy of *Silas Marner*'); the bringing about of such a state of affairs will therefore be neither desired nor undesired by Q. Second, A may consist in a declaration by P that he simply will refrain from engaging in some positive act if Q does (does not do) B. Unless this is a case in which the positive act in question consists in preventing the occurrence of a state of affairs (i) which is either positively desired or positively undesired by Q and (ii) which, as a result of previous actions on P's part, will occur unless special preventative measures are taken, this too will count as a neutral proposal. For it does not seem plausible to regard as either an offer or a threat a proposal *not* to interfere with what we might term the 'natural' course of events, i.e., with what would happen in the absence of any interference (present or past) on one's part. Finally, a proposal by P to prevent the occurrence of a desirable or undesirable state of affairs for whose occurrence P would otherwise be causally responsible will also be a neutral proposal (e.g., 'offering' to give Q the antidote for the poison that P himself has added to Q's wine). In cases of this sort all P is doing, as we noted earlier, is proposing to 'cancel out' a prospective benefit or injury to Q that would not have been in the offing had it not been for P's own previous actions.

A paradigmatic non-coercive proposal would be the following: 'I'll sell you my car for $1500.' This is most plausibly interpreted as equivalent to the following pair of conditionals:

2.1 If you give me $1500, I will give you my car.

2.2 If you don't give me $1500, I will not give you my car.

Here, 2.1 clearly counts as an offer (at least under ordinary circumstances) while 2.2 is entirely neutral. What I shall term 'standard' non-coercive proposals are those which are analyzable as combinations of conditional offers and neutral conditional proposals; similarly what I

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shall term 'standard' coercive proposals (where by a 'coercive' proposal I mean one which would constitute coercion if complied with) are those which are reducible to combinations of conditional threats and neutral conditional proposals. (In accordance with the usual practice, however, I shall generally refer to any non-coercive proposal as an 'offer' and any coercive proposal as a 'threat.') Examples of more complex proposals will be considered in the next section.

V

To test the adequacy of my account, I shall consider briefly its application to a few of the more problematic cases that have been suggested in the literature.

> C1 (Nozick):'Suppose that P knows that Q has committed a murder which the police are investigating, and knows of evidence sufficient to convict Q of the murder. P says to Q, "if you give me $10,000 I will not turn over the information I have to the police." '[24]

Here the relevant conditionals are:

> C1.1 If you give me $10,000 I will not turn over the information I have to the police.
>
> C1.2 If you do not give me $10,000 I will turn over the information I have to the police.

Nozick states that he is unsure how to deal with this case. He admits that it appears to involve coercion but maintains that, if this is so, it must be because the proposal encompasses a coercive *offer*, not a threat. Yet he also confesses to an 'inclination to say that one is never coerced when one does something because of an offer... '.[25]

On my analysis the proper classification of the proposal is simple and straightforward: C1.1 is a neutral proposal while C1.2 is clearly a threat;

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24 Nozick, 452

25 Ibid.

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hence should Q acquiesce and pay P, it would be proper to say that P coerced Q into doing so. Nozick's reason for not accepting a solution like the one I have proposed is the fact that he accepts the following criterion for distinguishing threats from offers: a proposal by P to bring about R unless Q does (does not do) B is a threat only if R makes the consequences of Q's not doing (doing) B worse for Q than they would have been 'in the normal and expected course of events.' He adds, by way of explanation, that 'the term "expected" is meant to shift or straddle *predicted* and *morally required*.'[26] But since, in the above example, P's turning over his information to the police is both predictable *and* required, Nozick concludes that P's is *offering* not to turn the information over to the police, rather than *threatening* to turn it over.'[27]

It is by now pretty well agreed[28] that Nozick's criterion is an unsatisfactory way of determining whether a proposal to intervene in a certain way is a threat or an offer. Its principal deficiencies seem to be these: 1. it wrongly recommends that we compare what people propose to do with what they have customarily done in the past rather than, as Frankfurt suggests, 'with what would *now* happen but for their proposed intervention';[29] 2. by allowing 'expected' to serve as a surrogate for either 'predicted' *or* 'morally required,' it makes coercion an essentially normative concept; and 3. since the theory is a two baseline account it is objectionable on grounds of explanatory simplicity since, as Zimmerman observes, it 'forces the theorist to produce two distinct explanations for [the] prima facie wrongness [of coercion].'[30] It is also worth noting, I think, that in cases where the baseline established by what is required morally diverges from the baseline set by what is expected normally, Nozick maintains that the coerciveness of a proposal is to be determined by using whichever baseline is *preferred* by the recipient of the proposal.[31] If preferences are so important here, however, it is unclear why they should be less so in cases where the two baselines coincide. A

26 Ibid., 447

27 Ibid., 452

28 See, for example, the criticisms made by Frankfurt, 67-75 and Zimmerman, 125-9.

29 Frankfurt, 69

30 Zimmerman, 128

31 Nozick, 451

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virtue of my account, I think, is that it makes the subject's preferences a controlling factor in *all* cases.

> C2 (Bayles):'Assume there is a mediocre woman graduate student who would not receive an assistantship. Suppose the department chairman offers her one if she goes to bed with him... .'[32]

The constituent conditionals here are:

> C2.1 If you go to bed with me, I'll give you an assistantship.
>
> C2.2 If you don't go to bed with me, I won't give you an assistantship.

The first is, I would argue, a clear caase of an offer while the second is a neutral proposal; hence C2 as a whole is a standard non-coercive proposal. While Bayles himself draws the same conclusion, Theodore Benditt has suggested that things would be different if the woman needed the job to support her children and if there were no other reasonable alternatives open to her.[33] In that case it would presumably be an offer that, in some sense, she 'couldn't refuse' and therefore (according to Benditt) one that involves some measure of coercion.

Here, however, I am essentially in agreement with Zimmerman:[34] unless the person issuing the proposal has himself taken *active* steps to place the woman in such a position, we should classify the proposal as an offer (and thus non-coercive). Of course since the terms of that proposal are unattractive (or so we shall assume) and since it seems clear that the offerer is knowingly taking advantage of the woman's plight, it may well be correct to describe this as a case of exploitation. Nevertheless it seems that Zimmerman is correct in insisting that exploitation is not a form of coercion. To maintain otherwise would tend to mask the difference between (i) accidentally coming across a drowning swimmer and proposing to rescue him in exchange for all his wordly possessions and (ii) *first* pushing a nonswimmer into the water and *then* putting a similar proposal to him. In the first case there is only an exploitive proposal (which

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32 Michael Bayles, 'Coercive Offers and Public Benefits,' *The Personalist* 55 (1974), 142

33 Theodore Benditt, 'Threats and Offers,' *The Personalist* 58 (1978) 383-4

34 Zimmerson, 133-5

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is quite bad enough, of course); in the second, however, there is also a wrongful act in virtue of which the victim's situation is worsened and he is thereby *made* vulnerable to an exploitive proposal. The second sort of case thus involves (as Zimmerman points out) not one but *two* wrong actions and it is only because of the relationship between those two actions that we are justified in regarding the proposal as a threat.[35]

C3 (Zimmerman): 'Your money or I'll tie your shoelaces together.'[36]

This proposal (made by P to Q) breaks down as follows:

C3.1 If you don't give me your money, I'll tie your shoelaces together.

C3.2 If you give me your money, I won't tie your shoelaces together.

Supposing Q to be averse to having his shoelaces tied together, it seems clear (and my analysis entails) that C3.1 counts as a threat, C3.2 as a neutral proposal. Of course, unless there is something very peculiar either about Q or the circumstances, the threat in question will be a

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35 The following sort of case might be thought to pose a difficulty for this analysis. Suppose P and Q agree, at t, that P will provide Q with a certain important service at some later time t' if, at t, Q pays P $5000. Q does so. At t', P informs Q that he intends to renege on his promise unless Q pays him an additional $5000. Q reluctantly complies. Our intuition here, surely, is that Q has been coerced into paying the additional $5000, yet it is unclear that such a case meets our criteria since it is unclear what undesired state of affairs P is threatening to *bring about* should Q refuse to pay the additional sum. But if there is no such state of affairs, then the coerciveness of P's proposal would seem to be explicable wholly in terms of what he proposes to *refrain* from doing (viz., give Q what he is owed), in which case the argument in the text for sharply distinguishing coercion from exploitation is called into question.

Fortunately this sort of case does not constitute a counterexample to my analysis. For by the original *act* of agreeing, at t, to provide Q with the desired services at t', P *initiated* a sequence of events which, in the absence of the appropriate preventative measures on his part, would *cause* a state of affairs to exist at t' that Q would find undesirable, viz., Q's being both without his original $5000 and without the services promised by P. Since analogous claims cannot be made about the case discussed in the text, the distinction I have attempted to draw between coercion and exploitation remains a viable one.

36 Zimmerman, 124

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decidedly trivial one. The interesting question, however, is whether Q's complying with the threat under such circumstances should count as coercion. Zimmerman suggests that it should not since

> P coerces Q into doing A only if the utility of Q's doing A and not suffering the threatened consequences, T, is *considerably* greater than the utility of his not doing A and suffering them. Put formally, (u(A and *not*-T) − u(*not*-A and T)) $\geq$n, where n is the 'coercion-utility threshold'... . [I]f Q complies with the proposal 'Your money or I'll tie your shoelaces together,' he is clearly not coerced since the difference between the utility of his complying and of his not complying is presumably negative, and thus smaller than the coercion-utility threshold, which has a positive value.[37]

There are, however, some serious problems with this suggestion. First, as Zimmerman himself notes, 'where this threshold lies is a good question'[38] − a question to which, unfortunately, he provides no answer. Second, it is not clear that there is any plausible way of determining this threshold that would not involve ultimately an appeal to normative considerations. (Consider, for example, a proposal to make n a function of the smallest utility loss such that its prospect would serve to at least partially *excuse* an individual's compliance with a threat.) Third, it is very unclear what theory of utility Zimmerman is operating with here since, on his view, it is possible for Q intentionally to choose an action (surrending his money and avoiding having his shoelaces tied together) that he correctly believes to have *less* overall utility than another action open to him (keeping his money and having his shoelaces tied together). On some theories such behavior would be logically impossible, on others at least seriously irrational. Lastly, suppose P makes Q the following proposal (Zimmerman's example): 'Your $199 or I'll throw ink on your $200 white blazer.'[39] Zimmerman notes that, on his account, Q's compliance will count as coerced only if Q has a very low coercion-utility threshold. He goes on to concede, however, that his own intuitions about such cases are quite unclear. I can only reply by pointing out that *my* intuitions about cases are not at all unclear − so long as Q does not wish to have his jacket damaged, his giving $199 to P to avoid such a consequence seems *clearly* an instance of coerced behavior.

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37 Ibid.

38 Ibid.

39 Ibid., 125

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Even if we reject Zimmerman's own suggestion for dealing with trivial threats, the question we began with remains unanswered: Should compliance with such threats count as *coerced*? If, in the shoelace case, Q is a bank teller and the money he is asked to surrender is a large sum belonging to the bank in which he is employed, there is little doubt that, under normal circumstances, his compliance with P's threat will be neither morally nor legally excusable. If we endorse the view that it is part of the *concept* of coercion that its existence always serves as at least a partial excuse for an act of compliance, then neither my view nor any other normatively neutral account of coercion (including Zimmerman's) can possibly be accepted. I will not deny that the term 'coercion' sometimes appears to be used in this way, particularly in legal contexts where 'coerced' is often taken to be synonymous with 'under duress.' Nevertheless, as I indicated earlier, I believe there are sound theoretical reasons for providing an analysis that is not biased in this way. Consequently I have elected to define a fairly wide sense of the term 'coercion' which lacks an analytic connection with matters having to do with excuse and blameworthiness, thereby providing us with a single term that applies to *all* cases in which one person succeeds in modifying the behavior of another by means of a threat. Of course anyone who accepts this analysis will be likely to press for some account of how we are to distinguish the minimal or trivial sort of coercion involved in the bank teller case from the more serious sort which normally serves to exculpate. Providing such an account, however, is the task of a *normative* theory concerned not with the *analysis* but with the *assessment* of coercion. A virtue of my proposal is that it facilitates a clear division of labor with respect to these two activities.[40]

C4 (Zimmerman): 'Prosecutor A believes he has a very strong case so he brings a charge of trafficking in heroin against Q. It then occurs to him that he would be able to get valuable information from Q if he offered to let him plead guilty to the lesser charge of possession in return for his giving evidence against his accomplices. So A offers the plea bargain. Prosecutor B, on the

40 I would thus endorse McCloskey's judgment that, 'It is morally impossible accurately to generalize in these matters about all coercion in the abstract ... Some coercion bears importantly on the degree of responsibility and on blameworthiness, some bears not at all' (347). For a contrasting view, see Mark Fowler, 'Coercion and Practical Reason,' *Social Theory and Practice* 8 (1982) 329-55.

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> other hand, believes he has a weak case on both the stronger and lesser charges. But he knows that Q does not know just how weak, so he also brings the stronger charge initially, with the intention of using it to scare Q into accepting his offer to let Q plead guilty to a lesser charge. Both prosecutors make an offer, since Q would undoubtedly prefer to face the lesser charge of possession, but my intuitions are that only B's offer is coercive. Both prosecutors initially bring the stronger charge and thereby prevent Q from being in the pre-proposal situation he strongly prefers, namely not being up against a charge at all, but only B does this with the intention of rendering Q vulnerable to the eventual plea-bargain; A does it because he knows he can sustain the stronger charge.'[41]

It seems to me, on the other hand, intuitively more plausible to regard *both* prosecutors as coercing (or attempting to coerce) Q into pleading guilty. If this is so, then my account requires that we be able to show that both of their proposals involve threats (since, unlike Zimmerman, I hold that, strictly speaking, offers cannot be coercive). This, however, is easily done. Both A and B are making the following pair of proposals to Q:

C4.1 If you provide evidence against your accomplices, I will drop the charge of trafficking in heroin and only charge you with possession of heroin.

C4.2 If you don't provide evidence against your accomplices, I will continue to charge you with trafficking in heroin.

Both A and B, that is, have by their initial acts of bringing the stronger charges against Q, arranged things so that, unless preventative measures are taken, a consequence will (probably) result that Q will find undesirable, viz., his being made to serve a lengthy prison term. On my account, then, C4.2 is clearly a threat since it is tantamount to a proposal to refrain from taking those preventative measures unless Q performs a certain action.

The analysis of C4.1 is a bit more complex. If it were simply a proposal to drop the charge of trafficking in return for Q's giving evidence against his accomplices, it would be entirely neutral for it would in effect

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41 Zimmerman, 137

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be a proposal to prevent the occurrence of an undesirable state of affairs that would never have posed a threat to Q had it not been for A's and B's own previous actions. Instead, however, it is a proposal to remove one undesirable consequence from a given action and to replace it with *another*, less undesirable (but still *un*desirable) consequence. Thus I think C4.1 should be interpreted as equivalent to the conjunction of a neutral proposal and a (new) threat. No doubt Q prefers the situation in which he is faced with a choice between the two conditional threats C4.1 and C4.2 to the pre-proposal situation in which he was faced only with an unconditional threat (viz., the situation in which he was up against the stronger charge without an opportunity to plead guilty to the lesser charge) but this is surely no reason to believe he has been made a genuine offer.

I believe, furthermore, that Zimmerman is mistaken in thinking that, of the two prosecutors, only B is guilty of attempting to coerce Q. Zimmerman suggests that this is so because only B had an *intention* to render Q vulnerable to his proposal. Unfortunately he provides no explanation of why he thinks the existence of intentions of this sort relevant to an assessment of the coerciveness of a proposal. My own view is that they are not relevant and that all that does count is that A and B have intentionally communicated to Q the proposition that, if a certain action is not performed, each will either intentionally bring about, or intentionally allow to be brought about as a result of his own previous actions, a state of affairs that they (correctly) believe Q will find undesirable. An inquiry into the *motives* of the two prosecutors seems entirely unnecessary for a determination of the coerciveness of their proposals. This, at any rate, is a consequence of the analysis that I have defended in this paper and one which certainly squares with my own pre-analytic judgements.

VI

A supposition that has been implicit throughout this paper is that there is no account of coercion which is both faithful to every nuance of ordinary usage and also suitable for constructing a satisfactory normative theory. Since it is the latter task that I regard as most important, I have proposed an analysis which does not always square with how we ordinarily speak. I have taken pains to insure, however, that my analysis accomodates virtually all of the central, intuitively clear cases of coercion and excludes

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virtually all of the central, intuitively clear cases of non-coercion. I have attempted to insure, that is, that what I have provided will be recognizable as an explication of *coercion* rather than of some other notion. Ultimately, though, the overall acceptability of such a theory will be primarily a function of its utility as a tool in the construction of a plausible, systematic, and illuminating account of such matters as 1. the relation between coercion and freedom, 2. the meaning and justification of the common claim that coercion involves making one behave 'against one's will,' 3. the nature of indirect coercion, 4. the conditions under which coercion functions as an excuse, 5. the extent to which (and the reason why) we are said to possess a right to be free from coercion, 6. the difference between coercion and exploitation, and 7. the extent to which coercion is an element in various sorts of economic transactions. Fortunately the question of whether my analysis is in this respect superior to its competitors is one that is best addressed elsewhere.[42]

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