

Coercion in a Subjective World

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ABSTRACT: The development of modern economic thought has involved an increased emphasis on the subjective nature of all values, and a repudiation of the notion that the economy is or should be constrained by any sort of objective non-economic order. On this view, it is impossible to judge any outcome of uncoerced market interactions by an external standard of justice. But what is the content of the term “uncoerced”? The same thinkers who have embraced the general subjectification of social and economic theory have tended to resist applying it to the concept of coercion itself, fearing that doing so might imply that market processes can themselves be coercive in wide-ranging ways. Among subjectivists, Friedrich Hayek and Robert Nozick are particularly notable for their willingness to tackle this tension head-on. Yet an examination of their respective theories suggests that neither is ultimately successful in doing so. This implies that any consistent subjectivist theory of economic life would have to extend to the concept of coercion itself, with potentially far-reaching political implications.

1.

The development of modern economic thought over the last two centuries has been marked by an increasing emphasis on the *subjective* underpinnings of economic life. One could trace this “subjectivization” of the subject matter in a variety of domains. The concept of utility ceases to correspond to any concrete entity such as pleasure, instead coming to serve as an abstract model of the agent’s preferences, whatever their content. Notions of real or objective needs are purged from economics, as the basic requirements of biological self-preservation cease to be differentiated in any fundamental way from all other sources of demand. The toppling of the labor theory of value deprives commodity prices themselves of any grounding outside the shifting terrain of supply and demand. And with these shifts, the idea of a “fair price” or a “just wage” outside of market valuations ceases to have any meaning within the economic realm itself.

At most such ideas can be invoked as ex post facto considerations of equity, conceived as external intrusions upon economic logic rather than considerations internal to it.

This process of subjectivization swept away older forms of “moral economy,” in E.P. Thompson’s famous phrase¹ — here invoked merely as a loose catchall for those varied conceptions insisting that economic life must be constrained by some considerations (material, ethical, biological, legal) external to market logic. Subjectivists were often explicit that it was precisely these conceptions that they aimed to supersede. Henceforth notions like objective values, fair prices, and just wages would take their place alongside phlogiston and the four humors, relics of an obsolete scientific stage. And henceforth the only grounding for prices and wages would be the subjective valuations and voluntary actions of uncoerced individuals: the only fair price was what a buyer was willing to pay and a seller willing to accept, much as the only just wage was what an employer was willing to offer and an employee to work for.

As this emphasis on *willingness* indicates, a subjectivist account of economic life is not committed to a complete “anything goes” philosophy. There remain certain defined limits upon what can happen in the marketplace, but these limits consist only of the requirement that transactions be voluntary and participants uncoerced. Accordingly, the subjectivist need not be an anarchist, for one might still insist that the market requires a state to enforce the rule of law and ensure the absence of force and fraud.² Yet the legal apparatus of the state, and the corresponding requirement that market participants be uncoerced, remain on this account prior and preliminary to the subjective process of market valuations itself. They are the (objective) foundation on which the (subjective) edifice of economic life can be built — or, to vary the metaphor, the skeleton on which its muscle and fat can grow.

But what is the content of the term “uncoerced” here? In line with the broader subjectivist impulse, we might be tempted to understand coercion in a similar fashion: to reject the notion of a single invariant standard for what constitutes coercion, and instead to take the concept as involving a subjective and contextual element. Coercion is intimately linked to fear, after all, and there seems little reason why the “push” of fear should be more objective than the “pull” of desire.³ If we can’t hope to specify the grounds for real or valid desires (say, by drawing a clean distinction between necessities and luxuries), how could we hope to specify the grounds for real or valid fears?

This has not, however, been the approach generally taken by those otherwise inclined to a subjectivist account of economic life, for readily comprehensible reasons. The general political thrust of subjectivism is to legitimize the results of market valuations by delegitimizing any outside criteria by which these results might be judged. A subjectivist view of coercion has the opposite political valence. It implies that large numbers of market transactions might qualify as coerced even in the absence of any single external criterion like physical violence. Likewise, it implies that coercion might be considered a constitutive part of market processes rather than an outside infringement upon them. For that reason, champions of subjectivism have often resisted applying it to the concept of coercion itself, which they instead continue to define with reference to some easily delimited standard (typically physical force). In this way the problem of coercion can remain part of the objective skeleton of economic life without intruding into the soft tissue above.

In what follows I will examine the efforts of two thinkers, Friedrich Hayek and Robert Nozick, to navigate this problem. Hayek and Nozick are particularly worthy of our attention, I

suggest, because they were aware of the tension just outlined and willing to tackle it head on. Many of their ideological allies were loath to delve deeply into questions surrounding coercion, instead accepting a commonplace identification of coercion with violence. We will see that a number of them attacked Hayek in particular for his deviations from this view. But Hayek and Nozick both understood that this line was untenable. Both aimed to develop theories of coercion that would take onboard the implications of subjectivism while still maintaining some objective grounding for the concept — and thereby protecting the vast majority of economic life from its stain. If (as I will argue) neither thinker was ultimately successful in doing so, their cases are for that reason especially instructive, suggesting that the problems posed by the concept of coercion for modern economic thought are not easily resolved.

2.

The sense that coercion is ubiquitous, exceeding any attempts to delimit it precisely, might be thought a relatively recent notion. Yet it has a surprisingly long pedigree. I have argued elsewhere that such a notion already underlies the political theory of Thomas Hobbes in the seventeenth century.⁴ Hobbes's notorious insistence that "fear and liberty are consistent"⁵ should not be read as an attempt to legitimate all forms of coercion, but rather as a claim that there is no sharp metaphysical line separating coercion from non-coercion. We inevitably live in a world of coercive pressures — some violent and others not, some stemming from intentional action and others from impersonal forces — and the task is not to free ourselves from these pressures entirely but to decide which are acceptable and which aren't. Rather than a sharp metaphysical

line dividing freedom and coercion, there can only be the contingent political lines that communities have drawn for themselves in answering these questions.

Hobbes's position remained a fringe one. The more prevalent view, then and now, can be found in another seventeenth-century text, John Locke's *Second Treatise of Government*, which describes a law of nature giving each person "an uncontrollable liberty to dispose of his person or possessions" while forbidding him "to harm another in his life, health, liberty, or possessions." How can we identify such harm? The criterion for Locke is clear: "force, or a declared design of force upon the person of another."⁶ It would probably be anachronistic to claim that Locke was specifically trying to develop a theory of *coercion* here, but this criterion — force or the threat thereof, intentionally directed by one individual toward another — would become the dominant understanding of coercion among later self-proclaimed Lockean. (I will therefore call it the "Lockean" criterion, with whatever apologies might be necessary to the historical John Locke.) The stringency of the criterion made coercion into an exceptional phenomenon, one incompatible with social order rather than constitutive of it. In particular, it meant that market exchange was by definition non-coercive, so that coercion could only be understood as an outside intrusion into the economic sphere.

There is an obvious sense in which the Marxist tradition, with its insistence on the impersonal but nonetheless coercive nature of the capitalist labor market, posed a challenge to this view. On the other hand Marxists tended to have little interest in resuscitating the rival view that coercion of one kind or another is an inevitable fact of human social life. They were instead mostly inclined to see the coercive aspects of economic life as historically specific features of capitalism that would vanish with the coming of Marx's "association of free men."⁷ By uniting,

the workers of the world would lose their chains altogether, not simply trade them in for a somewhat less oppressive set.

The twentieth century, however, would see the rise of a view much closer to Hobbes's. Growing out of traditions like institutional economics and legal realism, it received its clearest expression from the legal theorist Robert Hale in a series of works beginning in the 1920s. Hale suggested that in economic life coercion was the very coin of the realm. The worker only labors "for the purpose of warding off the threat of at least one owner of money to withhold that money from him," backed by "the law that coerces him into wage-work under penalty of starvation." Yet equally, the worker's bargaining power rests solely on the extent to which "the execution of his threat of withdrawal would damage the employer," and generally speaking, "the income of each person in the community depends on the relative strength of his power of coercion, offensive and defensive." Once this fact is recognized, Hale suggested, "it would then be plain that to admit the coercive nature of the process would not be to condemn it."⁸ The goal was not to remove coercion from economic life altogether, but rather to distribute in accordance with the common good.

From these premises Hale drew the logical conclusion: to expropriate capitalists from the means of production and establish public ownership "would neither add to nor subtract from the constraint which is exercised," but would "merely transfer the constraining power to a different set of persons." Whether laissez-faire or communism provided greater freedom, "in the sense of giving people greater power to express their wills," was an empirical question based on the concrete economic conditions that these systems established. But neither system "can be said to be any 'freer' than the other in the sense that it involves less coercion" as such.⁹ If coercion was

inevitably constitutive of economic life, the concept could no longer be mobilized as an a priori argument against any particular economic system.

This was an argument with political teeth, for Hale and his allies were intellectual architects of what Barbara Fried calls the “progressive assault on laissez-faire” that would culminate in the New Deal.¹⁰ Both Hayek and Nozick read Hale and others arguing along similar lines, and they understood clearly the threat that such doctrines posed to any philosophical defense of the free market.¹¹ Yet each equally recognized, for subjectivist reasons, that the old “force or declared design of force” standard was not a tenable line to draw. The challenge was thus to find a new way of delimiting the concept, moving away from Locke without ceding the field to Hobbes or Hale — that is, accepting that coercion was broader than the threat of physical violence while nonetheless defining it narrowly enough that the vast majority of everyday economic transactions would emerge as non-coercive.

3.

Hayek took up the challenge in his 1960 magnum opus *The Constitution of Liberty*. Upon the book’s publication, its account of coercion was one of the points that came under most sustained attack. What was striking about these attacks was that they came largely from figures who shared Hayek’s general classical-liberal political sympathies, notably his student Ronald Hamowy.¹² This episode of friendly fire has contributed to the bad reputation that Hayek’s theory of coercion continues to hold to the present day. Yet this bad reputation is somewhat misleading — for even if Hayek’s theory is ultimately unsuccessful, it has most frequently come under attack for its virtues rather than its vices.

To be sure, there are ways in which Hayek typifies what I've called the "Lockean" account of coercion. Most notably, coercion for Hayek must be personal and intentional. Other thinkers have conceived as freedom as a matter of physical possibilities (Hobbes again being a classic example) implying that it could be restricted by non-human obstacles, impersonal forces, or unintended consequences. For Hayek, by contrast, "'freedom' refers solely to a relation of men to other men, and the only infringement on it is coercion by men," meaning that "the range of physical possibilities from which a person can choose at a given moment has no direct relevance to freedom." What matters is whether a person can "shape his course of action in accordance with his present intentions, or whether somebody else has power...to make him act according to that person's will rather than his own."¹³ A person trapped inside a box could not properly be called unfree unless someone else had put him there. And coercion is the result not merely of human action but of *intentional* human action, requiring "both the threat of inflicting harm and the intention thereby to bring about certain conduct."¹⁴

The upshot is to sharply restrict the scope of coercion. If all of the constraints that the outside world imposes on our actions were understood as coercive — or even, less strongly, if constraints imposed by other people's actions regardless of intention were so understood — then the phenomenon would indeed appear ubiquitous in every society. But restricting coercion to the intentional manipulation of one person by another raises the possibility that we could indeed live in an outright "state of liberty or freedom" — defined either as one in which coercion "is reduced as much as is possible," or as one in which "the more severe forms of coercion" are entirely absent.¹⁵

In the one area where Hayek sometimes suggests that a measure of brute coercion is unavoidable in a free society — the state’s legal authority backed by its monopoly of violence — Hayek downplays the coercive potential of a liberal legal order precisely by assimilating its laws to those of the natural world. Provided that laws are abstract and impersonal, specifying only general rules and not dealing with particular persons or actions, he argues that they are no different from natural obstacles, and that this impersonality “deprives them largely of the evil nature of coercion”: insofar as “they tell me what will happen *if* I do this or that, the laws of the state have the same significance for me as the laws of nature.”¹⁶ Hayek is well aware that this striking view is central to his overall project: “The conception of freedom under the law that is the chief concern of this book rests on the contention that when we obey laws, in the sense of general abstract rules laid down irrespective of their application to us, we are not subject to another man’s will and are therefore free.”¹⁷

Defining coercion as personal and intentional has implications that go beyond law. It equally allows Hayek to argue that economic power is fundamentally non-coercive in nature:

Even if the threat of starvation to me and perhaps to my family impels me to accept a distasteful job at a very low wage, even if I am “at the mercy” of the only man willing to employ me, I am not coerced by him or anybody else. So long as the act that has placed me in my predicament is not aimed at making me do or not do specific things, so long as the intent of the act that harms me is not to make me serve another person’s ends, its effect on my freedom is not different from that of any natural calamity...

Hayek is not quite willing to deny that economic power can ever be coercive. A few rare instances of complete dependence provide opportunities for exercising capricious power over others: Hayek mentions the owner of the only spring during a drought, an employer in a period of acute unemployment, or a manager in a mining town where no other jobs are available. But such instances “would, at the worst, be rare exceptions in a prosperous competitive society.”¹⁸ And it is precisely the impersonality of economic relations that renders them non-coercive:

participants may end up exerting far-reaching power over the actions of others, but their *intention* is simply to do the best that they can for themselves, not to exercise power over any particular person. An employer's interests might require that there be some person in desperate straits willing to work for menial wages, but the specific identity of that person is purely incidental.

Much therefore comes to depend on the mental state of the coercer, understood as someone who consciously "manipulate[s] the conditions" around me, through actions "aimed at me personally," in ways that "maliciously" frustrate my aims.¹⁹ But although malicious intentions may be necessary, they cannot be sufficient, for not every attempt to coerce is successful. So what conditions allow us to say that the intended target has actually been coerced?

Coercion differs from brute physical force, Hayek makes clear, in that it involves choice and action. Yet it has a strange relationship to choice, for it requires that we choose while simultaneously not really choosing:

It is not that the coerced does not choose at all; if that were the case, we should not speak of his "acting."...Coercion implies, however, that I still choose but that my mind is made someone else's tool, because the alternatives before me have been so manipulated that the conduct that the coercer wants me to choose becomes for me the least painful one....Though the coerced will still do the best he can do for himself at any given moment, the only comprehensive design that his actions fit into is that of another mind.

Or, as he puts it elsewhere, coercion involves conditions being "so shaped by another person as to leave one only that choice prescribed by the other"; its evil is that it "eliminates an individual as a thinking and valuing person and makes him a bare tool in the achievement of the ends of another."²⁰

Hayek must walk a fine line here, for he can't allow that the mere restriction of choice constitutes coercion. To accept that freedom shrinks along with the options available to us would, he thinks, bring us back to a Hobbesian "identification of freedom with power," which could be

used to license wide-ranging intervention aimed at expanding the options available to individuals. “Whether or not I am my own master and can follow my own choice,” he insists, “and whether the possibilities from which I must choose are many or few are two entirely different questions.” Similarly, he wishes to differentiate coercion from mere “influence,” or the altering of incentives facing an actor, for conflating the two would once again render large portions of private life coercive: “We still call a man’s decision ‘free,’ though by the conditions we have created he is led to do what we want him to do, because these conditions do not uniquely determine his actions but merely make it more likely that anyone in his position will do what we approve.”²¹ If coercion for Hayek requires a physical act of choice, it also requires that the choice be “uniquely determined,” the options not merely paltry but literally reduced to one.

Why bother hanging onto the language of “choice” in such a situation? And what kind of situation can actually fulfill the criterion of unique determination? As critics pointed out, even the highwayman confronting us at gunpoint does leave us the options of compliance or death. Yet the logic of Hayek’s theory drives him toward such a criterion, whatever its difficulties, for only when coercion is understood as a choice that is simultaneously not a choice can he avoid the suggestion that vast numbers of “free” choices are nonetheless made in the shadow of coercive pressures.

So far, we’ve been treating Hayek as consistent with the broadly “Lockean” view of coercion. But there is one key respect in which he departs from this tradition, and which accounts for much of the criticism directed against him. While its adherents have insisted that coercion requires certain mental states (above all, the intention to coerce particular persons), they’ve also tended to identify coercion with a particular *means*: physical force or the threat thereof. Hayek,

by contrast, rejects any such identification, insisting that coercion “need not consist of any use of force or violence,” and similarly that “the threat of physical force is not the only way in which coercion can be exercised.”²²

In a way, Hayek’s refusal to identify coercion with force reflects some of his broader philosophical preoccupations — particularly the deep subjectivism that is a hallmark of the Austrian economic tradition. The equation of coercion and force depends on the notion that there is something brute and irreducible about bodily security, so that threats to it ineluctably determine our actions.²³ Yet Hayek and his fellow Austrians emphasized (in a conviction ultimately derived from Kant) that there are no brute facts, and that even the most basic sense-data are shaped by the creative power of the human mind. This was the root of Hayek’s critique of behaviorism; there can be no simple relationship of stimulus and response, he argued, for even the stimuli themselves depend on prior acts of interpretation.²⁴ Less abstractly: there is nothing unique about violence as a stimulus that mandates compliance as a response, for even “brute” violence is not truly brute. Coercion involves threatening consequences that are unpleasant enough to make compliance seem like the lesser evil, but precisely what these consequences consist of depends on the mentality of the intended target. The fear of physical harm is widespread enough that Hayek is willing to treat it as definitionally coercive, but other cases that don’t involve violence (such as blackmail) might be equally coercive.

Hayek’s departure here from the traditional “physical force” standard was one of the points that his critics seized upon.²⁵ They complained about the subjectivism inherent in this view, the implication that coercion is in the eye of the beholder. But they failed to grasp how deeply rooted this subjectivism was in Hayek’s thought and how necessary it was for his broader

purposes. His rejection of an invariable, objective standard of coercion is in its own way consistent with his rejection of similarly invariable and objective standards in other realms, like prices: just as he insists that there is no objectively “just price” aside from the one that actually gets paid, so there is no objectively coercive threat aside from the one that actually coerces.

Yet Hayek cannot fully come to grips with the implications of this subjectivism — at least not while preserving his desire to delimit coercion, to prevent it from appearing “an all-pervasive and unavoidable phenomenon.” He notes that to some degree, coercion might seem to permeate “all close relationships between men,” exercised even by such prosaic figures as “a morose husband, a nagging wife, or a hysterical mother.” But he cannot allow such examples to constitute morally significant forms of coercion, for the same reason that he cannot allow that everyday economic pressures are coercive; he similarly rejects John Stuart Mill’s belief that there is a “moral coercion” found in the pressure of public opinion.²⁶ In each case, to treat these forms as genuinely coercive would open the door to potentially extensive intrusion in private life by the state.

Thus Hayek attempts to limit the subjective element of coercion in various ways, none of them entirely satisfactory. He restricts it, for instance, to “coercion that is likely to affect the normal, average person,” thereby ruling out coercion on the basis of sheer psychological idiosyncrasy.²⁷ But how do we understand the normal and average person? A papal threat of excommunication might qualify as coercive if directed against a normal practicing Catholic, but not if directed against anyone else. So do we take the average person to be a Catholic? Does this depend on the time and place under consideration? Or are we considering whether such a threat

would coerce the average person if they *were* a Catholic? The “normal and average” proviso cannot fully restrain the variability of what might qualify as coercive.

Likewise, Hayek claims that a threat is only truly coercive if it jeopardizes what is “crucial to my existence or the preservation of what I most value.” A hostess who will only invite me to her party on the condition that I conform to a dress code is not coercing me, and neither is a merchant who will only sell me an item at a particular price. The owner of the only spring during a drought, however, who will only sell water at an extortionate price, is in fact acting coercively.²⁸ Yet Hayek’s critics pointed out how difficult it was to hold this line. Hamowy in particular pressed him: isn’t “the preservation of what I most value” an unacceptably subjective criterion? If I value social standing above all else, and failing to appear at the hostess’s party will jeopardize it, then doesn’t her demand to conform to the dress code carry coercive power? And what, on the other hand, entitles us to say that the owner of the spring is acting coercively? Hasn’t Hayek himself shown that there is no such thing as a just or reasonable price outside of what the market will bear? If so, how could we say that any price that the spring owner chooses to charge is coercive, even if the only alternative to paying it is dying of thirst? Isn’t it just another voluntary contract, not different in kind from the one that the poor laborer agrees to in the knowledge that they will otherwise starve?²⁹

Hayek was never able to answer this critique persuasively. In his reply to Hamowy, he maintains that there is some essential difference separating the drought example from the everyday ultimatums so ubiquitous to social life, but that “the exact distinction may be difficult to state.”³⁰ He wishes to argue that crisis situations, where people’s very lives are at stake, demand a suspension of the pursuit of self-interest — but he can’t quite pin down how to

separate such situations from normal economic life, much of which depends on the motivating force of the threat of starvation or immiseration. In Hayek's conviction that the spring owner is obliged not to extort those at his mercy, we can detect the remnant of an older tradition, some trace of a moral economy. But this wasn't a tradition that he could assimilate; on the contrary, in normal circumstances it was one that he devoted his efforts to overturning. The general impetus of his thought was to undercut any objective standard by which we might judge certain economic situations as unjust or coercive.³¹

Hobbes had suggested that where there is any physical capacity to act otherwise, there is always a choice, and that some meaningful form of freedom remains even in cases of extreme coercion. In that sense, freedom and coercion are mutually constitutive. Hayek instead understands freedom and coercion as mutually exclusive. But this requires him to draw the line between them somewhere within the realm of actions where we're capable of acting otherwise, and to insist that coercion only properly describes the choice that is no choice. His critics honed in on just how difficult these distinctions were to draw.

In attempting to show why the coerced choice is not really a choice, why it differs from the everyday choice of lesser evils so much as to be qualitatively different, Hayek shifts between two different registers. On a robust understanding of freedom, the term entails being one's "own master," so that coercion is an evil because it thwarts the individual's capacity to act according to a "coherent plan" or "comprehensive design" (terms that otherwise rarely carry positive connotations for Hayek).³² But this is to set the standard for freedom unfeasibly high, for our self-mastery and plans of life can be thwarted by any number of forces besides the intentional threats against particular persons that he wishes to delimit as coercion. If unfreedom simply

means being at the mercy of circumstance, unable to follow through on a comprehensive design, then it would come to seem tremendously widespread. Alternately, we could adopt a more minimal standard of freedom, in which someone chooses freely so long as “conditions do not uniquely determine his actions but merely make it more likely” that he’ll act in a certain way.³³ But this poses the opposite problem, making unfreedom negligible rather than ubiquitous, since we’ve seen that there is virtually no situation that meets the unique determination criterion while still remaining within the realm of choice at all. By one standard unfreedom is too widespread, by another too rare.

In later writings, Hayek criticizes the traditional distinction between “natural” and “artificial” phenomena, arguing that it elides the existence of “a distinct third class of phenomena,” those described by Adam Ferguson as “the result of human action but not of human design.”³⁴ The greatest achievements of civilization, he suggests, are created but not *intentionally* created by human action. But although Hayek stressed this point with regard to the positive side of unintended consequences, he rarely applied it to the negative side, the ways in which individual actions can ramify in unintended ways to increase human misery. His account of coercion, in particular, rests on the natural/artificial dichotomy in its most rigid form. Coercion is paradigmatically “artificial,” defined by its intentionality, the conscious manipulation of a particular person to subsume them into another’s comprehensive design. And when examining those phenomena that threaten or thwart us without being the intentional implementation of a single malicious plan, Hayek can only assimilate them to the laws of nature, the paradigmatically “natural.” Perhaps ironically, he has particular trouble accounting for those coercive forces that are the result of human action but not of human design.³⁵

The debate between Hayek and his critics was in many ways an intramural one, the two sides bound together by a set of shared premises. Both shared a conviction that the definition of coercion must be strictly delimited, so that it did not spill over into wide-ranging areas of private life. (And particularly economic life: the primary axis of debate was the critics' allegation, and Hayek's denial, that his theory would define many aspects of market relations as coercive.) Behind this conviction lay another, that coercion must always be illicit or at least morally suspect, only justifiable as a means of preventing still-greater coercion.³⁶

The disagreements stemmed largely from Hayek's tentative steps away from the standard view; he rejected its crudely mechanistic psychology, its insistence on the uniquely coercive status of physical force, and its identification of the interests susceptible to coercion with the mere security of body and property. His critics noted the destabilizing effect that these moves would have on the broader political program that all of them shared: once freed from its identification with brute force and material interests, there was no way to delimit coercion that was adequate to a robust defense of the market. In their own ways, both sides were right, Hayek about the conceptual flaws of the standard view and his critics about the political implications of abandoning it. Neither side was willing to entertain the main alternative: to view coercion as ubiquitous, not incompatible with freedom but rather entangled with it, in a relationship only given coherence by political life.

4.

Hayek never returned to the topic of coercion following his initial exchange with Hamowy. The most important twentieth-century elaboration of a broadly "Lockean" account of

economic life, however, would come in the following decade, with the 1974 publication of Robert Nozick's *Anarchy, State, and Utopia*.

Some notion of coercion is required by Nozick's theoretical apparatus, but in *Anarchy* itself the concept remains in the background. "Individuals have rights," the book famously begins, "and there are things no person or group may do to them (without violating their rights)." ³⁷ And yet the precise contours of these rights are only hazily sketched. Nozick is mostly content to assume a rather spare and intuitive account of rights, consisting largely of the security of person and property; he devotes the bulk of his philosophical labors to teasing out what the existence of these rights implies for the state.

There may be any number of rights constraining our actions, but Nozick suggests that most of them are matters for moral rather than political philosophy: "Political philosophy is concerned only with *certain* ways that persons may not use others; primarily, physically aggressing against them." And although he doesn't assume that physical harm is the only genuine form of harm — for "people also may fear being humiliated, shamed, disgraced, embarrassed, and so on," presumably legitimately — the machinery of his argument does proceed on an implicit understanding of harm that is quite traditional, consisting of force or the threat thereof against persons or property. Nor is Nozick especially concerned with the precise content of his principles of "justice in acquisition" and "justice in transfer"; his main concern is to show that any holdings meeting both of these conditions are themselves inviolably just. On this basis he arrives at his famous "entitlement theory" of justice, according to which a just distribution is nothing more than whatever actually arises from "capitalist acts between

consenting adults,” from the licit choices of individuals about what to do with their justly acquired holdings.³⁸

At various points in *Anarchy* Nozick gestures at issues related to coercion, but typically in ways that raise more questions than they resolve. At one point, for instance, he draws a distinction between “productive” and “unproductive” exchange, attempting to show that some forms of profitable market exchange nonetheless remain unproductive and undesirable.³⁹ Yet the precise distinction is slippery and heavily psychological. Thus if my neighbor genuinely wants to build an ugly structure on her property and I pay her not to, Nozick argues, the exchange is productive, whereas if she’s only *claiming* to want to build the structure in order to elicit payment, the exchange is unproductive. Can the distinction really rest on such a murky psychological datum?⁴⁰ Nozick invokes it to show why practices like blackmail are illegitimate (here opposing Murray Rothbard, whom we’ve already seen critiquing Hayek for deviating from the “physical force” view of coercion) but it’s not clear that his theory provides resources for such judgments.

Elsewhere, Nozick notes that the “Lockean proviso” — that in appropriating property we leave “enough and as good left over” for others — would prohibit someone from hoarding all the world’s drinkable water. “More weakly, and messily,” he adds in passing, “it may exclude his charging certain prices for some of his supply.”⁴¹ We recall that the water monopolist charging extortionate prices was also one of Hayek’s rare examples of economic coercion. But like Hayek, Nozick never specifies what makes such a situation exceptional and what precise limits it imposes.

The most striking passage on these themes in *Anarchy* is its odd discussion of voluntary exchange. Like Hayek, Nozick argues that only the actions of other people, rather than “facts of nature,” can render an exchange involuntary in a morally relevant sense. Yet he also suggests that not all human actions count as genuine constraints; only *illicit* actions can render an action involuntary. When other people’s actions limit someone’s opportunities, “[w]hether this makes one’s resulting action non-voluntary depends upon whether these others had the right to act as they did.” He draws out the point with reference to market exchanges between workers and capitalists:

Z is faced with working or starving; the choices and actions of all other persons do not add up to providing *Z* with some other option....Does *Z* choose to work voluntarily?...*Z* does choose voluntarily if the other individuals *A* through *Y* each acted voluntarily and within their rights. We then have to ask the question about the others. We ask it up the line until we reach *A*, or *A* and *B*, who chose to act in certain ways thereby shaping the external choice environment in which *C* chose.⁴²

And so the threat of starvation doesn’t exert any coercive force provided that all other parties behaved permissibly.

The strangeness of the argument results from Nozick’s framing it around “voluntary” and “involuntary” (rather than, say, “licit” and “illicit”) action. On this account, if the robbery victim who hands over their wallet at gunpoint acts involuntarily, it’s not because of the nature of the threat itself, but only because the robber had no right to impose such a constraint. Thus if the robber is subsequently confronted at gunpoint by a police officer and hands the wallet back over, this might appear to represent a voluntary exchange, so long as we think the officer was right to act as they did. (If, on the other hand, we think that the robber was right to despoil the property-owner of their ill-gotten gains, and the officer was wrong to enforce the dictates of the capitalist legal order, then perhaps the first exchange becomes voluntary and the second involuntary.) Rather than litigating all these antecedent questions of right before deciding whether a loaded

gun counts as a genuinely coercive constraint, it seems more plausible to say that both of the exchanges are voluntary or involuntary to the same degree, and that the relevant distinction must revolve around when such pressures are *legitimate* rather than when they're *coercive*.

Nor is the process that Nozick outlines — in which we investigate the legitimacy of A's actions as a prerequisite for B's, then B's as a prerequisite for C's, down the line to Z — nearly so straightforward as he suggests. Under any economic system characterized by vast and impersonal networks of interdependent actors, the relevant set of antecedent actors will consist of millions or billions of people, stretching back generations into the distant past. Given the extreme unlikelihood (or rather, historical impossibility) that all of these actions were licit, what does any one illicit action somewhere along the chain imply for the voluntariness of Z's action? What do a thousand illicit actions imply? If voluntary exchange requires that all other antecedent actors behaved within their rights, then it will come to seem basically non-existent. Nozick offers interesting asides about the rectification of past injustice, but he nonetheless implies that such rectification would be a discrete and limited process.⁴³ His discussion of voluntary exchange does little to justify such confidence.

If *Anarchy* itself never squarely addresses the problem of coercion, this reflects the fact that Nozick had examined the topic at length five years earlier in his essay "Coercion," which initiated the subsequent philosophical literature on the subject. The book cites the essay and implies that Nozick continues to assume it as a foundation,⁴⁴ and in a sense it might appear a necessary piece of ground-clearing: by dispensing with the problem of objectionable (coerced) acquisition, he can focus in *Anarchy* on the forms of unobjectionable acquisition that underlie his entitlement theory of justice. What then is the theory of coercion found in the 1969 essay?

Nozick's style makes it hard to give a straightforward answer: as usual, he tends to probe hard cases and throw out questions for further thought rather than provide a linear and definitive account. There are nonetheless a few things to be said. First, Nozick aims to give a formal account of coercion that grounds it in subjective preferences rather than any concrete identification of coercion with a particular means. He rejects the identification of coercion and violence (although his immediate point is that not all violence involves coercion rather than vice versa), and gives examples of coercion that don't involve the threat of physical harm.⁴⁵

Yet although Nozick's account is to that extent subjectivist, he is equally concerned to delimit the concept of coercion. He mentions the view (attributed to Hale and Christian Bay) that "every employer coerces his employees, every employee his employers...every seller of an object coerces his customers...and every customer the person from whom he buys." But he brusquely dismisses it: "It seems clear that normally these aren't cases of coercion." The key move underlying Nozick's rejection of this view is his rehabilitation of the distinction (which Hale himself had rejected) between "threats" and "offers." And he initially draws the distinction as follows:

As a first formulation, let us say that whether someone makes a threat against Q's doing an action or an offer to Q to do the action depends on how the consequence he says he will bring about changes the consequences of Q's action from what they would have been in the normal or natural or expected course of events. If it makes the consequences of Q's action worse than they would have been in the normal and expected course of events, it is a threat; if it makes the consequences better, it is an offer.

Before turning to more ambiguous cases, he gives a paradigmatic example of a (coercive) threat rather than a (non-coercive) offer: "P is Q's usual supplier of drugs, and today when he comes to Q he says that he will not sell them to Q, as he normally does, for \$20, but rather will give them to Q if and only if Q beats up a certain person."⁴⁶

The example is shrewdly chosen, for it has several features that seemingly differentiate it from a normal market transaction. For one thing, the drug dealer's product is addictive, and thus the threat to withhold it has graver consequences than would be the case with a typical commodity; we might imagine that the addict realistically has no choice but to do whatever is necessary to procure it. For another, the transaction stands outside the usual legal order underpinning the market. The product itself is illegal; more importantly, so is the service demanded in return. The entire situation carries a whiff of violence, even if the target is being coerced into committing violence rather than coerced with the threat of violence. This paradigmatic case of coercion therefore appears quite different from everyday economic transactions.

Yet the apparent peculiarities of the situation are deceptive. The fact that the product is addictive cannot be relevant on a subjectivist account, the point of which is to take the consumer's preferences as given and not pass judgement on them. What matters is simply the intensity of the preference rather than its origin — how much the consumer is willing to pay, not whether this willingness stems from genuine need, passing fancy, or pathology. Indeed, the thrust of the subjectivist approach has been to eliminate any standard by which some consumption goods could be treated as sitting outside the logic of the market. The attack on older moral economies historically centered on products — staple foods — that are in their own way more “addictive” than any drug.

Likewise, the illegality of both the drug dealer's product and the service he demands in return cannot, on Nozick's premises, be relevant to whether his demand represents a coercive threat. What makes his demand a threat is not its content, but simply the fact that it makes the

addict's situation worse than it was under the "normal" course of events — what Nozick later calls the "presituation"⁴⁷ — in which the price of the drug was \$20 rather than beating someone up. And this means that the coercive or non-coercive nature of the demand depends on the psychology of the target: if the addict would *prefer* committing assault to paying \$20, then the drug dealer's bargain becomes an "offer" rather than a threat. We can see this more clearly if we remove the distracting and ultimately irrelevant demand for violence from the equation and reframe the example in terms of prices. If the drug dealer announces that he'll only sell to the addict for \$50 (rather than the "normal and expected" \$20), this must (by Nozick's logic) represent a coercive threat in precisely the same way that the demand to beat someone up does.

But now we can see how slippery the line between threat and offer is. If the drug dealer raising the price from \$20 to \$50 represents a coercive threat, then how can we avoid drawing a similar conclusion about all the everyday economic maneuvering that obeys the same logic? It would seem that any price raise could be interpreted as a threat against buyers, just as any consumer's refusal to buy without a price reduction could be interpreted as a threat against the seller. Yet from another angle, none of these maneuvers represent threats — the drug dealer's very much included — due to the ambiguity of Nozick's notion of the "normal" or "expected" baseline.

This will become clear if we give the drug dealer the chance to speak for himself. Suppose that he defends himself as follows: "You claim my demands are coercive because they depart from the 'normal and expected course of events,' in which the price of the drug was \$20. But how could you possibly say that any fixed price represents the normal course of events? I know a little economics; the only normal course is that buyers and sellers will secure the most

favorable terms for themselves given the conditions of supply and demand. Before, that meant a price of \$20; now it means a price of \$50. (And frankly, it doesn't matter whether the new price reflects 'real' changes affecting my costs, or just the fact that I know I can get you to pay it; to say that the first would be 'fair' and the latter 'unfair' is an old superstition that has nothing to do with economics.) You, by asking that I settle for a price lower than what the market would bear, are the one who's really demanding a departure from the normal course of events — I'd even call that a threat!" On subjectivist premises, it's not clear that he's wrong.

The difficulty facing Nozick's theory — and perhaps any theory attempting to reconcile a strict distinction between coercive threats and non-coercive offers with a subjectivist vision of market exchange — is its reliance on a notion of the "normal and expected" baseline applied to an inherently fluid and dynamic market process. To treat any given price as a static baseline might make sense within a very different intellectual framework — one, for instance, in which custom serves as a check on unrestrained self-interest. But this sort of vision was one for which Nozick had no sympathy.⁴⁸ As a result the static "presituation" that he uses to differentiate outright coercion from everyday self-seeking is out of place within the general architecture of his theory, and seems to dissolve when viewed in light of his other premises.

We could conclude from this that no form of self-seeking within market rules is coercive. But if we wish, as Nozick does, to hold onto the thought that demands like the drug dealer's ultimatum are indeed coercive, we are instead likely to gravitate toward something like the vision he rejects: one in which coercion is the medium of economic life, and the relevant distinction is not between coerced and purely voluntary action but between permissible and impermissible forms of coercion.

5.

To say that neither Hayek nor Nozick succeeded in squaring their theories of coercion with their subjectivist defenses of market outcomes is not to say that the task must be impossible. Still, I suspect that these difficulties are inherent to any attempt to combine a subjectivist account of economic life with an understanding of coercion as a limited and aberrational phenomenon. To borrow a metaphor from Max Weber, subjectivism isn't a taxi that can be halted on command: it doesn't topple the pillars of older moral economies while leaving those of classical liberalism untouched. And so any genuine attempt to work out its implications for the problem of freedom and coercion in the market is likely to arrive at some discomfiting conclusions. Perhaps a consistently subjectivist theory would look less like Hayek and more like Hobbes.

¹ E.P. Thompson, “The Moral Economy of the English Crowd in the Eighteenth Century,” *Past and Present* 50:1 (1971).

² The impermissibility of fraud, however, follows less easily from subjectivist premises than the impermissibility of force. See especially James W. Child, “Can Libertarianism Sustain a Fraud Standard?,” *Ethics* 104:4 (1994).

³ In keeping with a common distinction (and one drawn by both of the subjects of this essay), I take “coerced” action to differ from “forced” action in that it involves some minimal physical agency. A situation in which we are simply overpowered and lack any capacity to affect the result would be forced rather than coerced; a coerced action is one in which we choose a lesser evil for fear of a greater one, even if the greater evil is so compelling that the situation may not feel like a choice at all.

⁴ See Daniel Luban, “Pride and Order” (PhD dissertation, University of Chicago, 2016), Ch. 4.

⁵ Thomas Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge: Cambridge University Press, 1996 [1651]), 146.

⁶ John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1998 [1689]), 270-71, 280.

⁷ Karl Marx, *Capital, Vol. I*, trans. Ben Fowkes (New York: Penguin, 1990 [1867]), 171.

⁸ Robert Hale, “Coercion and Distribution in a Supposedly Non-Coercive State,” *Political Science Quarterly* 38:3 (1923), 472-73, 477, 474.

⁹ Hale, “Coercion and Distribution,” 478. For a broadly similar view, see Max Weber, “Freedom and Coercion,” in *Economy and Society*, ed. Guenther Roth and Claus Wittich, 2 vols (Berkeley: University of California Press, 1978 [1922]), II, 729-31. (Although Weber’s work appeared posthumously in German the year before Hale’s essay, I am unaware of any direct influence.)

¹⁰ Barbara H. Fried, *The Progressive Assault on Laissez Faire* (Cambridge: Harvard University Press, 1998), the best study of Hale’s thought and intellectual milieu.

¹¹ Both cite Hale’s theory of coercion explicitly and unfavorably. See F.A. Hayek, *The Constitution of Liberty*, ed. Ronald Hamowy (Chicago: University of Chicago Press, 2011 [1960]), 206n; Robert Nozick, “Coercion,” in Sidney Morgenbesser, Patrick Suppes, and Morton White (eds.), *Philosophy, Science, and Method* (New York: St. Martin’s Press, 1969), 447. For a more extended attack, see Ludwig von Mises, “Freedom is Slavery,” *The Freeman* (March 9, 1953).

¹² Hamowy’s initial critique was “Hayek’s Concept of Freedom,” *New Individualist Review* 1:1 (1961), to which Hayek replied in “Freedom and Coercion,” *New Individualist Review* 1:2 (1961). Hamowy would later reiterate his argument in “Freedom and the Rule of Law in F.A. Hayek,” *Il Politico* 36:2 (1971), and “Law and the Liberal Society,” *Journal of Libertarian Studies* 2:4 (1978). Other noteworthy critiques included Raymond Aron, “La définition libérale de la liberté,” *Archives européennes de sociologie* 2:2 (1961); J.M.W. Watkins, “Philosophy,” in Arthur Seldon (ed.), *Agenda for a Free Society* (London: Routledge, 1961), 31-49; Murray Rothbard, *The Ethics of Liberty* (Atlantic Highlands, NJ: Humanities Press, 1982), Ch. 28.

¹³ *Constitution*, 60-61. Hayek makes clear that Hobbes is a particular target here (*Constitution*, 66).

¹⁴ *Constitution*, 200.

¹⁵ *Constitution*, 57, 206.

¹⁶ *Constitution*, 210, original emphasis.

¹⁷ *Constitution*, 221. This view has also been central to more recent neorepublican theory; see, e.g., Philip Pettit, “Freedom in the Market,” *Philosophy, Politics, and Economics* 5:2 (2006). On its limitations, see Daniel Luban, “In Marx’s Republic,” *The Nation* (April/May 2018).

¹⁸ *Constitution*, 203-4.

¹⁹ *Constitution*, 61, 210, 200.

²⁰ *Constitution*, 199-201, 71.

²¹ *Constitution*, 65, 68, 138n.

²² *Constitution*, 205, 202.

²³ Why this supposedly ineluctable character of threats to the body would also extend to include external property is less clear.

²⁴ For Hayek's critique of behaviorism see *The Sensory Order* (Chicago: University of Chicago Press, 1952), 25-30; *The Counter-Revolution of Science* (Glencoe, IL: The Free Press, 1955), 44-52. See also John Gray, *Hayek on Liberty* (London: Routledge, 1998), 4-7; Bruce Caldwell, *Hayek's Challenge* (Chicago: University of Chicago Press, 2004), 270-77.

²⁵ Hamowy, "Law and the Liberal Society," 288-89; Rothbard, *The Ethics of Liberty*, Ch. 28.

²⁶ *Constitution*, 205, 214. Hayek is sometimes willing to adopt a less stringent criterion when it suits his political purposes; in attacking labor unions, for instance, he insists that "even so-called 'peaceful' picketing in numbers is severely coercive" (*Constitution*, 393).

²⁷ *Constitution*, 205.

²⁸ *Constitution*, 203.

²⁹ Hamowy, "Hayek's Concept of Freedom," 29.

³⁰ "Freedom and Coercion," 29.

³¹ The vacuity of all notions of "social" or "distributive" justice, and the general inapplicability of moral concepts to economic outcomes, was a constant theme of Hayek's writings. See especially *Constitution*, 156-64; *Law, Legislation, and Liberty, Vol. II: The Mirage of Social Justice* (Chicago: University of Chicago Press, 1976), 67-78.

³² *Constitution*, 68, 201. Strikingly, despite his general insistence that employment contracts are entirely compatible with freedom, Hayek here seems to identify unfreedom with subordination within an organization, writing that the "poor peasant or artisan" is freer than the "general in charge of an army or the director of a large construction project" (68).

³³ *Constitution*, 138n.

³⁴ *Law, Legislation, and Liberty, Vol. I: Rules and Order* (Chicago: University of Chicago Press, 1973), 20-22. On this theme in Hayek, see also Daniel Luban, "What Is Spontaneous Order?," *American Political Science Review* 114:1 (2020).

³⁵ A point made by Watkins, "Philosophy," 44-45.

³⁶ Although for Hayek's occasional ambiguity on this question, see Chandran Kukathas, *Hayek and Modern Liberalism* (Oxford: Oxford University Press, 1989), 149-51.

³⁷ Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 2013 [1974]), xix.

³⁸ *Anarchy*, 32 (original emphasis), 70, 163.

³⁹ *Anarchy*, 84-87.

⁴⁰ As well as an ambiguous one: what if she has a mild preference to build the structure, but a stronger preference to be paid not to? And are her desires or her intentions the relevant criterion? (She might want to be bought off, but still intend to build the structure in the absence of payment to lend credibility to future threats.)

⁴¹ *Anarchy*, 179.

⁴² *Anarchy*, 263-64.

⁴³ See especially *Anarchy*, 231: “Although to introduce socialism as the punishment for our sins would be to go too far, past injustices might be so great as to make necessary in the short run a more extensive state in order to rectify them.”

⁴⁴ See his reference to the essay at *Anarchy*, 345n.

⁴⁵ “Coercion,” 444-45.

⁴⁶ “Coercion,” 447. The distinction between threats and offers has remained central to much subsequent scholarship on coercion; this work has sometimes complicated the distinction, but not in the ways I suggest here. For one influential example, see Hillel Steiner, “Individual Liberty,” *Proceedings of the Aristotelian Society* 75:1 (1975).

⁴⁷ “Coercion,” 461.

⁴⁸ For Nozick’s attacks on the notion of “just prices,” see *Anarchy*, 64, 84. In a sense his attempt to refute “patterned” conceptions of justice in general reflected a systematic attack on any notion of a moral economy.