Coercion as Enforcement

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English contains a variety of words and expressions that depict situations in which one agent attempts to alter or constrain the actions of another through some form of imposition:

<table>
<thead>
<tr>
<th>Verbs</th>
<th>Nouns</th>
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<tbody>
<tr>
<td>to coerce or to make (to do something)</td>
<td>coercion</td>
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<tr>
<td>to compel</td>
<td>compulsion</td>
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<tr>
<td>to force or to enforce</td>
<td>force or enforcement</td>
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<tr>
<td>to press or to pressure</td>
<td>pressure or duress</td>
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<tr>
<td>to require</td>
<td>requirement</td>
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<td>to constrain</td>
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Certain kinds of actions, such as threatening, sanctioning, harming, imprisoning, and punishing, are typical means by which such constraints are imposed. Within this territory, however, it is not clear whether there are useful distinctions to be drawn—whether, say, pressuring is the same or different from coercing—nor whether there is even a single genera to which some or all of the above kinds of impositions might belong as species. In the last 40 years or so, philosophers have responded to this challenge, attempting to bring order to this territory through the explication of several concepts—especially *coercion*—which pick out some or all such situations, or some of their salient parts, and help to explain the interconnections among them.

Why bother? One good reason is that there is a use for conceptual precision about coercion in at least some contexts. In the law, for one private agent to coerce another may in itself constitute a crime, or may exacerbate the wrongfulness of an otherwise lesser criminal act (turning, say, a larceny into a robbery); an agent who is coerced to act may also avoid being held responsible for the normal consequences of that act (say, her acts of embezzling may be exculpated, her contractual obligations extinguished, or her confession or plea suppressed). In more theoretical discussions, one might object to certain government actions on the grounds that they are paternalistically coercive; one might also reject the legitimacy of a government and/or

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its laws if it fails to protect one against the private use of coercion by others. In thinking about these matters and others, it can be useful to know what is being discussed under the heading of coercion—that is, what sorts of impositions count, and how one might tell. Even more important, however, is to conceptualize coercion in a way that can explain its apparently portentous implications (if this can be done).¹

As a result of the attempts at conceptual clarification, it is now apparent that recent philosophers and theorists have developed two distinct, competing views of the nature of coercion, and that the relative dominance of the two views has shifted over time. One view holds that coercion is best understood as one agent’s acting to determine, through enforceable constraints, what another agent will or won’t do. The sense of enforceability here is exemplified by the use of force, violence, and the threats thereof to constrain, disable, harm, or undermine an agent’s ability to act.² The other concept of coercion holds that coercion is integrally connected to the making of threats (or conditional proposals more generally).³ On this view, direct uses of force or violence are not coercive, nor are they specially related to the subject—force and violence are just two of many consequences one can threaten to bring about. The resultant concepts of coercion are distinct, since (for one thing) the former regards grabbing, manacling, and imprisoning a person to prevent him from acting as paradigmatically coercive, while the latter regards such actions as entirely outside of the bounds of coercion.

¹ I will not assume, in advance of argument, that one and the same account of coercion is appropriate for meeting the various tasks just described; it remains a question for investigation whether this is so. I will make arguments later that the approach defended here does answer to these needs.

² Unless otherwise qualified, I will use “force” throughout to refer to physical means to move, manipulate, invade, or constrain a human body. I will treat “violence” as a special case of force, in which one intends to injure, incapacitate, or cause pain to a person through physical effects on her body. Omitted from my usage of “violence” is damage to property; included within “violence” are uses of drugs or other chemicals that have the requisite intended effects. I also note that force is frequently used on people consensually (e.g., to transport them), although consensual violence is fairly unusual.

³ The words “threat” and/or “threaten” can be used to refer both to unconditional propositions and to conditional propositions accompanying a demand. For the sake of clarity, I’ll use the terms, sans phrase, to refer only to situations in which an agent (R) makes a demand to another (E) that E do (or not do) some action (A) and accompanies this demand with a claim or indication that if and only if the demand is unfulfilled, R will act or bring about events contrary to E’s interests. These uses can be distinguished from “plain threats,” i.e., unconditional claims by R that R will act contrary to E’s interests at some point in the future, regardless of other contingencies; but plain threats will play no role in the discussion of coercion here.
The former concept of coercion, which is entailed by what I will call the “enforcement approach,” was dominant within the political and philosophical literature for a long time up until the early 1970s. However, a concept that associates coercion exclusively with threats has now largely supplanted its rival. It derives from what I will call the “pressure on the will approach” (or “pressure approach” for short). Though some have argued explicitly for this switch, most theorists seem not even to recognize that the pressure approach amounts to something of a novelty, or that the other concept was once widely assumed in discussions of coercion.\(^4\) Thus, highlighting the difference in these concepts is itself of some use, if only to avoid misunderstandings in conflicting usages.

One can of course craft different concepts for different purposes, and there may be still other useful concepts of “coercion” with different meanings and extensions. I think, however, that the particular shift from the older concept to the newer, or, from one approach to another, has been accompanied by a loss of critical power when it comes to analyzing the activities of governments, institutions, and individuals. I will argue, contrary to much recent writing about coercion, that there is an important and useful sense of coercion in which the making of threats is not necessary for coercing, and in fact is only a subsidiary and derivative part of the topic. This is so because, if we are to understand the coerciveness of a coercive threat, it must be understood as grounded in broader relations of power between coercer and coercee. The ability to make a successful conditional threat is usually a manifestation of this background relationship. These facts, combined with a fuller appreciation of the enforcement approach to coercion, give rise to an argument for the superior importance of the enforcement approach: it is very difficult to use the newer, threat-focused concept to pick out an interesting, coherent class of phenomena without presupposing that things stand as described by the older concept. In that sense the older concept is more fundamental than the newer one.

\(^4\) For an account of this history, see my “How did there come to be two concepts of coercion?” in David Reidy and Walter Riker, eds., *Coercion and the State*, Springer, 2008.
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The sequel proceeds as follows: In sections 1-6, I distinguish the two approaches to coercion, describe the considerations motivating each, and offer arguments that suggest that the enforcement approach tracks something that is integral to our interest in the concept of coercion. Section 7 argues that the enforcement approach is comparatively better suited than the pressure approach to support the implications we commonly attribute to coercion. Section 8 defends the enforcement approach from a series of objections which may have prompted more recent theorists to discount it. The conclusion looks at the role that normative/moral judgment plays in the enforcement approach, and suggests that it is neither strictly a moralized nor non-moralized account.

1. Two concepts of coercion

The divergence in the two approaches to coercion is in evidence in the following contrasting claims about the relationships of threats and of force to the concept of coercion. H. J. McCloskey writes in 1980:

I suggest that the core notion of coercion is that of power exercised by a determinate person, persons, or organization(s), by the use of threats backed by sanctions in terms of evils to be imposed, benefits withdrawn or not conferred.\(^5\)

After associating coercion with threats, he also goes out of his way to deny that direct uses of force belong within the ambit of coercion:

When subjected to force, one does not act at all; rather one is acted upon; things are done to one or via one. … The person who is subject to force, the physical force of another, or to natural forces, has things happen to him. … By contrast, the coerced person acts.… He may well not like doing what he does and may much prefer to act in other ways; and he may do what he does only because he is coerced. Nonetheless, he, the coerced person does what he does; he chooses to do it.\(^6\)

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\(^6\) *Ibid.*, p. 336. The denial that direct force is a mode of coercion is explicit in accounts by Hans Oberdiek, Mark Fowler, Michael Gorr, Joel Feinberg, Onora O’Neill, and Mitchell Berman. It is implicit but unmistakable in Robert Nozick’s account and in most of the considerable number of theorists who have taken their bearings from him, most
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Here, McCloskey is objecting explicitly to an approach to coercion advocated by earlier thinkers such as J. R. Lucas, who writes in 1966 that,

[W]e are concerned with the enforcement of decisions: we are considering the conditions under which decisions will be carried out regardless of the recalcitrance of the bloody minded. We therefore define force in terms of bloody-mindedness, of what happens irrespective of how recalcitrant a man is, of what happens to him willy-nilly. Force, then, we say, is being used against a man, if in his private experience or in his environment either something is being done which he does not want to be done but which he is unable to prevent in spite of all his efforts, or he is being prevented, in spite of all his efforts, from doing something which he wants to do, and which he otherwise could have done by himself alone. A man is being coerced when either force is being used against him or his behaviour is being determined by the threat of force.\(^7\)

And:

[I]mprisonment is the paradigm form of coercion…. Even if it were not regarded as a penalty, it would still be effective in frustrating the efforts of the recalcitrant to prevent a judicial decision being implemented.\(^8\)

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\(^7\) J. R. Lucas, *The Principles of Politics* (Oxford: Clarendon Press, 1966), p. 57. (Emphasis in the original.) Lucas’ definition of “force” is clearly broader than merely the physical means normally associated with the term, but his subsequent discussion makes clear that physical force is the principal form with which he is concerned.

\(^8\) Ibid., p. 60. Like McCloskey, Lucas is less prominent than others who share his view. But one can see that his view was widely shared by briefly surveying some standard sources of political and legal theory in the decades leading up to 1970. Hans Kelsen directly connects the coercive order of the state to its use of force: “As a coercive order, the law is distinguished from other social orders. The decisive criterion is the element of force—that means that the act prescribed by the order as a consequence of socially detrimental facts ought to be executed even against the will of the individual and, if he resists, by physical force.” *The Pure Theory of Law*, trans. Max Knight (Los Angeles: University of California Press, 1967), p. 34. (Original German first edition published 1934; second edition, 1960.) Kelsen later identifies as coercive those acts of state involved in detaining those suspected of crimes, detaining for protective custody, detaining of the insane, detaining in internment camps potential enemies of the state, and the confiscation or destruction of property. *Ibid.*, pp. 40-41. Alf Ross defines a national law system as “the rules for the establishment and functioning of the state machinery of force.” *On Law and Justice* (London: Stevens and Sons Limited, 1958), p. 34. Christian Bay writes, “When a person wants to do something (or remain passive) and is forcibly restrained (pushed), we speak of ‘coercion.’ The same word is used also if he is still able to do what he wants but has to suffer as a consequence a severe punishment or the loss of a very important reward. It
Based on the above, we can diagram McCloskey and Lucas’s disagreement over the meaning of coercion, and see that they use the term to refer to two different but intersecting sets of activities:

**McCloskey:** coercion as a use of threats

**Lucas:** coercion as a use of force

- threats not involving force
- threats of force
- direct uses of force

To this dispute, the natural response again seems, “why bother?” If our goal were simply to exhibit the ways the term “coercion” is commonly used, we might do well to ignore McCloskey and Lucas’s dispute, and instead take “coercion” to refer to the union set above. Or, if there is reason to retain multiple distinct concepts here, we might suspect that this is no more than a verbal dispute about the meaning of a term. In which case, we might achieve greater clarity if we were to revise the extensions of the two concepts to capture two discrete kinds of coercion: coercion via threat, and coercion that works via direct force. Indeed, several theorists have favored such a categorical distinction. This would still leave the difficulty facing

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*is also convenient to consider less severe or ‘noncoercive’ punishments under this heading, which refers to restraints on what I call social freedom.”* Bay, *The Structure of Freedom* (New York: Atheneum Press, 1965), pp. 16-17. (Originally published 1958.) Also, “[C]oercion in this study means (a) the application of actual physical violence, or (b) the application of sanctions sufficiently strong to make the individual abandon a course of action or inaction dictated by his own strong and enduring motives and wishes.” *Ibid.,* p. 93. Dennis Lloyd writes in a collegiate primer on law, “[I]s law really conceivable, or at least possible in any practical sense, when it is not ultimately backed by effective force? Certainly the force of law is and seems always to have been linked with rules which are capable of being enforced by coercion; the hangman, the gaoler, the bailiff, and the policeman are all part of the seemingly familiar apparatus of a legal system.” *The Idea of Law* (Middlesex, England: Penguin Books Ltd., 1970), p. 35. (First published in 1964.) In Lloyd’s book’s index, the entry for coercion reads, “See force, sanction.”

This might be something like the view of coercion found in H. L. A. Hart, who is something of a transitional figure between the two views. (Nozick cites two works by Hart (one *Causation in the Law* by Hart and Tony Honoré (Oxford: Oxford University Press, 1959)) as the starting points for his own reflections.) Hart seems more likely than many to associate coercion principally with the making of threats. But Hart is also clear that the state’s coercive apparatus relies upon the ability to use force to back up those threats. See, e.g., *The Concept of Law* (Oxford: Oxford University Press, 1961), pp. 84, 193-94.

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McCloskey and pressure accounts in general about how to determine which threats should count as coercive, since surely not all minor threats, even if successful, should be regarded as coercive. Still, I imagine few will be sympathetic to Lucas’ apparent suggestion that only threats of force are coercive.

But this surface dispute about the place of force in coercion reflects a more fundamental difference in thinking about the point of having a concept of coercion. The enforcement approach, represented by Lucas, seeks to track the ways that some powerful agents are able to obstruct, disable, or undermine broadly the ability of others to act. When one agent has such powers over another, the powerful agent has the ability to alter radically what it is necessary for the weaker agent to do. The centrality of force to the enforcement approach reflects the fact that the ability to wield force and violence against someone is the most important and obvious form of power by which agents are able to impose such disabilities on others. (There are, however, other such means, so not all enforcement need be backed by force or violence.\(^1\)) By contrast, one agent can put pressure on the will of another in some specific ways without holding any broader form of power over another’s ability to act more generally. Taking McCloskey as its representative, the pressure-on-the-will approach to coercion aims to track the multiplicity of such methods of pressure, insofar as they result or tend to result in alterations in how an agent chooses to act. So the approaches differ over the role of force and violence because they track related though fundamentally different phenomena, with respect to which only one holds force and violence to be especially distinctive activities.

If this much is right, then advocates of the enforcement approach may reasonably resist treating direct uses of force as categorically distinct from threats thereof, thus reaffirming that we have two distinct concepts of coercion with overlapping extensions. Accepting this result, one might yet deny that either concept should be privileged; rather, one’s purposes would dictate which of the concepts one would make use of. *Vive la difference*, as long as we’re clear about it.

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\(^{1}\) Sections 8C-E below discuss the prospects for the enforcement approach to handle blackmail, hostage taking, and economic coercion.
Yet this proposed reconciliation does not explain why the two concepts have seen their prominence reversed in contemporary discussions, nor why this has happened virtually unnoticed. Moreover, it would be helpful to have guidance in deciding which concept is useful for thinking about which particular questions. In due course, I will offer some arguments for why the earlier, enforcement concept is much more useful and important for political and ethical theorizing. But first it is worth considering what might motivate one to highlight the pressure aspect of coercion, and why those who favor this approach might likewise deny that the two approaches are of comparable importance.

2. Pressure on the will as coercion

The pressure approach to coercion appears to be recommended by several epistemological and pragmatic considerations. Its principal aim in conceptualizing coercion is to explain coercion’s effects in certain concrete instances of action. This is reflected in McCloskey’s stipulation that the coerced agent acts, and it is the action that is coerced: if there is no coerced action (or action intentionally foregone), then there is no coercion. Careful attention to the effect of coercion on action is of course desirable as a feature of an account of coercion. As a practical matter, we are often interested in making forensic judgments about whether an action was in fact coerced, for purposes of determining an agent’s responsibility for it. If there’s no action (or act foregone), then the question of responsibility for it seems not to arise. Moreover, actions, and especially alterations in actions, are often signals that indicate that coercion has occurred: e.g., Jones was going to keep her wallet, then she handed it over. The alteration indicates that there is something to be explained, and pressure applied to the will is one possible explanation.

By comparison, if we say that a direct physical intervention, such as imprisonment, is a use of coercion, it may be unclear what the prisoner was coerced into doing/not doing, if anything. In the wake of broad uses of force, such as grievous violence or imprisonment, there

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12 McCloskey, for instance, treats his disagreement with Lucas and Virginia Held as one of several internal disagreements among theorists explaining the same concept.
are innumerable actions the target will not be able to take as a result, though perhaps no way to say which one(s) she would have taken if not for the use of force against her. The ontology of coercion thus appears much more tractable if coercion is tied to particular acts willed or not willed in response to specific threats; typically the threat even specifies the particular act that one is coerced into or out of.

Also, while force and violence are useful for inhibiting or stopping action, threats seem much more useful for inducing an agent to engage in a particular action (a la the difference between dragging a horse to water vs. making him drink). To get someone to do something in particular, it seems necessary to be able to pressure her will. And while threats of force or violence can create such pressure, so can other sorts of threats. This fact suggests what is perhaps the most important attraction of the pressure approach to coercion, namely, that it can identify a range of phenomena which alter or affect actions in the same way threats of force or violence can, but which are not specifically or noticeably rooted in the use of force. One might induce another (not) to act by threatening a wide array of undesirable consequences, a short list of which includes firing her, revoking her club privileges, spreading embarrassing news about her, denying her custody of her children, voting against her proposal, breaking a promise or contract with her, or divorcing her. In fact, sometimes threats of force and violence are motivationally less potent than these other kinds of threats. So insofar as the enforcement approach to coercion treats force as the gravamen or standard for recognizing coercion, it seems to have tunnel vision, as the disadvantages they impose seem not especially different from other disadvantages one might threaten.

We might advance the case for the pressure approach further: even if we accept that coercion is rightly associated with the enforcement of decisions, the pressure approach holds out the possibility of finding such enforcement in a much wider range of threats than does an approach focused on force. It is of course not possible to ensure that another’s will or choices will comply with one’s demands. But some versions of the pressure approach restrict their definition of coercion to include only those cases where a threat succeeds in getting its recipient
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to will as the threatener desires, thus muting the difficulty. If this restriction is tenable, then the pressure approach may count any and only threats that successfully alter the recipient’s will as instances of coercion—indeed, as cases of a coercer enforcing his decision about how the coercee shall act. Thus it appears that the pressure approach allows for a fuller account of the enforcement of decisions than does the “enforcement” approach itself, since it includes under the umbrella of the term “coercion” numerous enforcements of decisions in which force is apparently absent. While the pressure approach denies that direct uses of force are coercive, it doesn’t have to deny that they too could be used to enforce decisions. So, in effect, the newer approach can hold that the enforcement of decisions has two principal modes of implementation: direct force, and coercion that successfully alters a coercee’s will by means of threats. It thus appears able to beat the enforcement approach at its own game.

3. Enforcement as coercion

Before responding to such arguments, it is useful to set out more carefully what the enforcement approach holds. It analyzes coercion as the fulfilment of three claims:

1. There are (at least) two agents involved: a coercer (R) and a coercee (E).

2. R in some way creates or appropriates some form of power over E that is able to inhibit E’s ability to act (where the “in some way” is to be filled in).

3. R uses that power with an intention to constrain or alter E’s actions or ability to act.

On this understanding, coercion is exemplified by the motivated use of force or violence, or threats thereof, to prevent or constrain an agent from engaging in some range of activity, or to disable one from doing as one would like. I say “exemplified by” rather than “constituted by,” because uses of force/violence do not exhaust the range of such powers; rather, they provide a useful depiction of what such power is like. On this account, the principal mode of coercion is

13 Nozick and McCloskey are just two of many who incorporate such a success condition into their definitions of coercion. I actually think that restricting an account of coercion to “successful cases” is untenable, but won’t argue the point here. I’ve argued the point elsewhere in my “How the Coercer Got Away: Evaluating Nozick-Style Accounts of Coercion,” unpublished manuscript.
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inducement to perform specific acts is typically built upon the ability to prevent other acts.\textsuperscript{14}

While the pressure approach emphasizes certain aspects of the psychological etiology of the coercee’s actions, the enforcement approach to coercion sees coercion as a specific sort of technique used intentionally by some powerful agents, and so investigates the sorts of powers and intentions the coercer must have in order to engage in coercion. This shift in focus has implications for both the metaphysics and epistemology of coercion. Because it focuses on uses of a particular technique, it individuates instances of coercion differently than the pressure approach. Contra McCloskey, not every act of coercion need result in specific discernable alterations in actions, and some acts of coercion (such as imprisonment) may simply inhibit broad ranges of actions, rather than any one action in particular. And because such interdiction can be a broad-spectrum technique that may be employed continuously for long periods of time (as in the case of criminal law), it may be difficult or impossible to identify what particular actions are prevented or inhibited by uses of force, or standing threats of the same.\textsuperscript{15}

This approach to coercion is intended to provide moral or normative guidance, though it is not itself an intrinsically moralized approach to coercion. When one agent possesses power sufficient to stymie the actions of another in general, and demonstrates a willingness to use it, such power is usually polyvalent, and can be directed at many different agents to secure a wide variety of purposes by constraining or threatening to constrain their activities. Both the actual and the potential uses of such power have serious implications for one’s ability to live and act

\textsuperscript{14} The ability to inhibit or prevent broadly an agent’s actions gives one power over that agent, in that it allows one to reshape the instrumental relations among the things that the affected agent can do. If Jones has the ability, say, to kill or imprison Smith, Jones can prevent Smith broadly from achieving almost any of his ends. Given this power, Jones can then choose to make virtually any act A (within Smith’s power) into a necessary means for Smith to achieve almost anything else Smith might wish to do. Jones cannot force Smith to do A, but he can decide and enforce a decision that Smith will take no other action unless and until he does A. This ability to stop broad ranges of an agent’s actions may not succeed in inducing the desired action, but predictably it will succeed often enough. In many cases, an attempt to coerce an agent to do A is really just coercion that inhibits or threatens to inhibit, to one extent or another, the complementary set of actions. We may thus treat the claim that one was coerced into A-ing as elliptical for the claim that the coercer has made A-ing a necessary means to achieving something else, perhaps even everything else, that is crucial to / necessary for / uneliminable from the coercee’s life. Unsurprisingly, force is often a key element in enforcing such decisions.

\textsuperscript{15} I discuss this further in section 8B below.
securely, freely, and profitably. Of course, many uses of coercion may be laudable or socially necessary, but in any case the use of such power is a matter of social concern, and so it is important to have a concept that tracks it.

The enforcement approach is not likely to answer all of the normative questions one might ask about uses of pressure, constraint, or requirements, especially when these are based in lesser forms of power than the paradigm cases of coercion. So, for instance, I doubt that one can use the enforcement approach to determine what the law of contracts should say about all of the different possible lesser suasions that can be used to get a party to sign on the dotted line. Here, considerations of efficiency and justice probably play greater roles than the enforcement account acknowledges. But the enforcement approach does offer some guidance to identify some techniques that should clearly void contracts, and one can extend the account by looking for analogies between the clear cases and the novel ones. So the enforcement approach is not wholly without resources for thinking about lesser forms of coercion and imposition.

Moreover, as the above schema should indicate, the guidance the enforcement approach to coercion provides does not invoke any particularly contentious moral or normative claims. While R’s power over E, and the nature of R’s activity or intentions, may sometimes be discernable only by making some moral assumptions, in many cases these facts can be discerned without much if any reliance on normative judgment. Hence the concept of coercion described here is not intrinsically “moralized.”\(^\text{16}\) I’ll return to this matter in this essay’s conclusion.

The next three sections elaborate on the importance of the enforcement approach to coercion by showing how, in general, if the judgments of pressure accounts are to be credited, they must tacitly depend upon the enforcement picture of coercion. This is to say, if what counts as pressure on the will is to be regarded as something distinctive, justifying the label of coercion.

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\(^\text{16}\) By calling a theory of coercion “moralized,” I mean that one cannot reach judgments about whether coercion has occurred without relying on some antecedent moral judgment or premise. For example, Wertheimer’s account of coercion relies on two subsidiary judgments, both of which invoke moral or normative criteria, such as what the target of coercion has a right to do or to be free from. A non-moralized account of coercion attempts, as far as is possible, to avoid reliance on normative premises or judgments, examples of which include Michael Gorr, Joel Feinberg, and J. R. Lucas.
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“coercion,” relations between the coercer and coercee must stand as specified by the enforcement account (barring rather special circumstances). In section 7, before I take up objections to this account, I’ll describe more fully the how the enforcement account helps us to explain the implications that coercion is usually thought to entail.

4. Coercion and power, holistically considered

The idea that one agent can put pressure on the will of another is familiar enough, but insofar as such pressure is supposed to constitute a matter of social concern, there must be more to it, for reasons just mentioned, than merely an agent’s claim that she feels pressured. Consider for a moment what is involved in the claim that E feels pressured by R to do A, perhaps because R has made a threat, which E hopes remains unrealized, and which is conditioned on whether E fails to do A. If we are to treat E’s feeling pressure to do A as evidence of or support for the claim that R is doing something special to impinge on E’s willing—that R is coercing E—we need some view as to what would count as a justified basis for that feeling. The feeling that one is under pressure may be idiosyncratic or even crazy; one’s assessment of the costs and benefits of action may be ungrounded or dishonest; one’s fears of loss may be out of proportion to the damage actually at stake. One thing that would matter is whether E is able or unable to alter the situation so as to eliminate the pressure R applies, or to counter it with pressure of her own, in doing something other than what R demands. If E is able to evade or nullify R’s threat, or could effectively retaliate if the threat is executed, then it is unclear that she is justified in feeling pressured, or that we could make sense of her saying she was. For instance, in order to back up the claim that R is pressuring E, it won’t suffice to cite the fact that R holds the mortgage on E’s home, or that R is larger than E, if it is also be the case that E can have the state nullify the contract or otherwise restrain R, or if E holds the mortgage on R’s home, or is well armed (or has some similar counter-leverage). In such circumstances, R’s power to strike would seem to be

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\(^{17}\) Pressure accounts sometimes require that R’s threat is “credible” (or “credible to E”), but this stipulation simply begs our question. We want to know what makes R’s threat credible, such that we can say that E’s feeling of pressure from the threat is not crazy or completely idiosyncratic. Wantonly irrational beliefs are not uncommon.
cancelled out by E’s power to dodge or to strike back against R. I won’t suggest that there are no counter-examples to this broad claim, but it holds true barring rather special circumstances.

Let us therefore say that implicit in the claim that E is coercively pressured to do A is a further claim that there is an asymmetrical, unbalanced relationship between R and E, such that R possesses some form of power over E.\textsuperscript{18} Power is of course a sketchy concept, and not one suited to bear much weight here, but we might say at least that we could justify E’s feeling if it is based in a correlative strength on R’s part and weakness on E’s. This language leaves open the possibility that there are as many sorts of power as there are sources of strength, on the one hand, and weakness or vulnerability, on the other. Assuming we can make sense of some correlative strength and weakness plied by R’s threat, then we would have the requisite explanation of the pressure E feels (not) to do A.

We turn to a more generic consideration of the power relations between R and E in order to bring a needed degree of holism into our judgments about coercion: to claim that R coerces E, some range of R’s and E’s strengths and vulnerabilities need to be considered, with a net imbalance in R’s favor. In assessing this broader balance of power between R and E, some forms of power become particularly salient, and in particular, the ability to use force effectively against another. Having an advantage with respect to the ability to muster force and/or violence against another is not just any sort of power: it gives one the ability to stop another from acting in general, as well as to impose severe disadvantages on that agent, and this in turn usually provides one the sort of holistically conceived power that is needed to underwrite the pressure one attempts to achieve by threatening. To repeat, this is not to say that force and violence are the only tools by which one can achieve such an advantage. They do, however, usefully demonstrate the sort of advantage necessary, while also (typically) constituting something of a backstop behind many other forms of less tangible power.

\textsuperscript{18} In this I am accepting the predominant view which holds that offers—even extremely attractive ones—are not coercive, though this has been occasionally denied. Being able to make enticing offers is certainly a kind of power, but it does not in the requisite sense allow one agent to inhibit broadly another agent’s ability to act. This matters because there is something qualitatively different between the power to offer an agent many additional opportunities to act than she has at present, vs. the power to broadly undermine an agent’s ability to act at all.
Of course, no form of human power renders an agent invincible; powerful governments, mafias, and institutions such as the church are routinely disobeyed and sometimes toppled. So even when an agent has an overwhelming advantage in power, she may not be able to achieve her ends without fail, either by coercive or non-coercive means. Nonetheless, a substantial advantage in the ability and willingness to use force and violence can give an agent a special sort of power over another agent, often overturning other possible disparities in power between the agents. And unless there are such disparate abilities between the agents, the ability of one to pressure the other is mysterious. The question is, why do some forms of power tend to trump others when it comes to their coercive potential? Attending to this helps explain what sort of holism is required to support a claim of coercion.

For instance, it seems likely that Clyde, a mugger with a gun, could successfully rob Gates, the richest man in the world, as Gates takes his trash out to the alley. Assuming this is plausible, it would nonetheless be dubious to claim that Clyde is more powerful, overall, than Gates. Gates has access to enormous financial means, and also has the state on his side, which is known to pursue assiduously and punish harshly those who rob or harm its upstanding, wealthy citizens. If so, then we require some explanation for how Clyde is able to bring pressure to bear on Gates, since despite all his resources and the awesome power of the state at his back, Gates fails or is unable to put countervailing pressure on Clyde’s will. One possible explanation is that Clyde exhibits a kind of irrationality, while Gates acts rationally. While this is very possibly true, this doesn’t seem to be the sort of answer we want. For one thing, it is stipulative, and risks begging the question. But more importantly, if this answer is accepted as sufficient, then we reach the paradoxical conclusion that irrationality provides a defense against coercion: Gates, by being rational, is subject to coercion, while Clyde, because of his irrational disregard for Gates’

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19 Even if it seems to us less beneficial for Clyde to enact his plan than to abort it, this judgment requires both a calculation and evaluation of the risks, as well as a choice between near vs. distant costs/benefits. So not all will reach the same conclusion as Clyde might. (Every time an individual breaks the law, she appears to deny that it put sufficient pressure on her will to prevent her crime.) At any rate, we can say that Clyde judges that the power of the state and/or Gates to harm him or interfere with him at some future time does not appear likely enough or near enough to prevent him from obtaining what he wants to achieve here and now by robbing Gates.
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and/or the state’s powers, is immune to their coercion. This would seem to make rationality a liability, and irrationality a kind of strength. Even if occasionally this rings true, as a general claim it would seem to raise doubts about our identification of rational and irrational conduct in this case: If Clyde can free himself from the state’s coercive powers by ignoring them, why shouldn’t Gates free himself by refusing to believe or act on his belief in Clyde’s powers?

It is of course possible that Gates will ignore Clyde’s apparent threat; it’s also possible that Clyde is bluffing, or will for other reasons refuse to execute his threat, even if defied. But if Gates yields to Clyde’s demands, the following description of their relationship would have the right degree of holism to explain Clyde’s ability to pressure Gates: in this situation Clyde appears to be uniquely able to enforce his decision about what Gates will be able to do; Gates, by contrast, appears to have no similar means to enforce any such decision on Clyde, at least not imminently. In this particular scenario, Clyde can even achieve his immediate end of robbery with or without Gates’ cooperation: if Gates refuses, he can use force to disable or kill Gates and take his wallet. Even if Clyde needs Gates’ cooperation (suppose Gates has with him only a bank card that requires a password to be of value), and so Clyde can only enforce his threat but not achieve his ends directly by use of force, Clyde’s power may well suffice to give Gates a reason to act as demanded: whether or not it would be rational for Clyde to punish Gates if Gates refuses to comply, Clyde can prevent Gates from obtaining any of his ends by using force to disable or kill him, and has expressed a willingness to do so. Meeting Clyde’s demands thus is (or may be) a necessary means for virtually any end Gates may have. Given Gates’ inability


21 I speak here of the appearances because, I will assume, Gates does not know whether the gun is loaded or whether Clyde would indeed enforce his threat if defied. What grounds does Gates have for his assessment of Clyde’s power and intentions? Clyde’s ability to make credible threats here depends on the existence of a set of shared background beliefs that it is assumed he and Gates (like most of us) share. These include facts about what guns do to people; what gunmen in dark alleys are likely to do when defied, and so on. Unless Gates and Clyde have had a prior history together (unlikely), or unless Clyde can provide a demonstration of his powers and willingness to inflict harm on innocents (possibly difficult), Clyde will be trading on the reputation that other gunmen have established. Hence part of Clyde’s power depends on his similarity to others who have possessed and used such powers in the past. I’ll return to matters of appearances and bluffs in section 8A below.

22 That is, assuming there is some prospect that Clyde will abide by his (perhaps implicit) indication that he will not harm Gates if Gates does comply with Clyde’s demands.
to mount a similar immediate countermeasure, Clyde has power over Gates within context of the back alley, even if Gates is more powerful overall. This then explains how Clyde can put pressure on Gates’ will.

So, a significant advantage over another in the ability and willingness to use force/violence gives one the relevant sort of power advantage that makes coercion by pressure possible. Two other points are worth noting briefly, before concluding this section. First, it is worth noting that in assessing Clyde’s powers or coercive potential against Gates, only the most minimal claims need to be made about Gates’ psychology. In particular, we need not posit any particular set of desires or evaluations in Gates’ head. If Gates wants to do anything at all, Clyde is in a position to put pressure on Gates’ will. Second, notice that the distinction between directly using force and threatening it may be of little consequence to the coercer, with respect to achieving his immediate aims. If Clyde is not worried about being caught (whether rationally or irrationally), and Gates is carrying something Clyde wants, Clyde can likely achieve his ends with respect to Gates’ activities whether or not Gates cooperates. Hence in at least some cases, it appears unreasonable to insist that coercion is strictly concerned with causing the coercee to act. In fact, a mugger’s possible indifference to whether his victim complies with his demand or not can make his threat all the more potent.

5. Does coercion require enforcement powers?

The sort of case sketched above is intended to illustrate the kind of power, holistically conceived, that makes coercion by threat or direct force possible. The chosen scenario, however, involved more or less isolated individuals in a kind of state of nature, and would therefore seem to be a relatively uncommon and extreme case. Much coercion seems mundane by comparison, and many possible coercers would seem to be relatively innocuous, or sometimes even hard to discern (as when one finds oneself required to pay for parking by a mechanical gate, or a parking meter). Thus, the gunman scenario would appear to be a dubious starting point for more general thought about coercion. I will argue, however, that to understand the possibility of many more
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mundane forms of coercion, we must presume (barring special circumstances) that there are enforcement powers operating somewhere in the background, that account for the need to take lesser threats seriously. Again, reliance on force and violence tends to be the primary enforcement power, though other sorts are possible. When one possesses the power to enforce one’s decisions maximally, so to speak, many lesser modes of coercion can also be used; without it, the ability to coerce to any extent will often disappear or become mysterious.

Consider, for instance, the lowly parking fine: if one parks at a meter, but refuses to pay the required fee, one risks incurring a fine (say, $25 or $100; not nothing, but something far short of death or incarceration). Most would agree that the threat by municipalities to impose such fines constitutes coercion. Of course the threat does not achieve universal compliance, but on the whole the threat of such fines surely contributes to the fact that people are largely compliant with parking rules, fees, etc. Parking fines are just one of a range of unforceful sanctions that would appear to be suited for use in coercive threats. Nonetheless, explaining the coerciveness of at least some of these means, such as parking fines, requires us to look again beyond the content of the threat itself, and to ask why it should succeed in bringing pressure to bear on its target’s will. In particular, it matters what is likely to happen if the coercer’s demands are disobeyed, and his sanctions disregarded. If, for instance, Jones threatens to fine the owners of vehicles parked in front of his house, on a public street, unless the owners pay Jones to park there, his threat would likely be laughed off, or treated as madness. This is because Jones lacks the requisite power to enforce such fines. What distinguishes the municipality’s threat from that of Jones is the role played by the system of enforcement behind its giving of parking tickets and assessments of parking fines.

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23 One might deny that coercion is at play here, on the grounds that such laws are just, and therefore the threat of enforcement of these laws is rendered non-coercive, according to certain recent theories of coercion. For an exponent of this view, see William Edmundson, “Is Law Coercive?” *Legal Theory* 1 (1995): 81-111. This view is sufficiently recondite and divergent from our longer-standing views of the coerciveness of the state that I will not worry about it here. (I do comment on it more fully in “How the Coercer Got Away.”.)

24 This holds if one assumes that Jones has not adopted Mafiosi-style methods of enforcement, and is otherwise a law-abiding citizen—a reasonable assumption around here, though not true always or everywhere.
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No system of fines or penalties can explain compliance with parking laws unless it is backed up by uses of force or some other sort of stopping power that cannot be ignored by the scofflaw. The law that requires one to pay parking fines is, like the parking law itself, just another law, which may be followed or violated: one may simply refuse to pay one’s tickets. Violating this law may of course invite stiffer penalties than the law that governs parking does, since it amounts to a more serious offense. Suppose these higher penalties include much higher fines, loss of driving privileges, or the inability to register one’s car. Nonetheless, like parking fines themselves, all these penalties can also be ignored by the party penalized. Thus it requires something further to explain why these penalties give potency to the fines they underwrite. If the state intervenes to take or disable one’s car, garnishee one’s wages, or attach or take one’s property, then doing so might have the requisite effect. But even these sanctions require for their effectiveness a larger set of enforcement mechanisms that prevent one from simply replacing one’s car or property by taking the same from others.

Ultimately, for the parking law to have any rational impact on parkers, it must be backed by a system of enforcement activities which the scofflaw cannot simply ignore, evade, or easily compensate for. Because recalcitrance can occur at each escalating step in the enforcement process, each step must be supported by some prospect of a subsequent step, continuing up to the point at which the coercer’s decision is (or at least can be) enforced. Such ultimate steps include (though need not be limited to) arresting, incarcerating, disabling and/or killing the scofflaw—i.e., typically, physical force and violence. This enforcement system may be halting, somewhat unpredictable, gradual, and infrequently remarked. But with the backing of such an enforcement system, even the threat of parking tickets can give one good reason to alter one’s behaviour; without recourse to such a system, the penalties imposed by the parking law give one no reason to attend to it, since nothing comes of refusing to acknowledge such penalties. So the coerciveness of the parking fine cannot be abstracted from its grounding in the state’s ability and

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25 The same thing is true whether we are talking about the legitimate state, an illegitimate usurper, the mafia, or the local unaffiliated lot of muggers and robbers.
willingness to enforce it in some ineluctable fashion. What holds true of parking fines imposed by municipalities is true quite generally of the threats and demands of coercing agents. Understanding the potency of a threat requires some grasp of the potential for enforcement of the threat—that is, what is supposed to happen if the party threatened rejects both the threatener’s demands and impositions of non-maximal sanctions.

6. Does enforcement require force?

Even if the importance of enforcement is granted, one can doubt that it requires force. One might say instead that what matters is that the coercer has some means of threatening something important to the coercee, and that the coercee has no comparable countermeasure available. So long as the threatened consequence is regarded as a penalty by the coercee, and the coercer can make it stick, it has the potential to be used as a coercive sanction. The use of direct force (say, killing or imprisoning) is merely one of many kinds of sanctions that can serve this role. Other potentially potent penalties would include emotional or psychological harms, ostracism or refusal to associate or trade with a party, refusals to meet one’s obligations to another, reputational harms (such as blackmail trades on), or other forms of symbolic or practice-based diminishment (such as disbarment or ineligibility for important offices or awards). One can also threaten to harm third parties, especially those near and dear to a person. In various contexts, any of these sorts of penalties might provide a coercer with a trump card, holistically considered, that would allow him to coerce another.

There are several points to be made in response to this suggestion. The first is that to gain this admission from advocates of pressure accounts would already be an advance, since many of these accounts put nearly no weight on the coercer’s further abilities or broader intentions. Moreover, it is safe to acknowledge that there is something right about this response. Not all threats are enforced by an apparent ability to resort to force and violence,

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26 See sections 8C-E below.
27 See, for example, the range and strength of the assumptions Wertheimer is willing to make in his book length analysis of coercive threats. Coercion, pp. 202-203.
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though I think that surprisingly many are so backed. As noted earlier, there are as many different kinds of power as there are sources of correlative human strengths and weaknesses. So a full theory of coercion needs to acknowledge the range of powers that can be used by one against another.

That said, pressure accounts have tended to treat all of these sorts of powers as on a par: since there are many means of putting pressure on a will, there would seem to be a common metric with respect to which they are comparable. This supposed comparability is what I wish to object to. Without denying that there are many kinds of interpersonal power, we have reason to single out as special the use of force or violence, including threats of force or violence, as the primary and paradigmatic means for enforcing decisions about what persons may or may not do.

This is because the ability and willingness to use force and violence has a rather special place in establishing the power relations between agents. Force and violence are more or less unique in their ability to inhibit actions—almost all actions—and are perhaps the only techniques that work against virtually every person. Thus, even if there are other forms of power that may be the basis of a coercive threat, frequently those forms of power can be disrupted or cancelled by a superior ability to use force against those possessing other powers. Before one can use other techniques to put pressure on the will of another, one typically needs some safety against one’s target’s possible violent retaliation or defensive uses of force. Our physical vulnerability as humans leaves each of us constantly at risk of serious harm from virtually all other people with whom one comes into contact; all that is required for almost any human to harm almost any other human nearby is some weaponry, or the element of surprise. Hence, before one can use other coercive means, one typically will require first to have reached a draw or better with one’s target with respect to the ability to use force or violence. Many of the other kinds of power can get a grip on us only in a context in which rough parity and stability has been established in the ability of participants to use force and violence.  

28 Of course, the protection one needs against force or violence does not have to derive from one’s own abilities. Typically one can make do with a strong protector, such as the state, which can enforce the peace between citizens.
What we should say, then, is not that force is essential to enforcement, but rather that the sort of efficacy that force and violence carry is crucial to enforcement, and therein to having the potential to make effective coercive threats. So I urge that we treat the sort of advantage that some agents have with respect to the ability to use force and violence against others as both an exemplar of the sort of power coercion requires, as well as probably its predominant form. It is therefore also a standard against which other, less potent forms of power can be assessed for their coercive potential. Since power comes in degrees, there is no reason to deny that there may be lesser or “petit” forms of coercion. But such lesser powers will more easily fail the test of holism set out above, in which case there may be reason to deny that their use on a given occasion is in fact coercive. At the least, when a claim of coercion is made, we should investigate to see whether the coercer had or has access to an equivalent or superior form of power that could undermine the putative coercer’s ability to enforce his demands. When one party has an unmatched ability and willingness to use force/violence (or is protected by another party with that power), this will often settle the question. (Thus, judgments about coercion can never entirely omit to consider whether force could settle things.) When force is not a viable option, as is frequently the case, other forms of power may rule. But assessing their relative potency and salience (and doing so holistically) may frequently be much more difficult than in the paradigm cases involving force, and so judgments about their coerciveness may be less secure.

7. The implications of coercion

The previous three sections aim to establish that enforcement is integral to the concept of coercion. No doubt these arguments leave open some questions and provoke objections, the most important of which I will address in the following section. But first I want to elaborate on the value of this analysis, as it helps us to think about the nature and significance of coercion. A claim that R coerced E is often thought to have implications for the moral quality of R’s action,
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and also for the responsibility that E bears for taking or foregoing action as a result of coercion. Moreover, state legitimacy is often thought to depend on its ability to monopolize the right to coerce its inhabitants. An account of coercion should either lend support to these commonplaces, or else give convincing reasons for why they should be overturned. I will outline briefly arguments for why the enforcement approach to coercion yields a concept that supports these implications while the pressure approach struggles with them.

The moral quality of acts of coercion would seem to be dependen
t on numerous factors, including especially their purposes and the institutional context in which they occur. Excepting some anarchists, almost everyone thinks that some coercive acts are sometimes justified. But what is it about them that we think needs special justification? Let’s set aside direct force for now, and focus on coercive threats. Threats may be no more tangible than words spoken or written, or even just a certain look. Of course, to say something is to act, and what is said can have significant tangible implications. The question is, what is it about coercive threats that makes them a matter of special moral concern?

Consider first what pressure accounts can say about this. Pressure theorists disagree amongst themselves as to how to identify coercion, but so far as I can see, they agree on at least this much: that coercive threatening centrally involves the coercer R communicating that he will act in some way that lowers the threatened party E’s utility, relative to some baseline, if (and only if) the E defies some demand R makes. The pressure to accede to the demand comes from the relative difference in E’s utility between the situation where E does as R demands and the situation where E defies R, and R acts to lower E’s utility. Assuming E’s utility is higher in the former situation, E will likely feel some pressure not to defy R.

Yet this much does not explain our concern. Unless making offers and giving warnings are themselves problematic acts, then saying something that creates pressure to do or refrain

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29 The main debates among these theorists have been about what baseline should be used to judge whether the coercer’s utility has been lowered.
30 A “warning” is a statement by R to E that certain adverse consequences, of which E was previously unaware, will follow upon E’s (not) doing A, thus lowering E’s expected utilities if E were to (not) do A anyway.
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from something is not itself problematic. In general, we should want to feel pressure to act in accord with the actual costs and benefits at stake; hence we should be glad to learn facts that tell us when the costs and benefits of our possible actions have changed. It may instead be suggested that the moral concern raised by coercive threatening is due to its lowering, not just changing, the expected utility of some possible act of the coercee. Yet one agent’s lowering another’s utility (either conditionally or unconditionally) is also, in itself, unexceptional. Quite often the rewards one receives for various activities depend on external factors, including the decisions of others. There are of course situations in which one has claims on the actions of others that entitle one to expect certain rewards to one’s activities. (If I’ve promised to pay you $5 when you deliver milk to me, then you have a right to expect that sum upon delivery.) But apart from such rights, it takes relatively special circumstances to give one party a claim to reap particular rewards from certain actions, and a claim against others who might lower them. Sometimes their choices—say, to compete with one for a scarce good—will adversely affect one’s utility, though will not constitute a violation of one’s rights. And if one may act within one’s rights while lowering another’s utility, it seems one should also be able to threaten to do so, or at least it is unclear why one should not be allowed to do so. So the direction of the change in the coercee’s expected utilities does not seem to account for the moral significance either.

Of course, this raises the possibility that coercive threats are objectionable because they portend a violation of another’s rights, and it is this, or this in combination with the lowering of the expected utility of one’s possible actions, that makes it morally objectionable. Still, this analysis is not fully persuasive. Immediately, there’s an obvious risk of begging or obscuring the question, since now the moral significance of coercion is said to reside in a threat to violate a right. We would then want to know why a threat to do wrong is itself wrong, and by what standard. Moreover, even if such threats sometimes do violate rights, it is apparent that they do not always do so: the law’s generic threat to incarcerate law breakers would not ordinarily count

31 Offers and warnings may be problematic if they are illicit or fraudulent, independently of any pressure they create.
32 Blackmail may be one such case; see section 8C below.
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as a threat to violate their rights. So either such threats, however serious, are not coercive, or else this account does not yet track usefully their moral significance.

But even if we allow that threatening to do wrong is itself wrongful, does this fact, combined with the pressure it creates, explain our moral concerns with coercion? To see that it doesn’t, compare coercive threatening to giving a fraudulent warning, in which R declares, credibly though falsely, that E’s utility will be adversely affected (for reasons independent of R’s agency) if E does (not do) A. Under some circumstances, such a false warning might create pressure on E equal to that created by a threat to harm E. Yet, I think there is reason to hold that the threat presents the more serious moral worry.

The significance of coercive threats lies not (just) in the pressure they generate to do (or not do) one thing, but rather in the fact that they involve creating and/or leveraging a much broader power differential between coercer and coercee. Because of this differential, those subject to threats may find themselves generally disabled from whole ranges of actions which might help them to mitigate their losses, or to seek aid, or to find alternative solutions. Moreover, while some employments of fraud may be extremely difficult to detect, and/or may rely on forms of social power such as reputation or trust, the willingness and ability to defraud others does not typically generate social problems as severe as do uses of force and violence. For one thing, to stop or neutralize ordinary coercion, based in force and violence, one typically must resort to like employments of force and violence. By contrast, the most direct means to prevent fraud—viz, providing credible true information, and reversing or refusing to enforce fraudulent bargains—are much less dangerous to employ, and do not create further social hazards when employed. Furthermore, the ability to use fraud or deceit to get someone to do something does not usually entail the ability to induce another into or out of wide ranges of action. By contrast, the power that backs most credible threats typically has generic potency, so can be used to get one person to do a variety of things, or targeted at a variety of different people. Hence an agent who is able and willing to use such power illicitly presents a more serious problem for fellow citizens—viz, the broad ability to disable others—than does the fraudster.
Focusing solely on the pressure a threat puts on its intended target will tend to obscure these broader, contextual problems posed by illicit uses of coercion, as well as the wider impact that a coercerer’s power can have on a coercee’s overall agency.

A second implication of coercion is thought to be its propensity to sever a coercee’s responsibility for acts taken or omitted because of coercion. The laws of duress and necessity, for instance, treat coercion and (maybe also) like phenomena as grounds to reduce or terminate an agent’s legal responsibility to fulfill a contract, remedy a tort, or suffer punishment for an illegal act. Yet this effect on responsibility is not universally accepted, nor obviously correct. Both the law and common wisdom may be in error here, so an account of coercion need not support the claim that coercion undermines responsibility—and indeed a number of theorists have argued that it doesn’t. Nonetheless, the default assumption at least in law is that coercion works against the coercee’s responsibility, so the burden is higher for accounts that would deny this. Whatever the right answer is with respect to responsibility, we may reasonably ask that an account of coercion help us to find and defend it.

Since the pressure approach denies that direct uses of force are coercive, it is silent on whether they should affect responsibility, though these offer perhaps the most compelling cases of diminished responsibility. For instance, an agent who is held in place by a captor is prevented from doing most of what she could do if free. Of course, the agent may herself be responsible for being held captive—perhaps because of her own prior bad behaviour—but at least sometimes the constraints on her actions will be no fault of her own. If such uses of force should count as instances of coercion, then at least these instances will support the claim that coercion can undermine responsibility.

In assessing the effect serious coercive threats have on responsibility, there are some relatively straightforward cases as well. Some credible threats of enforcement may equally give

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33 Coercion can also void a confession or plea, though I think the reasons for this are not quite the same as those for, say, voiding a contract. The problem with the coerced confession is not (just) that it is not voluntary; it’s that it is very likely false, and so of little probative value for judging the confessor’s actual guilt or innocence.
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a coercee no choice about what will happen. For instance, some threats are to accomplish by force what an agent might do on her own—e.g., “Move or I’ll move you.” It would hardly make sense to hold the coercee accountable for moving as directed when there was little or no doubt that the enforcer could and would ensure the same result involuntarily.\textsuperscript{34} If a coercer is sure to have his way regardless of what choice the coercee makes—when resistance is literally futile—then it seems unreasonable to hold the coercee accountable for failing to resist the coercer’s demands, for no appreciable benefit.\textsuperscript{35}

Frequently, however, even serious coercive threats do not eliminate the significance of the coercee’s choice so starkly. When they do not, judgments of responsibility will tend to rest more heavily on other, deeper normative considerations (some of which may be in great dispute). I want at this point to distinguish two kinds of responsibility—\textit{moral} and \textit{legal}—with an eye toward bracketing moral responsibility, while addressing legal responsibility more fully. Moral responsibility turns out to be very difficult to evade for intentional actions and their intended (alternately, their predicted) effects, at least if common moral theories are right. For example, act consequentialism, virtually by definition, holds that agents just are responsible for the (predicted) effects of their choices, though the value of those choices must be calculated relative to the values of the alternatives open to the agent at the time of the choice. On this view, one will be fully responsible for acquiescing to coercion, though one may be right to acquiesce if the predicted outcome of doing so is the best overall. Rule consequentialism may not hold each agent responsible for all predicted effects of her actions, but it too can give reasons to refuse to let agents off the moral hook for actions taken under coercion. Among other things, insisting that agents be held responsible for acquiescing to coercive threats gives individuals reason not to

\textsuperscript{34} There’s a complication here, though. Suppose a coercer threatens a whole group of individuals. It may be the case that even though no individual could resist the coercer by acting alone, the collective resistance of the group may render the coercer powerless to stop more than a few, if any. Still, it’s unclear that individuals should be held responsible for failing to act individually when such individual choice has no effect on what others do or on the net effect of the group’s joint actions. I note this complication to set it aside.

\textsuperscript{35} The wisdom of this claim has not always been accepted. It constitutes one chief criticism of older laws of rape, which held that a rape victim must resist to her utmost if the act of sex was to be deemed non-voluntary on her part, and thus possibly criminal. Such a law put the victim in the terrible position of being required to struggle with her aggressor, thus elevating her peril, or else be thought complicit in her own injury, and unable to obtain redress.
acquiesce. This in turn renders coercive threats less profitable in general, since they become less likely to succeed, and thus tends to decrease their incidence. Lastly, some standard forms of deontological ethics will also refuse to curtail the responsibility of an agent who acquiesces under coercion to perform morally impermissible actions, such as murder, rape, or torture, since nothing can make such acts morally permissible (on these theories). Hence all of these theories would at least sometimes hold agents morally responsible for acts they were coerced into taking (though they may well differ on what further conclusions follow from this judgment). How we understand coercion may therefore make little difference to what such theories say about one’s moral responsibility for acting because of coercion.

Nonetheless, there are cases where legal responsibility (and perhaps also moral responsibility) will be curtailed for actions that an agent takes in the face of significant coercive threats, because of the coercion. Consider a paradigmatic case: Suppose that Riley threatens to shoot Evans if Evans refuses to unlock her employer’s combination safe, in the course of an apparent robbery. It seems likely that, if Evans acquiesces to Riley’s demand, we would not hold Evans responsible for her employer’s subsequent loss. We would not, for instance, expect her to pay restitution, or be punished by her employer, let alone by the law. Notice that, by contrast, were Evans to help herself to the contents of the safe because she needed the money to combat sickness or a looming natural disaster that threatened her life, it would be at least arguable that Evans should bear some responsibility for the loss. We might, for instance, expect her to pay restitution, at least if this is not unduly onerous to her. Assuming there is such a difference in how we regard Evans’ responsibility in these cases, how can this be explained?


37 There are, however, possible complications: suppose Evans is in a position to open the safe only because she illicitly acquired the combination herself. If Evans’ own wrongful actions play a causal role in her employer’s loss, then Evans may not be entirely acquitted of responsibility for the damage to her employer.

38 In fact, Riley would likely be criminally liable for such action unless there was an extreme exigency. If there were, then Riley may avail herself of a defense of necessity because she chose to inflict a “lesser evil” rather than suffer a “greater” one. Still, she may well be liable for compensating the loss she inflicts on her employer. See, e.g., Vincent v. Lake Erie Transportation Co., 109 Minn. 456, 124 N.W. 221 (1910). By contrast, it is generally held that duress (i.e., coercion) provides a greater privilege than necessity, but the difference is difficult to explain. For
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I would argue that the reason we do and should hold the two cases to be differentiable is that the state should not ask nor expect people to engage in the sort of self-help necessary to fend off coercers such as Riley by, say, arming themselves, using force to deflect their attacks, or engaging in private threats and retaliation afterwards. In most places, states explicitly reserve such powers for themselves, and are tasked with providing protection to law-abiding inhabitants. In many places, governments even restrict the means by which people could usefully defend themselves against attack; almost nowhere do they encourage private citizens to employ those means when there are other options available that seem safer. (I'll discuss the reason for this, momentarily.) Hence, Evans may reasonably claim that when Riley coerces her, the state has failed in its responsibility to protect her against such private uses of coercion, and thus that the burden of such failure should not be laid on her legally. By contrast, if other circumstances such as disease or disaster create a similar pressure on Evans to do things like open her employer’s safe, remove its contents, etc., there is at least a case to be made that Evans bears some responsibility for her predicament—that she should act to avoid it if possible, and if not possible, then she should at least have anticipated and insured against it. We may thus deny that in cases of ordinary exigency, Evans may transfer the burden of such exigencies onto whomever else she chooses, without also sharing responsibility for them, and possibly bearing a duty to compensate afterwards.

If this much is right, then the enforcement approach enjoys significant explanatory advantages over the pressure approach. Since the pressure felt in both of the cases above might

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39 There may of course be reasons for society to hope that people take some measures of self-help against theft, such as locking doors, installing alarms, etc., but as the example of the safe shows, these measures are rarely if ever proof against serious uses of force, including coercion.

40 If, say, the state or society was responsible for insuring Evans against such circumstances, then Evans may well have a right against the state for help (which may or may not be forthcoming). But this does not, I think, entitle Evans to redirect her unjustified burden onto her employer (or anyone else), without responsibility. When threatened by Riley, however, Riley is clearly the agent who bears responsibility for the employer’s loss, and so Evans may, I think, more reasonably be relieved of responsibility for acquiescing to the threat.
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be the same, the pressure approach should treat them similarly, or else it will need to look for other reasons to distinguish them. The enforcement approach, however, identifies coercion with the sorts of powers, techniques, and intentions exhibited by coercers, which are exactly those factors that states hold a putative right to monopolize. Hence it is suited to track the factors that would give rise to a claim of diminished responsibility for one’s acts because of coercion.

This analysis, even if reasonable, nonetheless seems to beg the question, unless we consider whether states should exercise a monopoly on the right to use coercion within their territories. State legitimacy is sometimes thought to depend on the possession of such a monopoly. (This is the third implication of coercion I’ll discuss.) What is it about coercion that makes it vital for states to monopolize rights to its use, and how does this weigh in on our understanding of coercion itself?

Society as a whole needs to be able to prevent and inhibit various forms of disruptive, anti-social behaviour (e.g., murder, theft, mutiny) in order to provide the basic stability and safety that allow strangers to live in relatively cooperative and harmonious interaction with one another. While most people will likely respond to either moral or prudential considerations that favor peaceful coexistence, there are continual temptations for some people to victimize others. The threat of serious penalties has a deterrent effect on many of those so tempted. But ultimately, some scofflaws will not abide by morality or prudence, and as argued above, the threat of even significant penalties requires that there be means of enforcing those penalties after they are imposed. In order that society may maintain its relations of cooperation and harmony when confronted by the irrational or recalcitrant, there needs to one or several agents within society who have the well-regulated ability to use coercion to inhibit broadly the anti-social behavior of those who don’t respond to lesser incentives.

While the state is frequently the sole or at least dominant agent for this purpose, other arrangements can be envisioned where this function is contracted out or devolved onto inferior agents (posses, militias, private contractors). However, there needs to be a centralized organization of the use of such power so that individuals do not face demands from competing
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sovereigns, and so that conflicts among well-armed forces can be avoided. This is the sense in which the state, to possess legitimacy and authority, needs to exercise a monopoly on the right to use coercion: through whatever means, the state must be able to back its decisions with enforcement powers, and deter or undermine the ability of other agents within its borders to issue conflicting commands. Ultimately, the coordinated powers of coercion under state direction must suffice to protect individuals from rogue users of coercion and violence, as well as provide other forms of coercion-backed institutions and frameworks (such as property, contract, civil liberties, tort remedies, etc.). A monopoly right to the build-up and use of coercive power is also necessary to safeguard the holders of state power from being overthrown by illegitimate agents. Again, although force and violence are not the only sorts of powers that are relevant to the question of whether a state enjoys a monopoly on the right to coercion, it is hard to imagine a state that could command or expect obedience without holding a dominant control over the use of force and violence in general.

The enforcement approach reflects the concern found throughout the history of modern political philosophy (since Hobbes at latest) with the role of states in the regulation of force and violence. The pressure approach disregards the association of coercion with the seemingly mundane techniques of force and violence, and thus loses track of some key facts relevant to state authority. It is no doubt quite unpleasant and distressing to be pressured into or out of various activities, and probably frequently immoral for others to use many forms of pressure for private ends. And there may be justifiable grounds for states to take notice when some citizens pressure others with threats of less serious natures (say, blackmail). But it’s much less clear that, in order to secure domestic peace and tranquility, states need to regulate all of the different forms of pressuring, nor is it clear that they lose their legitimacy and authority if various forms of non-forceful pressure run rampant within them. But if a state does not offer protection to its citizens from force, violence, or threats thereof, it should not expect those citizens to live happily nor to remain both undefended and loyal.
8. Objections and replies

The above account of a concept of coercion as enforcement is not novel. It is, however, rather distant from most of the recently prominent accounts. The trend away from this older account prompts us to consider some of the specific challenges that have motivated theorists to develop the pressure view of coercion. The following objections and replies are intended to show that the enforcement view of coercion has resources to answer many of the challenges for which the pressure view of coercion initially seems better suited.

A. Coercion via bluffs

While the use of direct force to coerce seems to require that one be able to overpower one’s target, it seems that the possession of such power is not needed to be able threaten someone usefully: one need only be perceived to have such power. If so perceived, one could threaten to use force to stop someone from acting. And if one’s target acquiesces out of fear, surely one has coerced her. Strategic bluffs are not uncommon. The possibility of coercion via bluffs encourages us to associate coercion with pressure. Whereas the enforcement approach seems to imply that coercers must be able to back up their threats, the pressure approach focuses on the threat itself and how it alters the coercee’s subjective assessment of her situation. Thus it seems better suited to handle bluffs.

This objection is based in a confusion, but a common one, and thus merits an important clarification about the power one needs if one is to be able to coerce, and where such power is located. Most coercion by threat involves not just the power immediately in the possession of the coercer (say, his ability to kill or maim with his gun or two fists), but also a degree of power located in the shared history of the coercer and coercee in the particular society in which they interact. To see this, consider the difference between good bluffs and bad bluffs, and where to locate this difference. We might say that good bluffs are credible, while bad bluffs are incredible. But this apparently locates the difference in the coercee’s head, which credits or discredits the threat. More useful would be to look instead at how the coercer has or hasn’t
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portrayed himself as willing and able to carry through on his threat. The success of such a portrayal depends on how like or unlike the coercer is to the sort of agent the coercee would reasonably expect to have this power. This is to say that part of the power needed to issue successful threats frequently lies outside of the coercer him or herself. Instead, it resides in a shared background understanding of, for instance, what similar agents have done in the past when they have exercised such powers, especially in response to threats that have been rejected. Even agents who actually possess the powers they threaten to use typically rely on such a shared background: if their threats are to succeed without having to enforce them, they must be credible, and this depends on whether their powers and intentions are recognizable as such.41

When a bluffer succeeds in credibly threatening someone, he taps into the power residing in this shared appreciation for what some agents are able and likely to do to others. We might say he is a free rider, of sorts, on the *commons of enforcement powers.* No doubt it is sometimes more profitable to free ride than to contribute one’s fair share to the commons’ maintenance, so long as the commons holds up, and one is not excluded from it. But if too many people try draw on this shared resource without contributing, the resource will be depleted and may collapse. Less metaphorically, if coercers regularly fail to execute their threats when defied—as bluffers will (by definition) fail to do—such threats will in general become less credible. So when one attempts to coerce via a bluff threat, one does indeed use a sort of power, frequently based in force and violence, which has been paid for, so to speak, by those who really possess the ability and willingness to use it, and who have demonstrated it when defied. A threatener gets to use that power by depicting a connection between himself and those who actually possess or possessed such power (including himself, perhaps). Hence, the possibility of coercion by bluff does not undercut the connection between coercing and enforcing; it just locates that connection in a broader context than is usually recognized.

**B. Coercion that seems to fail to coerce**

41 By the same token, if the coercer’s powers are located in abilities the coercee is unfamiliar with, his threat may remain incredible no matter how terrified the target ought to be.
A related objection argues that the enforcement approach sees coercion where there is none—that is, when no particular action is altered by it. Consider three cases:

1. For many years, Wilson has almost always buckled her seatbelt when riding in an automobile. Her state recently imposed stiff penalties for riding without a seatbelt. Understandably, she gave this law little notice, and her near perfect rate of seatbelt usage did not change.

2. Xavier encounters Young on the street, demands money from him, and threatens to shoot if Young fails to comply. Young asks Xavier to show he’s armed, but Xavier merely repeats his demand. After several repetitions of this exchange, Young walks away unharmed, his wallet intact.

3. Zoeller owns a large tract of land in a remote area that is devoid of wild game, and where trespassers are rarely seen, let alone hunters. Nonetheless, Zoeller has posted signs on its perimeter announcing, “No Hunting. Violators will be prosecuted.” According to the enforcement approach, each of these examples involves a paradigmatic use of coercion. The pressure approach, at least as rendered by McCloskey, disagrees. Neither Wilson nor Young were pressured into acting, and probably no one at all read Zoeller’s signs, let alone was influenced by them. So the pressure approach again seems to be more in tune with our initial assumptions.

No doubt, it would be somewhat odd to say that, e.g., Wilson or Young is coerced in these scenarios. (Coerced into what?) But the broader objection is faulty, because its underlying principle is faulty. Coercion often has effects that cannot be calculated in terms of specific acts taken or foregone, which becomes apparent if one considers the way standing threats work. Such threats can reshape whole patterns of activity, rather than just particular acts. Confronted with a standing threat such as the criminal law, people tend to adapt their activities, and perhaps

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42 Though Zoeller’s threat might not count for want of evidence that anyone would/could enforce it.
43 The enforcement approach as I described it above does require that there be object against whom power is directed for there to be coercion, but that object might be specified by description—a description which might not fit anyone at all at a given moment.
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even their desires, so as to avoid running afoul of it, especially if its demands are not too onerous. Once such an adaptation has taken place, it may be difficult or even impossible to pick out any specific occasions on which an action is undertaken (or avoided) because of the existence of a coercive threat. Consider: many North Americans have smoked cigarettes, but only a very few have smoked opium. If opium smoking were legalized here 20 years ago, many more people would surely have tried it, at least once, since then. But there’s virtually no conceivable way to pick out more than a few of the specific occasions on which those who would have smoked opium instead refrained from smoking it because of its prohibition. As this case illustrates, coercion can take the prospect of certain kinds of acts (or whole patterns of activity) off the table as infeasible or simply beyond consideration, instead of noticeably altering an agent’s payoff structure on occasions when one was inclined to act differently.

Even if this much is accepted, it seems beside the point of the puzzles presented by the cases above, since none of them involve adaptation to long-standing threats. Still, the lesson of standing threats is that we need to be able to identify uses of coercion even when they are not instantiated in alterations in particular, identifiable actions by particular agents. I suggest that coercion should instead be understood to be instantiated by occasions in which power is used in a particular way—viz, in which an agent trades on the ability to inhibit action generally. Once this is recognized, then we can ask whether in the puzzle cases above we have instances of this sort of usage. In each, an agent makes a demand backed by a threat that is intended and apt to coerce. If someone subject to one of these threats were to acquiesce to them, citing it as her reason for doing so, it would be at least plausible to say that she acted because of coercion. Moreover, both society and the targets of the threats have reason to be concerned about the sorts of powers invoked in these cases. The effects of coercion may be much more diffuse than the pressure approach recognizes, but they are not, for that, unimportant. Hence, it is curious that it

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44 This plausibility would depend also on the absence of any special circumstances which could defeat such a claim.
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may sometimes be hard to determine who (if anyone) has been coerced by an act of coercion, but this curiosity does not undermine the value of the analysis.

C. Coercion as inducement, and the case of blackmail

I claimed earlier that coercion principally involves preventing or inhibiting action, and that the ability to prevent action broadly is required in order to be able to coerce, whether by direct intervention or by threat. This claim prompts two objections (C and D) worthy of hearing, both noting that coercion can induce an agent to take particular actions (or to choose to refrain from some actions), and that some threats are able to achieve such effects even when the threatener manifestly lacks the power to inhibit another’s action in general. One objection is exemplified by ordinary blackmail, where a blackmailer threatens, say, to reveal highly embarrassing information, and consequently induces action—e.g., the target pays $10,000. However potent such a release of information may be, it probably does not constitute an ability to inhibit broadly the blackmailer’s target’s actions. Yet it does apply pressure. So the pressure approach seems well suited to classify cases in which a determinate threat, based in a narrowly constrained sort of power, is used to induce a particular action, while the enforcement approach appears to deny that such cases amount to coercion. Are blackmail and the like not coercive?

The answer, I believe, is less straightforward than is often thought. Though blackmail and similar acts have received considerable philosophical and legal attention, they lie in a grey zone on the margins of the concept of coercion. This is so, I will suggest, because they typically involve an agent exploiting a pre-existing weakness in another, rather than her using a broad-spectrum power to create such a weakness. In standard cases of coercion, a coercer intentionally creates a differential in power that she can then leverage to the disadvantage of others, such as by taking up arms; indicating a willingness to overpower a smaller, weaker person; organizing a vigilante group; or showing a willingness to use one’s official capacity for

\[45\] While I will restrict discussion in the text here to cases of blackmail, the arguments here apply in general to any sort of attempt to coerce by means of limited particular threats against some interest of the coercsee which falls under the threatener’s powers.
unsanctioned purposes. By contrast, in most ordinary cases of blackmail, the blackmailer exploits an existing, particular vulnerability she discovers in the blackmailee, such as a little-known fact that would significantly harm the blackmailee were it to be more widely known. The blackmailer may or may not act deliberately to discover her target’s weakness, but typically she does nothing untoward to create or add to it.

This analysis suggests there is value in distinguishing between the concepts of coercion and exploitation. Both describe situations in which one agent extracts benefits from (or directs or constrains the activity of) another by leveraging some advantage in power over her. They differ in that exploitation is one agent’s taking advantage of a weakness the exploiter finds in another, whereas coercion involves an agent intentionally acting to generate an advantage in power and/or a corresponding vulnerability, and then leveraging that differential to extract benefits from the weaker party. One might picture it as the difference between someone who encounters another who has fallen in a well and extracts an exorbitant price to rescue him, as compared to someone who digs a hole and pushes the other into it (or threatens to do so), in order to extract such a price.

While there are no doubt more shades of grey and intermediate or hybrid cases, distinctions in this area are useful for bringing out an important aspect of coercion, viz, that it presents a social problem of a different order from that presented by blackmail. Sometimes vulnerabilities are created by those who amass power over others; sometimes people are vulnerable to the powers of others through happenstance, accident, congenital defect, and the like; and sometimes people are vulnerable because they make themselves so. If an agent is blameless or nearly so for his vulnerability, someone who takes advantage of it may be acting reprehensibly, and there may be grounds for the state to protect against such advantage taking. But even among these cases we may distinguish those where the powerful agent is only relatively powerful because she encounters someone who is specially vulnerable, from those where the powerful agent intentionally accumulates power over others to render them vulnerable to his demands. This is the case when an agent acquires the means of force/violence in order to
leverage the consequent advantage in power they provide. Such power differentials present a different sort of social problem from that manifested by most cases of blackmail. The kind of power that blackmailers have over their targets typically does not increase through its exercise, does not work equally against other parties (if at all), and does not even give one the ability to extract more than some relatively manageable (though possibly large) payment. (There is rarely any point for ordinary blackmailers to blackmail those who are not possessed of significant wealth.)

Most blackmail, I suspect, falls into the category of one agent taking advantage of a self-inflicted weakness of another. When an agent acts badly (by, say, committing clandestine adultery or criminal acts), she can put herself at a power disadvantage to anyone who discovers such acts. If she then pays for their complicit silence, it is more like buying a benefit than it is like acquiescing to a threat (no matter who starts the negotiations). When a blackmailer uses another’s private information illicitly, she makes use of something which is not properly hers to use. In this way, blackmail has more in common with simple theft than coercion. It is as though the blackmailer steals something of value, aiming to ransom it back to its rightful owner (or possibly to sell it to the highest bidder). But this differs from ordinary coercion in the same way simple larceny differs from armed robbery: one is a crime of opportunity against which ordinary due diligence usually suffices to provide adequate protection; the other is a dangerous crime, one that is difficult to defend against, and against which private defense creates social costs of its own. It also portends damage from which it would be difficult or impossible to recover. Although there may be reasons of social benefit or comity that can justify prohibiting blackmail, the proper functioning of society or commerce does not depend upon keeping would-be blackmailers in check.

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46 I thank Elizabeth Brake for pushing me hard to think through the distinctions here more clearly. 47 For a crime that is so rarely committed or prosecuted, there are surprisingly many discussions of it, due in part to its puzzling nature. For a sample of economic analyses of whether it should be a crime at all, see the articles by Richard Posner, Douglas Ginsberg and Paul Shechtman, Steven Shavell, Joseph Isenberg, and Jennifer Gerarda Brown in the symposium on blackmail in the University of Pennsylvania Law Review 141 (1993): 1817-1984. 48 Here I follow roughly James Lindgren’s analysis, in “Unravelling the Paradox of Blackmail,” Columbia Law Review 84 (1984): 670-717, though we diverge over whether the activity described necessarily counts as coercive.
Nonetheless, the enforcement approach may accept that some cases of ordinary blackmail, falling within fairly constrained boundaries, are coercive, by analogy with more central cases. To be coercive, the revelation of an agent’s damaging secret (or other consequence) needs to diminish the target’s possibilities for action to a substantial degree—again, the potential of force and violence to do this is a good point of comparison. A revelation that could greatly undercut, for instance, one’s ability to socialize, one’s ability to work, and/or one’s safety and security could be regarded as relevantly similar. Also, the blackmailee’s vulnerability should not be something he brought on himself by way of immorality or imprudence. Although his own peccadilloes fail this test, I’d be inclined to count as coercive uses of social power, especially illegitimate powers, that might bear on information about, e.g., one’s sexual orientation, racial background, or medical history. Attempts to blackmail which are akin to uses of force and violence in these two ways may well be assimilable to more standard cases of coercion on the enforcement approach. Thus, even though pressure accounts are likely to reflect our commonplace assumptions about blackmail’s coerciveness more closely than does the enforcement approach, there are substantive reasons for revising those assumptions in many cases.

D. Coercion via oblique threats

A second kind of problem case is seen in attempts to alter an agent’s action by threatening to harm a third party—e.g., her child, spouse, or loved-one. We would commonly count such threats as coercive. I’ll call this method of coercing “oblique,” in that the subject on whose action demands are placed (the coercee) is distinct from the person(s) who bear(s) the direct brunt of the coercer’s threat (whom I’ll refer to generically as “the hostage”). Such uses of coercion are relatively infrequent, here anyway, and often dramatic when performed (for instance, in hostage takings, kidnappings, using human shields). They are, however, more common in some places or under some regimes; for instance, a regime might keep control of its subjects principally by threatening to harm their families and friends. Such threats might not
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work against nihilists and the badly disturbed or strongly motivated, but among others, oblique coercion can provide a very effective supplement to such a regime’s powers.⁴⁹ So it seems crucial that an account of coercion be able to recognize and explain such activity as coercion.

As with blackmail, the enforcement approach initially seems to have difficulty explaining the possibility of oblique coercion. Though oblique coercion often involves obvious uses of force, its place and effectiveness differs from the paradigmatic examples. The maker of an oblique threat need make no suggestion that he could harm or incapacitate the coercee; rather, such threats trade on the coercee’s affective tie to someone else who may be harmed. Although recent scholarship on coercion gives only scant attention to this kind of coercion, the pressure approach would seem to have an easier time explaining the coerciveness of such cases.

Before tackling the difficulties here, however, I should note how the analysis so far gives some insight into these cases. First, oblique coercion must respect the holism constraint, where the coercer must have power superior to that of both the coercee and the hostage. If either were able to fight back effectively or to effect a rescue, then it is hard to see how the coercer would have much chance of success. Moreover, the enforcement approach usefully explains why such coercion may fail to work, which may help explain why it is less common than other forms. In typical cases, oblique threats simply do not prevent or threaten to prevent an agent from achieving broad ranges of his or her ends, nor from acting at variance with the coercer’s demands. If the coercee cares about the hostage, then the coercer’s threat would seem to incentivize the coercee to do as the coercer demands. But for strategic reasons, and because of the non-identity of the hostage with the coercee, it will frequently be difficult for the coercer to make a productive threat, since the coercee may not be able to alter the coercer’s incentives with respect to how he treats the hostage. If antecedently the coercer had an incentive to harm or kill his hostage, the coercee’s meeting his demands may do nothing to remove this incentive.

⁴⁹ In fact, there’s reason to think that this will provide much more effective control of a population than threats directed at individuals themselves. Saddam Hussein was said to have relied heavily on this technique to retain power as the head of Iraq.
Similarly, if the coercer antecedently had reasons not to harm the hostage, the these reasons are likely to remain even if his demands have been denied. The threatened consequence, whether executed or not, has no direct bearing on what the coercee is able to do, nor on whether the coercer obtains his ends. Hence, making such threats is often a desperation strategy, and may require buttressing by other sorts of structural powers to provide the coercee assurance of the coercer’s compliance, if the coercer is to succeed.\textsuperscript{50}

Nonetheless, aggressors do sometimes take hostages, and those they aim to coerce do frequently enough pay ransoms (or meet other demands) in order to forestall the consequences threatened. It would therefore be unproductive to deny that such activity counts as coercion. To explain such coercion, perhaps the best the enforcement approach can do is to show the similarity between the way that force can prevent one from acting as one wants, and the way that one’s obligations to certain others can likewise constrain one from acting freely as one would otherwise. The analogy is not perfect, but if it points us to a more general principle that helps explain what the analogues have in common, this would advance our understanding. That’s what I think we find here.

In standard cases of coercion, seen from the enforcement perspective, the coercer is willing and able to prevent or hinder some significant range of activities by the coercee. In so doing, the coercer either directly makes some acts of the coercee impossible, or else makes meeting the demands of the coercer a necessity for the coercee to be able to accomplish any of her other ends. In short, the coercer is able, at will, to alter what it is necessary or impossible for the coercee to do, where the sense of necessity/impossibility involved is practical, and fairly straightforward.

Suppose that this much is on track. I would argue then that there are other avenues via which one agent can achieve the same effect even though unable to make use of direct force or

\textsuperscript{50} This is the problem of “assurance” as described in David Gauthier’s “Assure and Threaten,” \textit{Ethics} 104 (1994): 690-721. The structure of such interactions creates an interest for strategies of pre-commitment and oversight by parties who can enforce an agreement between coercer and coercee. Of course, when the threats are immoral or illegal, such honest brokers are hard to come by.
violence against one’s target. There are sources of practical necessity other than just that of the physical needs and liabilities of bodies. One thing that most of us recognize as necessitating our actions are the bonds and obligations one has to one’s family, etc. Although strangers are not able to create and impose on others new moral, filial, or loving obligations, they may well be able to make some actions impossible or necessary by manipulating others’ circumstances. This seems to be what occurs in cases of oblique coercion. In threatening a well-chosen third party, the coercer attempts to obligate the coercee to act as demanded, leveraging her existing obligations of care or protection, thereby necessitating a course of action the coercer chooses.

Pressure accounts of coercion suggest that an agent whose loved-one is under threat is very likely to feel pressure to do whatever is required to secure his safety. Given this alternative, why should one prefer to look for obligations or other forms of necessity, when emotional pressure and incentives are easier to fathom? A few comparative comments will have to suffice here to indicate why accounts of coercion should look to a more solid, recognizable sort of necessity as a key, explanatory ingredient.

There are reasons to worry that the mental state of the coercee is not a reliable determinant of whether she has been coerced, because the pressure typically generated by oblique threats is neither necessary nor sufficient to support a claim that one is being coerced. Such pressure is not necessary, since a variety of factors might undercut the pressure oblique coercion is supposed to create. Someone whose loved one has been taken hostage may be convinced to let the police attempt a rescue instead, in the belief that doing so gives the best chance of a rescue. Or her desire to pay the ransom might be offset by her disgust at doing something that furthers the cause of the hostage-takers. Either of these reactions, among others, is well within the bounds of a reasonable human response to such situations; yet in each case the pressure felt to meet the demand may be less than the coercer hoped to induce, or offset by other considerations. Such facts do not seem to be good reasons to withhold or condition a judgment about the coerciveness of such cases.
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Conversely, pressure is not sufficient for coercion in many cases, at least if we want the term to mark something of the social significance of a distinctive form of human interaction. Some ways an agent can put great pressure on another by threatening harm include:

A. Threaten to commit suicide.
B. Threaten to exercise one’s rights when doing so is to the disadvantage of another.
C. Threaten to fail to live up to one’s moral obligations (say, to fail to give to charity, or to renege on one’s promise to a third party).
D. Threaten to harm an animal or a public, cultural object. 51

While the term coercion might seem naturally applied to each of these sorts of cases (or at least to A, C, and D), I would urge that there is a value in maintaining a categorical distinction between these sorts of threatenings and those that are quintessentially coercive. To exploit the strong feelings of another, perhaps through illegal or immoral means, may be bad behavior in several ways, but it does not in any ordinary sense necessitate that a person act as demanded. Nor does it signal some broader disparity in power such that society has cause to take special notice of the agent doing the threatening. Hence we can reasonably segment off such cases from those that fall within the traditional rubric of coercion without, I think, undermining our ability to understand or condemn such behavior.

Some may still argue that pressure and incentives are metaphysically more tractable, less problematic than moral necessities, as elements in an explanatory account, or will simply hold that the latter ultimately reduce to the former. Without wading too far into the weeds of moral psychology, I’ll simply assert that we don’t think that people always do what they feel most pressure to do. We might of course stipulate as an analytic truth that they do, but this would trivialize the claim and render the “feeling” of pressure of no importance. But if we don’t so stipulate, then it’s clear that the feeling of pressure to do X does not necessitate the doing of X.

51 I will hedge here and say that if there are moral grounds that obligate people to protect (some) animals and cultural objects, then the preferred analysis of this section may be used to explain the coerciveness of this last sort of threat. Absent an obligation, however, I would argue that the intensity of one’s feelings for such things are of little use for determining whether one has been coerced by threats to harm them.
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On the other hand, I think it is quite often sensible for an agent to say that she regards a certain action as morally obligatory (or prohibited), and thus that she will (not) do it. This need not be understood as a claim about her feelings; it may be simply a recognition that achieving her most important ends requires specific performance on this occasion, and hence other courses of action are ruled out. In this respect, moral necessity may differ little from necessity inhering in physical needs or inabilities. And if that’s so, then the enforcement approach remains a distinctive and attractive alternative to the pressure approach for explaining oblique coercion, since it retains the link between coercion and necessity, while also doing a better job of explaining why oblique coercion can be a grave social problem.

E. Coercion via economic power

Perhaps the biggest worry about the enforcement approach will be its ability to handle the coercive potential of economic power. One might even accuse it of having a conservative bias: in concentrating on force/violence, it seems tailor-made to describe and even validate the coercion that underlies a capitalist state, while overlooking the economic power capitalists wield over workers. Since pressure accounts of coercion do not differentiate economic threats from others, they appear less susceptible to this objection.

The enforcement approach attempts to analogize economic coercion to more standard cases. Like force and violence, deprivation and exclusion can kill, disable, and inhibit action, and more generally can deny agents the necessary means to maintain one’s life, fundamental projects, and commitments. Depriving or threatening to deprive someone of necessary economic goods can thus be used to enforce decisions. So the enforcement approach has no problem accepting that economic power can be used coercively. The difficulty for this approach—which, I should add, also confronts pressure accounts—is to determine when economic power is being used coercively, and when not. It would be a mistake, for instance, to accept that employees are coerced every time they take actions at work out of fear of adverse economic consequences. No

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52 One of those most worried by this is David Zimmerman, in “Coercive Wage Offers,” Philosophy and Public Affairs 10 (1981): 121-145.
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doubt workers are sometimes coerced, but not always; and similar discernment is necessary with respect to other sorts of significant economic threats. Sorting these matters out may thus be broadly useful.

I’ll begin by noting that force and violence, considered as powers, differ from economic power in at least three important ways which, if nothing else, help account for the theoretical difficulties presented by economic coercion. First, economic power is what we may call a secondary sort of power, in that we can assess it only in situations where people have settled into something of an equilibrium or balance of power with respect to the ability and willingness to use force and violence. Note, for instance, that if someone were able to take from others, by force, what she needs to survive and flourish, and if she suffered no negative consequences for doing so, then, e.g., a threat to fire her from her job would lose much of its potency. Individuals are largely roped into participating in the economic system by laws of property, dovetailed by laws against theft, etc., which prevent them from enjoying, without constraint, the fruits of the labor of others. And while it’s possible, I suppose, to imagine a property system not backed by coercive uses of force and violence, I know of no large scale real-world examples of such a system. Thus, the systemic coercive use of force and violence, in the form of the policing of property and theft, is what makes people susceptible to the economic powers of others.53

Second, physical and economic coercion differ with respect to what we might call the default condition of human freedom, as it is affected by human powers, and in particular the powers of others. On the one hand, when a person is not subjected to uses of physical force by

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53 Could an opponent respond here that while this much is true, the relation is symmetrical—that is, the systemic coercive uses of force and violence underlying property institutions are themselves dependent on the coercive use of economic power? Since I have not yet explained what might be meant by economic coercion, taking on this objection may be premature, but offhand this does not seem an attractive view. Unless we hold, say, that all market employment relations are coercive (a view I’ll argue against momentarily), it does not seem that those who work to uphold the institutions and relations of property among us (say, the police, courts, prisons, etc.) are coerced into doing so. Given that these tend to be some of the more desirable jobs in the modern American workplace, and that those who take them often have other alternatives, their willingness to work in support of property institutions seems typically quite voluntary. More generally, economic and other forms of social power just don’t have the same sort of final stopping power that force and violence have. Thus, when it comes to securing institutions such as property against the “bloody minded” (as Lucas describes the scofflaw), it is hard to imagine anything that can serve as a general substitute for organized, systemic techniques of force and violence.
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others, a person’s body is, by default, usually unharmed and unconstrained, and she is thereby freely able to engage in a wide variety of activities of that person’s choosing. Uses of force or violence that impinge upon bodily freedom and integrity amount to intentional interventions to disrupt a condition that typically exists in the absence of such interventions. On the other hand, one’s freedom and ability to act almost always depend on the exertion of human effort to find or produce the goods needed to meet one’s nutritional and other needs. If a person is to eat, someone must labor—either herself or someone else on her behalf. So the default state with respect to the goods of production (i.e., economic goods) is one of poverty and want, necessitating that someone, somewhere, engage in particular intentional acts (e.g., labor) if one is to be able to do anything else.

The third difference stems from the fact that virtually no one is self-sufficient in meeting one’s economic needs and desires. Societies respond to this fact by organizing their members to cooperate economically via norms that both guide people to take up productive tasks, and regulate the distribution of the goods produced. For instance, among us, most adults must work to earn income in order that they are able to purchase the goods they need and want so as to flourish. Such social norms, though neither immutable nor given by nature, can serve to condition and constrain an individual’s possibilities for action, so that acting in accordance with such norms becomes crucial to being able to meet one’s needs and desires. We might say, then, that a socially-realized economic system mediates natural economic necessity, and transforms it into a system of norm governed necessities that condition the possibilities for action of the individuals in the system.

Such mediating norms complicate our ability to recognize and understand economic coercion. Within almost any organized economic system, these norms sometimes give particular individuals (or offices) the task of determining what others must do in order to obtain the goods

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54 If a person is pinned by a fallen tree, or in need of invasive surgery, then another party may increase his freedom of action by applying physical force to his body, as one might also do by transporting him by bus. But people are largely able to do what they want to do without needing others to use force directly on their persons, and such uses of force are generally forbidden by law except when affirmative consent is given.
produced through these cooperative arrangements. Because of their position, such individuals are able to wield considerable power over others. For instance, the same norms that require adults to work in order to receive income also give managers, e.g., the ability to fire employees, thus to deprive them of their income and access to goods (at least temporarily). Yet, only because some agents have and use such power is our economic system able to meet our needs as semi-dependent embodied creatures. The third difference, then, is that economic coercion, whatever it is, must be distinguished from uses of power by some agents over others when those uses are part of an agent’s role in the social organization of economic production.

What, then, makes a use of economic power against another agent coercive? I think the enforcement approach can key on two factors in particular: whether the power used by an agent is actually suited to inhibit broadly its target’s ability to act; and whether the agent’s use of that power coheres with or diverges from the productive purposes served by her possession of it.

In a market economy, most economic choices are made from among a range of competing options and competing trading partners. Hence, the economic power of any one agent is limited, sometimes severely, by the existence of other potential traders of roughly similar usefulness. In a robust market, employers must compete for employees in roughly the same way that employees compete for jobs. So even if employers are generally in better bargaining positions than employees, it is rare that one or just a few employers turn out to be the only partners from whom an individual can find a way to earn a living wage (assuming that jobs paying such wages are not scarce in general). Occasionally, however, some important economic

55 This picture gets more complicated in a place like North America where the vast majority of economic production is not aimed as fulfilling needs, strictly speaking, but rather at producing one degree or another of luxury. This raises the possibility that some economic threats could target simply an agent’s ability to consume luxuries, though not her basic needs. If, for instance, a society established an economic safety net of transfer payments that would assure each individual of being able to meet her basic needs, then I think the possibility of economic coercion would mostly disappear in that society (at least as a possibility in ordinary commerce; threats to clean out another’s bank account and keep it cleaned out could still be potent, I suppose). But in fact when an employer threatens to fire an employee, the threat is against both her needs and desires for luxuries simultaneously, and such threats seem on the whole to be more common than those of a more restricted sort.

56 This is as pictured by Simon Weil in “Analysis of Oppression,” in her Oppression and Liberty, trans. Arthur Wills and John Petrie (New York: Routledge, 2001), pp. 54-79 (first published in 1955), though her analysis is much more pessimistic than mine.
resources are controlled by a very few potential trading partners, giving rise to monopolies or cartels, and allowing those few to exercise considerable power over others. In at least these cases, it is possible to see how an agent or collective might wield sufficient economic power against others to be able to make a coercive threat. If an agent is uniquely (or almost uniquely) positioned to withhold something that another needs (and is backed by coercive support for its property rights), then that agent (perhaps in concert with others) has a kind of power that can be used to hinder or necessitate the actions of others in roughly the same way that force and violence can.  

The other, harder to reckon element of economic coercion is the intention of the coercing agent to use economic power against another for ends not countenanced by economic norms. This is harder to reckon because all of these elements—the notion that there are such norms, their content, and what counts as violating them—are hard to pin down. Some cases are clear enough, however. For instance, it is consistent with such norms for an employer (to threaten) to fire an employee for refusing to come to work, for refusing to take on useful tasks, or for failing to perform her tasks effectively, but inconsistent (to threaten) to fire for refusing to break the law, for refusing to cheat shareholders, other employees or customers, or for asserting her contractually or legally secured rights. In between these two poles are many gray areas. The main point is that the use of significant economic power is a necessary but not sufficient condition for economic coercion. So, for instance, even if an employer is an employee’s only potential source of income, threatening to fire her for poor performance is in keeping with the norms that help generate the goods people need from their productive activity, and so should not necessarily be regarded as coercive. This is not because all such threats are good or laudable, or that following economic norms puts one beyond criticism; rather, in following such norms, the

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57 Not all monopolies are in control of something important enough that they are able to coercively threaten to withhold it. For instance, there is at present just one manufacturer of mechanical pinball machines in the world, but its position as such does not, I suspect, allow it to coercively threaten anyone, even those whose lives would be much less enjoyable without the possibility of purchasing a new pinball machine. On the other hand, the circumstances of a monopoly and its corresponding power may be possessed by some entities that are not monopolies in the technical sense. Whenever one agent can control another’s access to some vital good, this situation creates a possibility for coercion to take place.
agent does not take it upon him, her, or itself to wield economic power for arbitrary ends, but rather acts within the constraints of an economic system that, we are assuming, makes possible the broad, mutual fulfillment of needs and desires.\textsuperscript{58} If, however, an agent possesses the means to deny crucial goods to another, and then intentionally acts to do so, or to threaten to do so, contrary to the norms that regulate economic conduct for the sake of mutual benefit, such an agent can rightly be said to engage in coercion.

9. Conclusion

By way of conclusion, it may help to say more about the role of normative or evaluative judgment, especially as it figures in the responses to the last two objections above. Among those who have written about coercion, there are strong disagreements about what role such judgments play in theorizing coercion. Methodologically, it seems advisable to try to avoid reliance on contentious normative judgments, but some have argued that coercion is a thoroughly moralized concept, so such avoidance is not possible.\textsuperscript{59} The enforcement approach makes it possible to see that this is a false choice.

The enforcement approach offers the possibility that we can recognize central cases of coercion without relying on any contentious normative judgments. Insofar as we can recognize uses of force and violence without evaluating their justifiability, we should be able to recognize when they are used (or threatened) intentionally to constrain the activities of another. Hence determining that coercion is being used is not an intrinsically normative or moralized judgment. An account that has this degree of relative freedom from deeply contentious issues can then provide input into our moral or legal thinking that a moralized account of coercion cannot without begging questions.

\textsuperscript{58} It is not true that economic norms in any given place must serve to meet everyone’s basic needs, nor that they need be designed to do so. Still, an economic system must in general serve the purpose of meeting the basic needs of the inhabitants of a place, or else significant pressure will come to bear on the norms of that system in favor of change. Either some fraction of the populace will be forced to exit the economy (perhaps into exile, perhaps dying off), or else they will struggle to remake the norms of the economy so that their needs are also met. Moreover, we may hope/expect that in civilized places they will tend towards serving this end as a result of social choice.

However, as in the cases of the last two objections, one may need to make use of certain normative facts in order to understand whether and how a coercer exercises power over a coercee. In the case of oblique coercion, a judgment may be needed as to whether the coercee is obligated to act to save a party from the coercer’s threatened consequence. In the case of judgments about economic coercion, the normative question must be raised to determine whether an agent is acting within his proper authority as a cooperating participant in the economy, or whether he is acting arbitrarily, outside of economic norms of cooperation. While these may not be easy judgments to make in some cases, in other cases they may be. And whether easy or difficult, the judgments asked are not nearly so free-floating as some broadly normative judgments, such as whether an act is, all things considered, immoral or vicious. Hence, within a given moral system, there would likely be some established starting points for trying to answer them.

The way evaluative judgment comes into such thinking about such cases should not raise grave objections, since we don’t have to answer the normative questions to understand what coercion is, but only to see whether it is taking place in a particular interaction among agents. The moral input into these judgments about coercion comes in to help answer material questions about the workings of power amongst agents, rather than as an independent criteria of an act’s coerciveness. Given that morality and other forms of normativity play roles in helping us to organize our societies and lives into various cooperative arrangements, it should be no surprise that such norms play roles in the distribution and workings of power. It is thus sometimes necessary to investigate and comprehend those norms to be able to grasp the relations of power amongst different agents.

In sum, there is use for a concept that tracks the specific form of power that is familiarly associated with the term “coercion” as it has long been used in political philosophy. The recent philosophical trend away from this understanding indicates that the traditional meaning of “coercion” is perhaps not as obvious or well understood as one would wish. But if I have succeeded here in setting out the resources inherent in the traditional enforcement account, it
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should help to bolster it against some of the most frequent misunderstandings and apparent
difficulties it encounters. In doing so, I hope also to have shown that coercion remains a
category well worth a political philosopher’s focused attention, because it is distinctive among
the various ways humans can relate to and influence each other. It thus deserves to be treated as
a fundamental element in political and ethical theory, with boundaries that, while not razor sharp,
are much more clearly defined than is sometimes thought.