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COERCION

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A thesis submitted for the degree of Doctor of Philosophy (Ph.D.)

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ABSTRACT

In difficult times, political, social or economic, it is usually the case that opportunities for politicians, bureaucrats and men of power to exploit their fellow men and to threaten their liberties increase. No apology, therefore, is required to justify a re-examination of the nature of coercion, and the moral grounds, if any, for its justification. These two concerns constitute the scope of this thesis.

A number of approaches are used to examine the concept of coercion and issues relating to it. These include conceptual analysis, a historical and comparative survey and evaluation of selected relevant idealist theories of freedom, a meta-ethical analysis of the logical structure of moral judgments and the origin and justification of moral principles, and a normative analysis of the bases upon which coercion might be justified in particular cases in the light of established and agreed basic moral principles. Philosophizing, which is not just analytic but prescriptive too, should not be limited to metaphysical reasoning but grounded firmly in the empirical.

The first two chapters comprise a linguistic analysis of the concept of coercion. In Chapter 1 R.F. Nozick's excessively refined concept of coercion is supplemented by the notion of coercion posited in this thesis. Whereas Nozick intentionally limits the notion of coercion to a reactive relation between two individuals thereby stressing the cause of individual liberty, it is proposed in this thesis that institutions representing the collective will of individuals may also properly be regarded as agents capable of coercing and being coerced. Additionally, it is proposed that coercion be not confined to coercion by threat, as Nozick supposes, where the individual is left with a choice of sorts, but also include coercion by irresistible physical and/or psychological force which leaves little if any choice to the victim at all.

In Chapter 2 a variety of concepts relating to coercion in the context of getting a person to do or not to do something or other are analysed, and the conditions necessary for the two kinds of coercion suggested in this thesis are stipulated: coercion by threat and coercion by irresistible force.

In Chapter 3 the notion of justification is introduced; the notion of coercion as the antithesis of freedom is examined; the assumed presumption in favour of freedom, which requires that coercion be justified, is explained; and negative, positive/idealist and commonsensical interpretations of the notion of social freedom are analysed. The relation of coercion to free will is noted and free will in the form of personal freedom of choice, assuming men may responsibly and dutifully choose to do things that their desires may not necessarily prompt or cause them to do, is recognised as a necessary condition in both agents in a coercive relationship. But the metaphysics of free will is not explored in detail.

In Chapter 4 selected idealist theories of freedom principally from Rousseau, Hegel and Marx are compared and evaluated in the context of what might appear to be the paradoxical claim that individuals may be coerced to be free. An analysis of Christian or other theological or divine metaphysical theories as instruments of coercion in this context is noted but is not pursued in detail. The notion of personal autonomy is considered and it is suggested that on all counts, including Kantian and existentialist views of autonomy, it presents a logical barrier or limit to the extent to which the assertion may be made that a person can be forced to be free.

In Chapter 5 a variety of suppositions or claims of what coercion might do are eliminated on empirical and/or logical grounds, and it is argued that individuals cannot be successfully coerced to know, understand, believe, love or be moral, though it is conceded that

coercive interference might be conducive to the development of such ends. Additionally, the logical possibility of a person being able to coerce himself is questioned.

In Chapter 6, in which the discussion of limits to the use of coercion is continued, the investigation returns to a consideration, in normative terms, of grounds for the justified use of coercion. J.S. Mill's essays 'On Liberty' and 'Utilitarianism' are taken as starting points. Using the principle of utility Mill seeks reasons to justify the use of coercion in order to establish circumstances in which the use of coercion in fact cannot be justified. The latter circumstances are his main concern. It is argued that Mill's difficulties indicate the inadequacy of utilitarianism as a basis for a definitive moral theory of justification, for he is obliged to resort to deontological arguments and to invoke in addition the basic moral principle of respect for persons.

It is argued that coercion cannot be regarded, as some would wish, as a morally neutral concept. Moreover, at no level of ethical reasoning is there an apparently adequate philosophical theory of justification which in itself is absolute and sufficient. It is therefore proposed finally in Chapter 7 that a pluralistic approach is required in the quest for a satisfactory basis for the moral justification of coercion. The schema of justification suggested rejects naturalism and the non-naturalistic, epistemological theory of intuitionism in favour of transcendental arguments from which, it is claimed, basic and ultimate moral principles may be derived and justified. This kind of reasoning follows the initiative set by Kant in his Critical Philosophy and is currently expressed in the presupposition theories of contemporary philosophers as A.P. Griffiths, R.S. Peters, R.S. Downie and E. Telfer.

It is further argued that ultimate moral principles, and subsidiary principles and values derived from them, require substance and content



and must be applied to particular circumstances in everyday life if the activity of philosophizing is to be related to practice. This inevitably re-enforces the opportunity for moral disagreement, but is in accord with a persistent empiricist tradition in philosophy evident in Aristotelian and Greek ethical theory, in Mill, and currently exemplified in the ethical theories of philosophers like J. Rawls and R.F. Nozick.

Within the context of stipulated ultimate moral principles, three areas are proposed in which it is claimed the use of coercion by the state may be justified, namely, in the promotion of the welfare of others, in the preservation of supposed shared values of society, and for the good of the individual himself. A distinction is made between the interpretation of basic moral principles in the domains of public and private morality, but it is submitted that where the two clash the latter must prevail lest the use of coercion be abused, to the detriment of individual freedom.

CHAPTER 1

## R. F. Nozick's Concept of Coercion

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Coercion is regarded as a particular form of constraint on a person's freedom. It is also regarded as providing a reason for or a cause of action. In both cases an element of compulsion is involved when for instance one person is compelled by another to do or not to do a particular thing. Because the notion of coercion is closely related to the notion of freedom and frequently presented as its antithesis, it has acquired an unpleasant connotation and is often used in a pejorative sense as representing something to be avoided if possible rather than encouraged. This seems to represent the sum total of agreement regarding the notion of coercion. Philosophers differ in their views regarding its nature and consequently in their views with regard to the grounds upon which it may be justified.

This disagreement, it is suggested, centres around two principal issues, (i) the nature of the agents of coercion or who may coerce and be coerced, and (ii) whether the notion of coercion is limited to cases of coercion by threat or whether coercion by force in a more compelling sense may be included.

In the first case some including R. Nozick take the view that coercion involves essentially an interpersonal interaction between two individuals where P (an individual) coerces Q (an individual) to do or not to do a particular act A. This, it will be argued, represents too narrow a view for there is a case for recognising, as capable of coercing and being coerced, agents which may be seen to represent the collective or agreed will of a group of individuals together. Such agents may be of two kinds, institutionalised groups of individuals of an informal and formal nature, or, institutionalised man-made rule-systems which regulate human behaviour like the law of the land, the prevailing moral code, established customs, traditions, ideologies and public opinion.

In the second case there are those who again like Nozick seeking a too refined notion of coercion argue that the central core concept of coercion rests upon the notion of threat leaving the coercee with a reluctant choice between two undesirable alternatives. This too it will be argued represents an unduly narrow interpretation centred upon the notion of choice and excludes the possibility of force itself being regarded as coercive, as when the coercee is left with no choice at all when, for example, P detains Q forcibly in a locked room and prevents Q against his will from enjoying his freedom.

Since Nozick's study of coercion represents in each case what has been referred to as the narrow point of view with regard to the two main issues of disagreement we have distinguished, it is taken as a starting point for discussion, providing a platform for an argument in favour of a wider interpretation of the notion of coercion. Some implications of Nozick's analysis will be considered and three kinds of coercion provisionally distinguished, namely, coercion by threat, coercion by irresistible threat, and coercion by force.

In Chapter 2 the notion of coercion will be compared to related concepts in the context of getting people to do or not to do something or other in order to clarify what are taken to be the basic, necessary conditions for all three forms of coercion distinguished, namely, that the coercer should intend harm to the coercee, that there should be a clash of wills between the coercer and coercee, that the coercee should be aware of what is happening to him, that a degree of compulsion amounting to force should be executed by the coercer on the coercee, that the coercee should comply to the coercer's desires. The infliction of harm, it is argued, in itself is not necessarily coercive, and the notion of choice only serves to distinguish coercion of a particular kind. Finally, the three kinds of coercion are reduced to two, coercion by threat and coercion by force, and the conditions for each stipulated.

R. Nozick<sup>1</sup> proposes certain conditions representing what he calls the central core of the concept coercion which he says he has formulated from a consideration of what H.L.A. Hart and A.M. Honore have to say on the notion of getting someone to do something in their book on 'Causation in The Law' and from Hart's brief discussion of coercion in the 'Concept of Law'. These conditions are as follows:

P a person coerces Q a person into not doing act A if and only if

- (1) P threatens to do something if Q does A (and P knows he is making this threat)
- (2) this threat renders Q's doing of A substantially less eligible as a course of conduct than not doing A
- (3) P makes this threat in order to get Q not to do A with the intention that Q realizes he is being threatened by P
- (4) Q does not do A
- (5) P's words or deeds are part of Q's reasons for not doing A.

But Nozick does not consider these conditions to be sufficient and suggests two further conditions<sup>2</sup> which are intended to sharpen the concept and to eliminate misunderstandings between P and Q.

- (6) That Q knows that P has threatened to do the something in (1) if he Q does A.

This condition is considered necessary in order to exclude cases where Q may take a threat from P as a warning as regards what might or could happen not realising that P can and does intend to make it happen if Q does not do as P intends. Such would be the case says Nozick when P threatens Q saying that if Q performs a certain action a rock will fall on him and P thinks Q knows of his (P's) infamous procedure for murdering people but in fact Q just thinks P is referring to some strange natural law that holds independently of human action namely that whenever someone pursues this particular action he gets killed by a rock. A simpler example perhaps would be when a teacher P threatens a pupil Q with failure should he continue to write essays in a

particular style believing that Q is aware of his (P's) position as examiner and of his habit of failing students for this fault whereas Q is unaware of this fact and simply sees P's intended threat as a warning.

- (7) Q believes and P believes that Q believes that P's threatened consequence (and not some circumstances attendant upon the making of the threat) constitutes Q's reasons for not doing A and would leave Q worse off having done A than if Q didn't do A and P didn't bring about the consequence.

This condition is considered necessary in order to exclude cases in which, unknown to P, Q does not do A not because of the threat itself which Q does not mind but because of additional consequences that P's threat has revealed. P for example might be upset if Q does A and Q might not wish to hurt P's feelings out of affection for him. So, for example, Q the pupil might alter his style of essay writing not because he minds whether he Q passes his examinations or not, it being unimportant to him, but simply out of affection or respect for his teacher P, not wishing that is to displease the teacher or to challenge his position. Of course an alternative argument in cases of this kind might be that there is no clash of wills between P and Q for in effect Q wants, for reasons of his own unknown to P, to co-operate with and help P and therefore P cannot be said to be coercing Q nor does Q feel coerced by P.

These seven conditions says Nozick are necessary and sufficient and constitute the central core of the concept coercion which in effect seems to hinge on three basic assumptions namely, the existence of an interpersonal relationship between two individuals in which each understands the outward apparent intentions of the other as affecting himself, the notion of threat grounded in the idea of the coercee having a choice, success in so far as the coercee acts as desired. But Nozick recognises that the seven conditions represent a narrow and refined notion of coercion and suggests two ways in which the concept may be widened to include what he calls non-central cases of coercion for example by (i) widening the notion of threat and by (ii) including cases of indirect coercion in which for example Q the coercee is

coerced not to do or to do an action not specified by P the coercer in order that he Q will not do or do some other action that is specified by P.

Although it is the intention to argue that these extensions are inadequate because they do not widen the concept of coercion sufficiently it is proposed first to consider the notion of threat which is central to Nozick's idea of coercion together with the two extensions he suggests before considering more fully the possibility of widening the concept to include (i) agents other than individuals and (ii) the idea of coercion by force of a more direct kind than that implied by a threat on the grounds that force itself may impose upon another's will just as a threat might and so be a means of coercing him.

A threat presupposes that the coercer P has the power to harm Q the coercee in some way so that Q's position would be worse should P carry out his threat and that Q acts or does not act in order to avoid this happening that is to preserve his original position which is more favourable to him. Adults in charge of young people constantly resort to such devices. Parents and teachers threaten their charges in a variety of ways, with the withdrawal of anticipated privileges, the imposition of some unpleasant event, the deprivation of normally expected rewards enjoyments and rights. A parent might threaten to decrease his child's pocket money and a teacher to withdraw his goodwill and support which a pupil may be depending upon in his search for employment.

It is common practice for those in authority to back up their requests and orders with threats. But orders and commands are not to be confused with threats in so far as they presume that the person commanding has some right to be obeyed by virtue of his position of authority as for instance does the schoolmaster, an officer in the services or a parent. It is only when the recipient resents and objects to doing as he is commanded, that is when he no longer recognises the legitimacy of the commander's authority and only obeys out of fear, that he is coerced.

Similarly, posing a threat must be distinguished from coercion in so far

as it may only amount to a case of intimidation or an attempt to frighten whereas coercion implies that the threat is acted upon and is intended. An incompetent surgeon for example may pose a threat to his patients but it is not likely that he could be conceived through his incompetence as intending to threaten them. Threats are conditional that is to say they are not executed so long as the coerced conforms to the coercer's request.

To be effective a threat must be communicated and this may be achieved in a number of ways, by acts and gestures as well as the spoken word. In the latter case a variety of expressions not literally threatening may become so depending upon the tone of voice or manner in which they are spoken and the implication conveyed. A threat may take the form of a suggestion, 'If you want to be successful, do as I say', or a plea, 'Do as I say please (or else)', or a question, 'Will you do as I say or shall I decide for you?' Sometimes a threat is concealed in the form of information as when a weary mother or tutor tells her charge she is not feeling very well and is not in the mood to suffer tantrums so implying her intention to punish any misbehaviour that might infringe her tranquility.

Similarly, so long as the threat is communicated it may be embodied in an act or gesture. A teacher for example might place the instrument of correct belt or cane, ostentatiously in a prominent position on her desk or again the local bully noted for his aggression might assert his point of view by the simple gesture of pretending to remove his coat when he appears to be getting the worse of the argument. An act or gesture intimating a threat of intended harm will suffice in such cases in place of words. This is particularly so in cases where violence is threatened. Imagine for example that members of a street gang capture a member of a rival gang and ask him where his gang's weapons are hidden. He refuses to tell and they beat him. They ask again, he refuses, and again they beat him. Eventually he tells and, says Nozick, is coerced even though his captors did not say 'If you don't tell us we will continue to beat you up or perhaps eventually do something worse'. In this case the infliction of violence was well understood by all parties to imply the threat of further violence if there was no compliance with the coercers' wishes.



The notion of threat in Nozick's analysis presupposes the involvement of a compelling agent of a particular kind, of a coercer P who is an individual with the rational capacity to think, judge and intend. Naturally this rules out the possibility of agents without these abilities such as human beings who for one reason or another are deemed incapable of making rational and responsible decisions and animals such as the mouse which may compel a woman in fear to leap on a chair but does not coerce her. It also excludes compelling agents of a circumstantial and inanimate kind such as accidents and events, acts of God, changes in the weather and so on. In all these cases a person may be compelled through fear to do what he does not want to do but the compulsion is causally induced without the aid of human intention. Nozick offers an appropriate example: <sup>3</sup> Q walks into a room and unknown to him there is a tape-recorder in the next room playing part of the soundtrack of a movie. Q hears 'Put all your money on the table and then leave or I'll kill you'. Q puts his money on the table and leaves. Q is not coerced for as Nozick observes there is no plausible person to consider as a coercing agent.

If there is no intention therefore there is no threat and coercion is not present. And this rule presumably would apply in cases where a rational human being did not intend the consequences of his act or words or where the consequences were so remote as to bear no rational or logical relationship to his act or words. Two examples may illustrate these points respectively:

(i) A gatekeeper at a factory who allows his guard dog to exercise in part of the factory grounds because there is no available space elsewhere cannot be said to coerce employees who are deterred from making a short cut to and from their work because of the dog for there is no intent to cause harm on the gatekeeper's part. If however he was just a disagreeable old man who simply let loose his dog to deliberately annoy and to inconvenience the workers and to deter them from using his particular gate he could be said to have coerced them for this was his specific intent.

(ii) A schoolmaster threatens a boy with disciplinary action if he persists in walking across a particular lawn in order to take a short cut between lessons. The boy annoyed by the stupidity of the rule and in anger throws a brick

through the headmaster's window. It cannot be said in this case that the schoolmaster coerced the boy to break the window for the boy's act is only remotely related to the schoolmaster's threat and cannot be taken to have been a reasonable consequence of it.

Two further qualifications must be made in relation to the intention of the coercer. Firstly, it need not be necessary that P the coercer should intend to carry out his threat. He may for example be just bluffing. But it is necessary that P convinces Q the coerced that he P does intend to carry out his threat and that P believes that Q believes that he P will so execute his threat. If Q falls for the bluff then P's intent to influence Q's action has succeeded and Q is coerced.<sup>4</sup> This is what is likely to happen in cases of blackmail when for instance P threatens to reveal details of Q's shady past and Q is influenced by the threat though, unknown to Q, P has no intention of revealing the information. Bluffing is a fact of life and in one of its more acceptable forms is an acknowledged means by which those in charge of young people seek to direct the latter's energies in a paternalistic way towards desirable courses of action and to discourage their interests in other less desirable pursuits. Secondly, P the coercer need not intend that Q should do the act demanded but it is sufficient if Q believes it is P's intention and P knows that Q believes this. In certain institutions for example in schools there will be found disciplinarians who enjoy punishing people but who feel constrained to find excuses for their punishments. Such a person might threaten a pupil to do something which he believes the pupil cannot do as a means of finding an excuse to punish him. That is to say the disciplinarian does not intend the pupil to obey but if the pupil does then he is coerced.<sup>5</sup> Both these situations are covered by condition (7) of Nozick's analysis.

Threats must be distinguished from warnings. A threat must entail what P the coercer himself is able to do and if necessary will do or cause to happen; otherwise, it constitutes a warning, that is a statement or report of a matter of fact of what is most likely to happen in the normal course of events, or an intimation of what some other person's reaction might be if Q

does not do as required. If a lecturer for example should say to a college student 'Do your homework or I'll report you to the Principal', this could be interpreted as a warning for two reasons, firstly because it could just be a matter of fact statement of the normal routine of the college and secondly because the lecturer might have no control over nor any idea of the action the Principal would be likely to take.

In cases then where P refers truthfully to a state of affairs which is not likely to arise or result simply from an action of P himself we do not say that P coerces Q into anything. So if the lecturer indicated to the student that if he the student did not follow a particular course he would be excluded from the college examinations and this in fact was the rule and was true then the student would not have been coerced but warned. If however the information given was not true and the lecturer knew this to be the case then the student would have been coerced.

Similarly, statements of a factual kind explaining P's future actions should Q do or not do a particular act A may be construed as warnings rather than threats if they represent matter of fact predictions of inevitable consequences. Nozick calls such statements non-threatening warnings or warnings for short and instances the case of the employer who faced with the possibility of his employees voting for the establishment of a labour union, which he does not want, simply declares his intention to close the factory and go out of business rather than face the anticipated aggravation that the existence of a union would entail. <sup>6</sup> The employer intends no harm to his employees in this case, he is simply protecting his own interests and explaining the consequences. So when a lecturer or teacher says to his class 'If you do not behave, I shall have to stop teaching' we may have not a threat but a warning admittedly acting as a deterrent but stated as a matter of fact, as a prediction of an inevitable outcome.

Coercion by threat involves a sort of negative incentive in the form of a threatened harm to the coercee. It represents something unpleasant, disliked and unwanted by the coercee presenting him with a choice of evils namely to do reluctantly what the coercer wants or not to do it and to suffer

the consequences. But since people differ the harm involved in a threat may be infinitely various; for what might constitute a threat for one person might not do so for another for many variables are involved such as temperament, maturity, personality, emotional stability, tolerance rate and so on. Even the threat of physical torture might not influence certain religious and ideological fanatics. All one can say is that anything which adversely jeopardises the coercee's wishes, interests, plans or rights may be seen as harmful so that harm becomes conceptualised in terms of the coercee's frustrated desires.<sup>7</sup>

It follows that it is not necessary for P to threaten Q with harm in the sense of injury rather it is sufficient, as Nozick suggests, that Q must believe and P must believe that Q believes that P's threatened consequences would leave Q worse off if Q does not comply with P's wishes. The view that P must threaten Q with harm is only understandable if harm is interpreted in terms of Q's desires being frustrated, for Q may in fact be coerced (i) into doing something that is eventually not harmful to him but for his own good and (ii) to do something he always intended to do anyway. In the case of (i) if P knew there was something that Q would prefer not to happen P can threaten Q with bringing it about and thereby coerce Q even though what Q fears is actually for his own good. When a parent or teacher for example says to a child 'Learn your verbs or I will make you write them out' the effect of the threat, whether carried out or not, is to the child's advantage. It is on these grounds that parents and teachers justify paternalistic attitudes towards the young. In the case of (ii) if P say uses a combination of threats and persuasion but increases his threats unaware that Q would have been persuaded anyway then Q is coerced by these additional threats into doing something he intended to do. This would be the case for example if Q was made to do something sooner than he would have preferred.

It is obviously impossible to formulate an objective standard regarding the strength and power of a threat that is required to establish a case of coercion because it would ultimately depend upon the unpredictable responses of individuals in every case. But the degree to which coercion is exercised

may be said to depend upon two main factors, namely (i) the extent to which Q the coercee is motivated by a desire to avoid the consequences P threatens (and the greater Q's desire is in this case the greater is the degree to which he is coerced), and (ii) the extent to which Q has the ability to avoid the coercion either by refusing to do the act that P demands, and suffering the sanctions, or by escaping from the coercive situation altogether (and the greater are Q's abilities in these two respects the less he is coerced).

Also central to Nozick's idea of coercion is the notion of choice. The notion of coercion by threat must presuppose a choice; otherwise, if there is no threat but just brute force the victim has no choice but is just forced or compelled. In the case of coercion by threat the coercee has a choice either to do as the coercer wishes, though he may not wish to do so, or to take the consequences of the threat being carried out, which presumably he also does not want. Nozick makes no distinction, however, between threats of a minor kind, leaving the coercee with an effective and not impossible choice, and overwhelming or irresistible threats such as threatened violence to one's person or family which it is suggested appear to be more compelling and to eliminate effective choice altogether. When a man points a gun with a clear intent to shoot if necessary, there does not seem to be much choice left and only a fool would resist. One is to all extent and purposes compelled against one's will but Nozick would say you are threatened. Coercion by direct force, as when a man makes you by means of physical force do what he wants you to do against your will, Nozick does not discuss. In this respect Nozick's analysis of the concept of coercion differs from that of others who would distinguish between at least two kinds of coercion, namely coercion by force and coercion by threat. Joel Feinberg explains it in this way:

"Coercion takes two main forms: direct forcing or preventing, such as by prodding with bayonets or imprisoning, and a threat of harm clearly backed up by enforcement power. In cases of coercion via threat, there is a sense in which the victim is left with a choice. He can comply or he can suffer the (probable) consequences. But if the alternative to compliance

is some unthinkable disaster - such as the death of a child - then there is really no choice but to comply. In intermediate cases, between the extremes of overwhelming coercive threats and mere attractive offers, the threat, in effect, puts a price tag on non-compliance and leaves it up to the threatened person to decide whether the price is worth paying. The higher the price of non-compliance, the less eligible it will seem for his choice. For this intermediate range, threats are like burdens on a man's back rather than shackles, or bonds, or bayonets. They make one of his alternatives more difficult but not impossible."

Finally for coercion by threat to be effective in Nozick's sense the threat must be successful. Only if the threat is effective is the victim coerced. Nozick regards the verb 'coerce' as a success or achievement verb like 'win', 'arrive', 'persuade', 'convince' and not like verbs such as 'run', 'fish', 'swim' which denote an activity or task without the necessity of achieving any goal. One may fish without catching a fish but one cannot successfully convince, persuade, win, coerce, without achieving something. For a threat to be successful then the coercee must do as the coercer desires.

But a threat with intent to coerce may of course be frustrated in a variety of ways:

- (i) if the supposed coercee just happens to want to do what his coercer desires him to do anyway;
- (ii) if the supposed coercee is able to avoid the threat in some way like the child who, threatened by his father unless he does a particular task, gets his younger brother to do it for him;
- (iii) if the supposed coercee simply chooses to take the consequences of the threat and not to do as his coercer wishes;
- (iv) if the supposed coercee simply complies with his coercer's wishes because he is sympathetic towards him. This case is similar to (i) in so far as the intended coercee wants the same thing as his would be coercer.

The conditions then for a successful threat may be summarised as follows:

P the coercer successfully threatens Q the coercee if and only if

- (1) P intentionally makes Q aware that he P will bring about a certain state of affairs X (or allow X to happen) unless Q does (or does not do) some action A
- (2) Q does not want P to bring about X (or to allow X to happen) nor does Q want to do A
- (3) Q believes he cannot avoid P's bringing about X (or his allowing it to happen) nor can he Q avoid doing A.

So far discussion has been confined to an analysis of the notion of coercion by threat according to Nozick's seven conditions which he considers are necessary and sufficient to establish what he refers to as the central core of the concept of coercion. But Nozick is aware of the narrowness of the refined concept of coercion which he has presented and suggests that the notion of coercion might be extended by including within it what he refers to as non-central cases which he regards as being related to the central core concept itself. <sup>10</sup> This he suggests might be achieved in two ways: (i) by widening the notion of a threat to include for example certain kinds of offers, and (ii) by including cases of indirect coercion for example where the coercee is coerced to do a certain act which entails his having to do some other act, in which case he may be said to have been coerced into doing the latter.

In the first case Nozick raises the question of distinguishing between threats and offers and the possibility of certain kinds of offers being <sup>11</sup> construed as coercive, that is as threats. Although it has been argued <sup>12</sup> elsewhere that all threats may be construed as offers and vice versa, it does not seem to be a very profitable argument to hold that when P makes a voluntary offer to Q to Q's benefit in return for a small favour that P threatens Q with not affording Q the benefit unless Q performs the favour

requested by P. If this was taken to be the case then clearly any offer would be a threat and offers and threats would be quite indistinguishable, and everybody offering goods and services for sale for example could be deemed to be coercing their customers and clients respectively.

Nozick suggests therefore that an offer only involves a threat when the package offered by P falls short of what Q might expect according to the prevailing moral code and in the normal course of events. <sup>13</sup> Parents for example are expected both morally (they have a duty) and customarily (in the normal course of events) to feed their children. If then a parent should say to his child, 'Clean your room and I will give you your supper', he may appear to be issuing a threat because the offer falls short of what the child might expect according to the prevailing moral code and in the normal course of events. If instead the parent should say, 'I'll double your pocket-money if you clean your room', then he makes an offer because he is offering more than is expected of him. To put it another way, the child's position is worsened in the first case and he is threatened but is improved in the second case in which an offer is made to him which is to his benefit.

Complications arise if the two kinds of expected outcomes, the morally expected and the customarily expected, diverge. In which case argues Nozick the one of these two expected outcomes which is to be used to decide whether a conditional announcement of an action constitutes a threat or offer is the course of events (i.e. either moral or normal) that the recipient of the action prefers. Nozick instances two cases to illustrate this point. The first case is that of the slave-owner who for no reason habitually beats his slave daily but who proposes to his slave one day that he will cease to beat him if he in return performs a certain act. The slave no doubt in this case would prefer the morally expected solution (no punishment, no act) to the normal course of events (punishment and no act) or the slave-owner's offer (no punishment with requested act). Since then the slave-owner's offer leaves the slave in a worse position than he would be in were the morally expected situation to prevail his offer must be regarded as a threat. The second case is that of the drug-supplier who tells his client (a drug addict



that he will only continue to supply him with drugs if in return as a favour he agrees to beat up a certain person for him. In this case, presumably, it is the normal course of events which the client prefers (i.e. the supply of drugs without the requested favour) rather than the morally expected course of events (no drugs and no favour) or the supplier's offer (drugs in return for the favour). Since the client's position like that of the slave is worsened, as a result in this case of the supplier's offer, he like the slave must be deemed to have been threatened.

Naturally in cases like these difficulties may arise in respect of disagreements about what might in fact constitute the normal moral expectation and/or the normal course of events. As a general rule Nozick suggests that provided the offeree is put in a worse position by the offeror's offer than he might expect to be in if the offeror just did his duty by him in the normal way then the offeror may be regarded as pressurizing him to the extent of threatening and coercing him. It is, for example, problematical whether in all cases a man has a duty to risk his own life to save another, say to take a boat out or to dive in to rescue a drowning man, but a life-saver who upon reaching his drowning swimmer recognises him and, knowing him to be an honest man and wishing to take advantage of him, says 'I'll save you if you will let me marry your daughter', seems to be issuing a threat rather than making an offer for it is his duty by virtue of his office to effect the rescue in any case.

One final example will serve to support Nozick's argument that a broader interpretation of the nature of a threat should be admitted to include particular kinds of offers, namely, cases in which P pressurizes Q into a particularly hard bargain. This could arise, for example, when both P and Q know that P could offer X to Q on easier terms (say without Q having to surrender Y) but P knows Q really wants X though he Q is reluctant to give up Y in return and would not in normal circumstances be expected to have to do so. If Q accepts P's terms then he would seem to have been coerced into giving up Y.

The second way, other than by widening the notion of threat, in which, says Nozick, the central core concept of coercion may be extended is to include within it cases of indirect coercion which he says may take two forms. 14

Firstly, indirect coercion may arise when the coercee is coerced to do an act not specified by the coercer in order to accomplish some other act that is specified by the coercer. This would be the case when say P coerced Q to retrieve a ball which had fallen in a forbidden area, in which case Q would be deemed to have been coerced into entering the forbidden area for he would have had no option but to do so in order to retrieve the ball and comply with P's wishes. Secondly, indirect coercion may arise when P coerces Q to do one of a set of actions say  $A_1, A_2, A_3 \dots A_n$  without specifying one action in particular. In this case should Q do one of them he may be said to have been coerced indirectly provided there remained no act in the set less harmful than the one he chose to do. If, for example, P coerces Q to obtain a particular article from Z, leaving Q to find the means, Q would be deemed to have been coerced into purchasing the article from Z (if Q so chose to do so) but not into beating Z up in order to obtain it, because in this latter case a less harmful way of complying with P's threat would have been open to him.

Despite these extensions to the central core concept it is proposed to argue that Nozick's analysis is still deficient in so far as it limits (i) the agents of coercion to individual persons, and (ii) the idea of coercion to the notions of threat and choice excluding the possibility of force itself being considered coercive. In this latter case some confusion ensues for Nozick includes in his idea of coercion by threat cases of threats of an irresistible kind which seem to preclude any idea of choice and to amount virtually to force alone. When, for example, a gang of youths threaten a member of another gang with bodily harm amounting to violence unless he tells them what they want to know, it does not seem that the victim is left with any choice at all.

But, before these arguments are developed, it is fitting first that the main points of agreement with Nozick's analysis be emphasised. They may be summarized as follows: that the agents of coercion should represent a rational capacity to understand and to intend; that the coercer's desires must be met at the coerced's expense or, in other words, the coercer must succeed; that the coercer must believe that the coerced believes that the coercer will do as he threatens even if he, the coercer, secretly does not intend to do so and is really bluffing. In other words, it is proposed to argue, as Nozick seems to imply, that the coercer and coerced must both be aware of the other's apparent intentions and desires. This, it is suggested, is essential if a situation of a clash of wills is to be established between the coercer and coerced and this, a clash of wills, it is proposed, is a necessary condition for all cases of coercion.

It is important to establish these points of agreement with Nozick's analysis in order to reply to one objection which some might wish to make against it, namely, that it does not allow for cases in which (i) P might coerce Q without P being aware of it, and (ii) in which Q might be coerced by P without Q being aware of it. Two examples might serve to illustrate these points:

(i) P, some might wish to argue, may coerce Q though P may not be aware of doing so. A teacher for example in order to get his students to work harder might make his subject appear more difficult than it is and consequently Q one of his class might decide to drop it. Q might feel he was made to, had to, or otherwise face an impossible task, even failure, whereas P was totally unaware of the counter-productive effect of his actions.

In response to this objection it may be argued that P and Q were not aware of each others' apparent intentions. P had no intent to coerce Q into dropping his subject, on the contrary his intent was probably to encourage. There is no clash of will between P and Q in this case but simply a misunderstanding.

(ii) Q, some may wish to argue, may be coerced by a warning without knowing it though if he had known the full circumstances of the case he

would have been threatened. This might occur for example when a teacher P intending not to allow Q a student to sit a particular examination discourages him telling him that he might fail whereas P in fact as the examiner, though Q does not know this, intends to fail Q anyway. If Q is warned off, is he coerced ?

This too it is submitted is not a case of coercion though it would have been if Q had been aware of P's power to fail him. In both these cases (i) and (ii) it would seem that Nozick's view prevails, that coercer and coercee must be aware of and believe in the apparent intentions of the other for a case of coercion to be established.

The first major objection which it is suggested may be sustained against Nozick's analysis is that his conception of the nature of the agents of coercion is unrealistically narrow. He seems to restrict his analysis to that of an interpersonal reactive relationship between two rational individuals ignoring the possibility of informal groups of individuals being capable of of coercing other similar groups of individuals or individuals on their own singularly or vice versa in each case. This would seem to be a point of minor importance for there would seem to be no obvious difficulty in recognising the power of such groups of individuals, sharing a common intent, to coerce and to be coerced in return. Considerable sociological interest has been shown for example in the social interaction of informal groups in society and particularly within institutions in society such as prisons, hospitals, factories, offices and places of work, churches and religious organisations, and schools. In the latter case studies of sub-cultures in schools <sup>16</sup> have revealed how informal groups amongst pupils sharing a common focus of interest, say social class, education, ethnic background, place of residence, ability, religion, can and do react and conflict with groups with an antithetical point of view to the extent of coercing and being coerced in return. Pupils as a group, say a class, may coerce their teachers simply by refusing or threatening to refuse their co-operation, and may dictate the pace of learning and teaching <sup>17</sup> contrary to their teacher's wishes. Even Nozick it seems tends to accept the possibility of a group of individuals acting as a coercing agent in his

example of members of a street gang coercing a member of another gang with threats of further physical harm unless he revealed where his gang's weapons were hidden. <sup>18</sup> Nozick in reply might wish to argue of course that in his example the intent of each individual could be separately identified, that it was not the group that was coercing but a number of individuals whose intents just happened incidentally to coincide. In response it is submitted that the group in this case shared a common will.

Similarly, it seems logical and not impossible to extend this argument to more formal groups of a more impersonal kind and more formally institutionalised with officials and officers representing and presenting the agreed policies of the members according to constitutionally agreed rules and procedures. Certainly it is not possible always in such cases to discern a particular individual or even individuals who are the particular coercing agents, for it is the institution as an organised or corporate body which coerces or is coerced and which is taken to represent the collective will or interest of the group which may clash with that of another. So, interest groups and pressure groups, and all kinds of social, economic, political, religious and educational associations in society, even the state itself, legitimately constituted by their members in each case, may be considered as candidates for the role of agents capable of coercing and of being coerced in so far as they represent the will, intent and interests of their members which may foreseeably conflict with the interests and intent of another group or of individuals within society. Nozick's analysis makes no provision for these kinds of groups, and in this respect, it is suggested, it is deficient.

It is more debateable, though one would wish to argue that it is the case nevertheless, that human intent and human will may be ascribed to systems of rules, laws and customs which are recognised by men as representing a consensus of their will and intent and as governing their behaviour.

19

C. B. Macpherson for instance suggests that the cumulative fabric of society in so far as it is a consequence of the actions and will of previous members may be regarded as limiting the social freedom of members of society. So the

positive law of the land may be regarded as representing the will of citizens and so also may the prevailing moral code, customs, traditions, ideologies and public opinion. If this is so, we may argue that it is possible to be coerced by arrangements, laws, regulations and opinions formulated by other human beings.

The law of the land, for instance, may be regarded as representing the general will of all those who recognise it and submit themselves to it. Its publication, it is suggested, constitutes a permanent standing threat backed by a variety of sanctions such as fines, retribution and imprisonment for those who for reasons of their own may be tempted to ignore it. As such it would seem that the law of the land acts as a deterrent; it intimidates, but becomes coercive, acting as a coercive agent, when those who wish to avoid it feel forced or compelled to obey it against their will or otherwise submit themselves to its sanctions. The law is coercive, argues Jeremy

<sup>20</sup>  
Bentham, because at some time or other it carries sanctions which are sufficient to make men feel it is so, but we may qualify this by adding that it only acts as a coercing agent when these sanctions force men to obey it when they do not wish to do so. So, the laws enforcing compulsory education, for example, backed by the sanctions of fine and imprisonment, may be regarded as coercing those parents and pupils who feel obliged to conform to them though they would really prefer to be free to make their own arrangements. It is not suggested of course that all laws are coercive, for clearly not all laws are backed by sanctions, some are simply permissive or declaratory and are intended to guide and advise citizens of their benefits and rights.

Similarly, just as the law of the land may be regarded as a coercing agent, representing the general will, it is suggested that it may also in return be coerced by pressure being brought to bear upon those people and organisations responsible for its development and proper functioning such members of parliament, political parties, government officers and lawyers. In this way individuals and pressure groups of all kinds such as trade unions, employers' associations, teachers' and parents' organisations and organised public opinion may act as coercing agents influencing those who interpret the

will of the community and formulate, interpret and execute the laws of the land.

In like fashion, it is suggested that the arguments used to establish the claim of the institution of positive law to be regarded as capable of coercing and of being coerced may also be applied to other man made systems of rules governing human conduct and behaviour with the exception of rules of habit which are not taken as being intentionally and rationally determined. Such rules, which would include, for example, customs, conventions and the prevailing moral code, would seem to differ from the rules of positive law in that they are not normally backed by recourse to the ultimate sanction of physical force which is the preserve of the state. Instead such rules rely on sanctions of a different kind but on sanctions nevertheless including, for example, the fear of becoming unpopular, of social disapprobation, of being excluded from the group, of being ostracised and of becoming a social outcast. The point is that sanctions are characteristic of all rule observing systems of all kinds of social order. <sup>21</sup> The notion that any social order could exist without any sanctions at all would seem to entail either an unrealistic looking backward to some imagined and elusive 'Golden Age' or alternatively an equally unrealistic looking forward to some equally unobtainable and elusive 'Utopia'.

Consequently it seems plausible to argue that coercion may be regarded as one aspect of moral obligation in so far as sanctions of blame, shame and feelings of guilt may exert pressure of a kind on some people who would rather not otherwise conform to the prevailing moral code. So, in effect, when a person does not wish to but feels obliged to do or not to do some particular act, it may be that he is coerced by the thought or fear of feelings of shame to fulfil his obligations and to do his duty. H. L. A. Hart puts it as

<sup>22</sup> follows: "The coercion characteristic of moral obligation takes the form not of the infliction of harm or the use of force but primarily of the exposure of the individual to reminders that he has failed to comply with rules regarded by the social group as a matter of serious importance and to demand that he should comply.....the assumption inherent in such criticism

is that.....the guilt or shame engendered by the contemplation of their breach will suffice or at least tend to inhibit future or continued failure to comply."

Similarly rules embodied in social customs, traditions, conventions and established tenets of public opinion which were the particular concern of J. S. Mill in his essay 'On Liberty' may also be regarded as expressing the public will backed for instance by sanctions of fear of shame, blame, ridicule and of being excluded from the group. Mill regarded such rules as coercive when they clashed with an individual's intent and prevented him from fulfilling his individuality and doing what he really wanted to do, provided of course in Mill's case what he wanted to do was of no harm to others or to the commonwealth.

In practice both kinds of rules the legal and the non-legal exist together intertwined in the daily routine of life. In the case of schools, for example, established traditions, conventions, customs, values, ideologies and attitudes function alongside the positive law of the land and become coercive in each case when those subject to them, say the pupils, no longer appreciate their usefulness or relevance but nevertheless feel they must conform to them, though reluctantly, rather than experience the consequences of threatened sanctions if they do not. So, systems of institutionalised rules, it is suggested, may play the role of coercing agents when the general will which they represent is opposed to the will of those who would rather ignore them were it not for the fear engendered by the imminent threat of sanctions of various kinds.

The second principal objection which it is suggested may be sustained against Nozick's analysis is that he makes no provision for the possibility of coercion by direct physical force as when for example a kidnapper physically bundles his victim into his car. Nozick limits his analysis to the notion of coercion by threat. In this latter case the coerced is supposed to have a choice whereas in the former case he obviously has no choice at all. But force, it is suggested, is not just a question of physical force, of being physically prevented or constrained, prodded with bayonets or tied up,



it is not merely a case of force of arms, so to speak, but may be of a psychological nature too. Forcing a person, for example, to experience particular mental states, as when one forces another to think about things which he is trying to forget or does not wish to have to think about, seems to represent the application of force of a psychological kind. Likewise, threatening another with the fear of reprisals against his wife and family unless he does or tells you what you want seems to represent psychological pressure too. Nozick includes cases such as this within his concept of coercion by threat though it does not seem justified in so far as in cases of this kind the coercee has no choice, for the threat may be taken to be of such an overwhelming kind as to force the coercee to comply with the coercer's wishes willy nilly.

It is suggested then that coercion by direct force may be of two kinds, physical or psychological, and that Nozick whilst ignoring the possibility of coercion by direct physical force, as when a man's arm is forcibly raised by another in order to strike a third person, unhappily includes cases of psychological force, that is cases of irresistible threats, within his concept of coercion by threat, whereas such cases would seem to have a closer affinity with a separate notion of coercion by force from which choice is eliminated altogether.

By force it is not meant force in the colloquial sense as for example when we say 'She forced him to give up his job by refusing to marry him unless he did'. Here we have merely a threat, as indeed would be the case should we say, also colloquially, 'She compelled him to give up his job..etc.' Force as we understand it may be distinguished from compulsion. One may be compelled willingly or accidentally or unknowingly but in the case of force one is compelled against one's will with no option and one is perfectly aware of what is happening. If, for example, a parachutist is pushed out of an aeroplane, then, if he is willing to be pushed or is pushed accidentally we would argue that he is compelled, but if he is pushed neither willingly nor accidentally but against his will, then we would say that he is forcibly coerced into jumping. The degree of coercion exercised in such cases

increases, it is presumed, in proportion to which the force used exceeds that which is necessary which, in turn, depends upon the extent to which the coerced resists and the extent to which he tries to prevent himself being forced. So, in the case of coercion by force we may say:

P forces Q to behave in a certain way A when

- (1) P causes Q to do or not to do A, and
- (2) A is not an intentional act of Q, and
- (3) Q does not consent to P's use of force, which
- (4) may be physical or psychological.

It has already been suggested that agents of coercion may include not just individuals but any group of individuals with an identifiable common will and even systems of rules regulating human behaviour and representing the will of those individuals who submit themselves to them. In this context considerable support may be found amongst political philosophers and theorists for the idea of the State being the ultimate agent of coercion whose authority, as a last resort, resides in the use of direct force which may take many different forms including various kinds of deprivation, of life and property, imprisonment and even forcible feeding in the case of prisoners endeavouring to make capital out of, say, a hunger strike. "We have to remember", says J. Laird, "that the device of government implies the use of force".<sup>24</sup> And Thomas Hobbes would argue, of course, that coercion by force is an inevitable aspect of law, for law itself only exists because of the possibility of disobedience, and in the last resort the laws of the State are upheld by the direct force of the Sovereign.<sup>25</sup> J. R. Lucas in 'The Principles of Politics' argues:<sup>26</sup>

"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 is thus the ultimate means of enforcement and coercion the ultimate sanction.....We maintain that some people are sometimes sufficiently selfish and sufficiently unreasonable to be bloody-minded and recalcitrant to reason and unamenable to argument. With them there can be no argument but only non-argument which I call coercion, force and the threat

of force.....the State must have at its disposal not only sanctions but some sure-fire sanctions or methods of enforcement. And this is what we mean by coercion."

So, the State acting as an agent of coercion may, it is suggested, coerce individuals and groups of individuals within its jurisdiction by threat, in the form of laws backed by sanctions representing standing threats, and also by direct force, when, for example, it carries out a threat of imprisonment by implementing it.

The State's monopoly of force would seem to be, as Lucas suggests, a consequence of its being a non-selective community of individuals. That is to say people do not normally choose their state nor does the state choose them, they are simply born into it. Plato, for instance did not have to consider the necessity for force in the case of his 'Ideal Republic' for only volunteers in the first place were to be members of it upon its foundation and, thereafter, everyone was to be so educated as to be fully committed to the idea of the ideal community and their own particular role within it.

It follows therefore that communities and associations of individuals organised on a voluntary basis should really have no need to resort to the use of force, for members opposed to the will of the group have the option to leave. A monk, for instance, finding his order too strict may presumably leave and seek an alternative order with a more congenial rule. Similarly, if I object to the policy of my golf club, I may leave. This does not mean, however, that associations and groups of individuals of a voluntary kind will never resort to the direct use of force against other groups or individuals, but by so doing they may act contrary to the law. It is certainly not unusual for such groups in support of their beliefs, principles or particular moral point of view to take the law into their own hands as, for instance, when a street gang forcibly drives another from its territory or members of a union on strike forcibly prevent fellow workers from going to their work by blocking the factory gates.

In some cases the state delegates the use of force to groups within society, for example to the police, parents and teachers. In the latter case teachers may forcibly coerce young people in so far as the law makes allowance for kinds of punishment, detention, expulsion and compulsory schooling. So coercion by force, it would seem, may be witnessed not just between one individual and another but between groups and associations of individuals too, though it is traditionally recognised as being fundamentally the prerogative of the state.

So, between the notions of coercion by threat and coercion by force, which are distinguished by the fact that in the former case the coercee has an effective choice and is presumed to intend the course of action he chooses whilst in the latter he cannot be presumed to have such an intention because he is simply forced, there exists, it would seem, a third form of coercion, namely coercion by irresistible and overwhelming threat. Whilst this form of coercion embodying a threat is obviously related to the concept of coercion by threat, it is also related, it has been argued, to the notion of coercion by force in so far as the threat is of such an irresistible kind that no rational man in his right senses would be expected to do other than to comply with it and do as the coercer requires without choice.

Irresistible threats, it is suggested, may be of two kinds, (i) physical, as when members of a gang threaten one of another rival gang with grievous physical bodily harm unless he complies with their wishes, or, (ii) psychological, as when the same gang threaten the victim instead with injury to a member of his family to whom he is intimately attached, so causing him considerable mental anguish. Nozick would consider both these examples as instances of coercion by threat for he does not distinguish a separate notion of coercion by force. Another philosopher, M. D. Bayles, <sup>27</sup> similarly includes such cases within the notion of coercion by threat, or dispositional coercion as he calls it, but unlike Nozick recognises coercion by force, or occurrent coercion, which he restricts to cases of physical force only.

The positions taken by both these philosophers may, it is suggested, be questioned, and it has been argued: that the notion of coercion by

irresistible threat cannot be logically included in the notion of coercion by threat because the coerced is not left with an effective choice; that coercion by force is not only possible but includes force of a psychological as well as of a physical kind; that irresistible threats which cannot be avoided would seem to have a closer affinity to the notion of coercion by force and may possibly be included within it in so far as the coerced has no real choice, and consequently cannot intend the course he has to follow, but on the contrary is just forced.

The main points made in relation to Nozick's analysis of coercion may now be summarized.

- (1) The seven conditions considered by Nozick as being necessary to establish a case of coercion (that is by threat) are valid and may be sustained against the suggestion that the coercer might coerce without being aware of it, or, likewise, that the coerced may be coerced without knowing it. This is so because both coercer and coerced must be aware of or believe they are aware of the apparent intentions of the other, otherwise a conflict of will which is necessary to establish any case of coercion, including coercion by force, could not exist between them.
- (2) Nozick's analysis does not allow for the distinction that, it is submitted, may be made between three kinds of coercion, namely,
  - (a) coercion by threat leaving the coerced with an effective choice, if a reluctant one, so that he may be said to intend the consequences of the course of action he chooses,
  - (b) coercion by direct force of either a physical or psychological kind leaving the coerced with no choice whatsoever so that he cannot be said to intend the course of action he is forced to follow,
  - (c) coercion by irresistible or overwhelming threat involving either threats of direct physical harm to the coerced or threats of harm say to a loved one causing mental anguish to the coerced. In either case the coerced is left with no real choice but to

follow the course of action forced upon him as any reasonable man, other than a fool or a saint, would in the circumstances be expected to do.

- (3) The notion of coercion by irresistible threat cannot be logically included within the notion of coercion by threat but instead may be likened more closely to the notion of coercion by direct force in which the coerced has no choice at all.
- (4) The agents of coercion may include not just rational individual persons, as Nozick's analysis would seem to imply, but also groups of individuals of an informal and formal kind as well as institutionalised systems of rules governing human behaviour in so far as in the latter two cases respectively the group is regarded as representing a consensus of the will of its members and the rules in question the will of those recognising them and subjecting themselves voluntarily to them.

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CHAPTER 2

## Concepts Related to Coercion

- constraint and compulsion	34
- conditioning: rational and irrational means of persuasion	40
- propaganda, indoctrination and brainwashing	49
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Coercion is one way of getting a person or persons to do or not to do something either, it has been suggested, by means of a threat leaving the coercee with an effective choice, or, by means of an irresistible threat leaving the coercee with a choice of sorts but one that is virtually ineffective, or, by direct force leaving the coercee with no choice at all. Understandably, therefore, coercion is regarded as the antithesis of freedom, that is as a form of constraint, but in so far as it aims to get people to do or to refrain from doing what they would otherwise choose either not to do or to do respectively, it may also be regarded as a reason for and in certain cases such as direct physical force as a cause of action.

Not all forms of constraint are of course necessarily coercive. Constraints caused by factors other than rational human agency, such as those imposed upon us by the interaction of external physical phenomena as in the case of the weather or by our own individual neurological, psychological and physical inabilities and incapacities, fall into this category. Likewise, not all ways of getting people to do things are necessarily coercive either, for people may be induced to act by means other than the use of threats and force, for example by means of rational persuasion or enticement.

It is suggested therefore that a clearer conception of the notion of coercion may be gained by relating it to other concepts and particularly to those which involve constraint and/or the inducement of people to behave in a particular way. Clearly little value would be gained from a consideration of any concepts chosen at random and having no obvious logical relationship with the notion of coercion itself. An understanding of the nature of political power for example would hardly be enhanced by a comparative analysis of the concept of power in relation to the internal combustion engine but might be if compared to related notions such as authority or democracy.

So within the context of getting people to do things we may perhaps usefully consider a selection of concepts related to coercion in some way

but fundamentally different from it in others. These will be considered as follows: notions of constraint and compulsion, notions providing a motive for action arising from causal factors on the one hand and from rational and irrational means of persuasion on the other, notions involving the fundamental alteration of a person's beliefs and attitudes and, finally, notions involving the infliction of harm.

Four principal lines of argument will emerge in this chapter, namely, that it is neither choice nor compulsion but force of various degrees that is central to the concept of coercion, that in every case of coercion a clash of wills must exist between the coercer and coercee, that for such a conflict of wills to exist the coercee must be aware of what is happening to him, and finally, that the infliction of harm on another even by threat or force though a necessary condition of coercion need not in itself be coercive.

Both to coerce and to compel is to constrain, but a distinction is frequently made between the notion of coercion by threat, a form of partial constraint, and the notion of compulsion, involving total constraint either by direct force or say an irresistible threat. In the former case of coercion by threat the victim is left with an effective if reluctant choice, whereas in the latter cases of total constraint he is left with no real choice at all. This kind of reasoning suggests that a distinction may be made between what one decides to do and what just happens to one, or, between what one has a reason to do and what one is caused to do. So the question arises whether it is possible to distinguish a concept of coercion on the one hand and one of compulsion on the other, or, whether in fact the two concepts overlap so as to prevent a sharp and valid distinction being drawn between them.

Certain cases of compulsion are clearly not cases of coercion either because they are caused by agencies of a non-human kind, or, are caused by human agency but in such a way that the victim is unaware of what is happening to him. Total compulsion causally induced in these two ways constituted the standard form of compulsion for both Plato and Aristotle,

but it is not suggested that they constitute cases of coercion. Should, however, a person be forcibly compelled against his will by another and is aware of what is happening to him, as in the case of a man detained against his will, then, in view of the clash of wills involved, it is suggested that a case of coercion by force, but not compulsion, is present. And this would also be the case, it is argued, where a man faced with an irresistible threat and impossible choice is forced unwillingly towards a particular course of action, though colloquially we might say he is compelled.

Plato and Aristotle were principally concerned to distinguish those kinds of behaviour for which the subject might be ruled out as being worthy of praise or blame or responsibility, namely, those caused irrespective of the subject's wishes. In 'The Laws' Plato<sup>1</sup> considers situations in which soldiers may lose their weapons through no choice of their own, for example by falling from high ground or at sea or by being swept off their feet by the elements: "A man who is stripped of his shield by a considerable exertion of force cannot be said to have flung it away with the same truth as one who drops it of his own act; there is all the difference in the world between the two cases".

Similarly, Aristotle<sup>2</sup> characterizes compulsion as: "...that is compulsory of which the moving principle is outside, being a principle in which nothing is contributed by the person who acts, or rather is acted upon, e.g. if he were to be carried somewhere by a wind or by men who had him in their power." It is only in this latter case of the man taken away by others who have him in their power that we might argue that a case of coercion by force could exist, depending that is on whether the victim was conscious of the proceedings and taken against his will. If he was unconscious then we could say he was compelled, but if he was aware of the events we would say that he was coerced forcibly to do something he did not want to do and prevented from doing what he wished to do, involving that is a clash of will between himself and his captors. Such a man we might say, colloquially, was compelled but more correctly we would argue that he was coerced and forced just as a man would be who is imprisoned against his wishes.

Although Aristotle reserves the notion of compulsion for cases of extreme constraint of a causal kind he refers also to what we might recognise as a weaker though more common form of compulsion when he distinguishes involuntary and voluntary acts and raises the question whether certain kinds of choices may in fact amount to compulsion in an extreme causal sense. The first example he gives would seem to suggest a case of coercion by irresistible and overwhelming threat similar in fact to cases that might be covered by the legal concepts of duress and coercion in the criminal law:

"But with regard to the things that are done from fear of greater evils or for some noble object (e.g. if a tyrant were to order one to do something base, having one's parents and children in his power, and if one did the action they were to be saved but otherwise would be put to death) it may be debated whether such actions are involuntary or voluntary. Something of the sort happens also with regard to the throwing of goods overboard in a storm; for in the abstract no one throws goods away voluntarily, but on condition of its securing the safety of himself and his crew any sensible man does so. Such actions then are mixed but are more like voluntary actions for they are worthy of choice at the time when they are done and the end of an action is relative to the occasion. Both the terms then 'voluntary' and 'involuntary' must be used with reference to the moment of action. Now the man acts voluntarily; for the principle that moves the instrumental parts of the body in such actions is in him, and the things of which the moving principle is in a man himself are in his power to do or not to do. Such actions, therefore, are voluntary, but in the abstract perhaps involuntary; for no one would choose any such act in itself."

In these sort of cases Aristotle has in mind situations in which alternative courses of action are available representing a choice of sorts but not the sort of choice we might expect a reasonable man to have to make in normal circumstances. On the contrary when a man jumps from a burning building at the risk of serious injury rather than risk being burned to death, or, jettisons his precious cargo rather than lose the lives of his crew together with his ship we may wish to say he was compelled (i.e. in the sense

that he had no real choice) in the same way as the man who faced the overwhelming threats of violence to his family at the hands of the tyrant or the pointed gun of his attacker who intended to rob him, his colleagues and the bank in which he worked. The fact that saints and heroes might elect to sacrifice their lives on a matter of principle or out of loyalty to others, for which they may be posthumously praised, does not alter the fact that they may have acted over and above their course of duty and beyond what might be reasonably expected of them. Indeed should they not have so acted they would more than likely not have incurred any blame at all; on the contrary by so acting they might run the risk of being judged to have behaved foolishly and irresponsibly.

So, if there is any choice at all, there is not literal and complete compulsion in a strictly causal sense, but there is what J. Laird would call 'compulsion in a courtesy sense',<sup>4</sup> which is taken to mean inducement of such a kind and so strong as to be presumed irresistible, which is to say that any sensible man in the same circumstances would be presumed to choose the course that is said to be 'compelled'. So irresistible threats presenting the victim with an impossible choice may be considered as compelling as cases of compulsion directly and physically applied, and they are coercive too if they are made by a coercing agent and are contrary to the will of the person to whom they are directed and who is forced against his conscious will to comply. Compulsion then in a strictly causal sense does not amount to coercion whereas force does whenever there is this conscious clash of will between the coercer and coerced.

The legal concepts of duress and coercion in criminal law exemplify the interest of lawyers in the form of compulsion of such a kind that might be considered a possible means of explaining and excusing (in the case of duress) or mitigating (in the case of coercion in Scottish Law) a person's conduct when the accused claims to have been compelled to commit illegal acts against his or her will. And some confusion inevitably results because of the use of the word compulsion instead of that of force.

In the case of duress for a successful plea to be admitted it must be established:<sup>5</sup>

- (1) that the defendant's will was overborne through fear caused by either the actual infliction of serious bodily harm, or threats of death or serious bodily harm to his own person, or actual or threatened death or serious bodily harm to his wife, children or other immediate kindred,
- (2) that the compulsion was exerted at the time the crime was committed,
- (3) that the accused desisted from the criminal act as soon as was reasonably practicable in the circumstances,
- (4) that the compulsion arose through no fault of his own,
- (5) that when any inherently grave offence is committed the duress exerted upon the accused was so severe and so great in proportion to the harm done or injury suffered by the victim as to excuse from criminal liability.

A leading case is that of R.v Steane (1947) K.B. in which the accused a British subject living in Germany at the outbreak of war was interned and compelled (we would prefer to say forced) to broadcast for the Germans on pain of threatened bodily harm to himself and possible reprisals against his family.

By contrast the criminal law concept of coercion<sup>6</sup> is applicable only to a married woman who argues that she acted under pressure from her husband and in his presence. Additionally it differs from duress in another respect in that it imports something less stringent than threats of physical injury in the form of threats of a spiritual and moral nature but amounting nevertheless to the dominance of the husband to such an extent that the exercise of the wife's free will is rendered impotent.

So, in the legal cases of duress and coercion the victim may be said to be overwhelmed by threats of such a kind as to amount to a form of compulsion, but in so far as the victim is induced, made to act against his or her will and is aware of being so forced to act by another, it is suggested we may say from a philosophical point of view that he or she is coerced. In the case of

duress this awareness seems to be implied for condition (3) above specifically stipulates that the accused must desist from the criminal act at the first reasonable opportunity, and this he would not be able to do or choose to do if, for example, he was just being causally compelled, that is manipulated or deceived in some mechanical, causal way and was not aware of what was happening to him.

So, within the general notion of constraint, the concepts of coercion and compulsion would appear to overlap to such an extent as to prevent a sharp distinction being drawn between them. This would seem to be the case for two main reasons: (i) because all threats whether trivial or of an irresistible and overwhelming nature contain an element of compulsion upon which the notion of coercion is dependent in the form of a compelling agent or coercer, and this we recognise in common parlance when we say we are 'made to', 'have to' or 'feel compelled to' do something when we are inconvenienced or our choices or freedom is infringed even in the most trivial fashion; and (ii) because we can distinguish compulsion of three distinct kinds, namely, being compelled against one's will to do something one is aware of but does not want to do, secondly, being causally and mechanically compelled unwittingly as when a person who has been stunned by a blow is led or carried away, and thirdly, being willingly compelled of one's own choice as when a person hesitant about jumping into the swimming bath or of parachuting from a plane invites help in the form of a gentle push.

In the first of these three cases distinguished in (ii) it is significant that the person is compelled against his wishes and he is aware of it. He does not have a choice but he is all the more unfree and constrained. His interests are affected for the worse or at least are ignored. He is harmed; his desires are frustrated and he resists. In short, it is submitted, it is more correct to say that he is forced, that is against his will, rather than just compelled and, additionally, is coerced if these conditions are present. It is only in the first of the three senses of compulsion that we have distinguished that compulsion amounts to coercion. It would seem improper, therefore, to stipulate arbitrarily between coercion by threat, say in Nozick's sense, on the one hand and cases of compulsion on the other



for in the latter case we would wish to distinguish between those cases of compulsion accepted willingly or experienced unwittingly or accidentally from those of which we are aware, which restrict our freedom, harm us and infringe our interests against our will and which, for these reasons, are considered coercive. It is argued, therefore, that it is the more refined concept of force, implying awareness and unwillingness and resistance on the part of the affected party, and not just compulsion which is a wider concept, that constitutes a necessary condition for the philosophical concept of coercion.

Compulsion apart there are a variety of means by which one might get people to do things and provide a motive for their actions, for example, by the stimulation of their senses and feelings as in the case of conditioning, or, by rational means of persuasion as in cases of pleading, advising and warning, or, by inducement resorting to less rational techniques of a manipulatory kind as in the cases of enticement and seduction. In some way some but not all of the concepts discussed within these categories will be seen to relate to the notion of coercion.

The notion of conditioning would seem to be more closely allied to that of compulsion causally induced rather than to the concept of coercion in so far as the subject or victim does not react intentionally or rationally but mechanically and automatically and without thought in response to sensations of pain/pleasure induced by some form of punishment/reward. And this applies with regard to the two main forms of conditioning which may be distinguished namely: <sup>7</sup> (i) classical conditioning involving a reflex action such as salivisation as in the case of the dog which is trained to saliver at the ding of a bell by associating the sound with food; and (ii) operant and instrumental conditioning involving the performance of a voluntary movement such as the pressing of a lever as when for example an animal learns to press the lever which produces food and to avoid those levers which administer an electric shock.

When conditioning involves negative reinforcement (that is punishment) it seems to bear a similarity to coercion in that the cause of the subject's action in both cases is the avoidance of harm, but it is different from coercion in that the subject is not aware of the fact that he is acting in accordance with the intention of his manipulator. Indeed in neither case of conditioning, classical or operant, is the subject conscious of the connection between the response and the reinforcement. Conditioning, unlike coercion, does not recognise the ability of the subject to reason, so not surprisingly it is a term mainly used in referring to animals and their training rather than to human learning.

Sometimes we use the term 'conditioned' when we refer to a particular kind of human behaviour when, for example, we observe that a person's habits or attitudes have become habitual. Then we may be inclined to say that such a person has been 'conditioned' to react in a particular way, say to regard strangers with suspicion or to conform to a particular belief, religion or ideology. But these examples we might also argue may be more akin to instances of particular kinds of persuasion such as indoctrination and brainwashing which do take account of the existence of the human consciousness, as the notion of coercion does, whereas the concept of conditioning does not.

The notion of reward then is closely related to the idea of conditioning but it is wider in scope than its relation to conditioning might imply for it is manifested not merely in the form of causally induced pleasant sensations but as a form of rational persuasion<sup>8</sup> involving a dialogue between equals. Rewards induce potential recipients to avoid those situations from which they might fail to obtain them and to conform to those conditions necessary to obtain them, which conditions are laid down and intended by the reward giver. Rewards in this sense like coercion are intended to influence a person's conduct and when such rewards are within the normal expectation of the potential recipient in the normal course of events but are withheld unless the would be recipient complies with a stipulated course of action then they become part of a threat and may be

regarded as constituting a case of coercion by threat.

In other respects the notion of reward bears little relationship to the idea of coercion. Coercion is a form of constraint whereas rewards are an inducement to action. Rewards do not constrain in a negative sense but promise more in a positive sense; they do not threaten but encourage. Additionally, whereas rewards may be given for services rendered, that is for past deeds that have satisfied an accepted standard and with no intent on the part of the reward giver to induce the recipient to do anything at all, coercion aims to produce future action only and to influence future conduct.

Offers like rewards may be used as a form of rational persuasion and as an inducement to action. Rewards and offers alike imply benefits rather than harm for the recipient and as such are not coercive though as in the case of coercion they can constitute a motive for action. The word 'offer' may be used in a variety of ways as when I might say, 'I offer resistance', or, 'I offer to punch someone in the face', but in neither of these cases is there an offer to a person's benefit, nor is there a motive for action unless a condition requiring the offeree to do something is implied, in which case there would be a clear case of coercion by threat.

When a proposal promises to make someone better off than he was before it was made, we have simply a tempting offer and a powerful inducement to comply.<sup>9</sup> Indeed it is the anticipated possibility of improving one's status by accepting such proposals that provides the motive force behind all our ordinary economic transactions of bartering, buying and selling. On the other hand, proposals made in the form of offers but which promise to render the offeree substantially worse off if he does not accept, and at least mildly worse off if he does accept, are clearly coercive. In the case for example of 'Your money or your life' the recipient of the proposal loses either way and is coerced.

It may be argued, of course, though it is a circular and not very profitable argument that all offers are threats and threats offers on the grounds that a threat carries with it the implied benefit of not

being implemented if the victim complies and every offer the implied threat of not being implemented unless the offeree complies. But offers may be compelling and irresistible and in this respect likened to coercion, though they need not necessarily for this reason be coercive for offers may be compelling but desirable and to one's benefit, as in the case of a person who is offered a knighthood or some other equally desirable manifestation of public honour and recognition.

Whether offers are coercive or not or appear as disguised threats will naturally depend upon the circumstances of particular cases, but those conditions necessary to establish a case of coercion by threat will require to be satisfied. An offer made, for example, by a casual acquaintance to look after a person of indifferent health and to conduct her personal and business affairs for her in return for certain favours, say for a share in her business, may be such as to make the invalide feel coerced, unable to refuse, compelled to accept for fear of being alone, but it does not constitute a case of coercion and is not a threat, for a casual friend or acquaintance would not be presumed to have an obligation in any sense either morally or legally in the normal course of events to help another in such circumstances.

Situations in which offers are inclined to appear coercive arise when P the offeror tries to take advantage of Q's, the offeree, state of affairs, for instance in cases when either,

- (1) Q's position will become worse (without P doing anything) unless Q does act A in order to get P to prevent his, Q's, position getting worse,
- or, (2) Q's position will not improve (without P doing anything) unless Q does act A in order to get P to help improve his, Q's, position.

But for an offer to become a threat in such circumstances P would have to be supposed to have an obligation to help Q and then a clear case of coercion would ensue, for Q would be supposed to have a right to P's help and would be

worse off whatever choice he had to make after P's offer is made.

If, therefore, I say, 'I'll make you an offer. Give me your money and I'll promise not to beat you up', I am not making an offer but issuing a threat, for presumably a person has a right not to be beaten up anyway in normal circumstances.

Other forms of rational persuasion which are calculated to get people to do things but which are not prima facie coercive include cases of guiding, advising and warning in which responsibility for choosing the ultimate course of action rests with the subject himself who decides rationally and independently on the basis of arguments and factual information presented to him. To guide, advise, or warn is to influence without compulsion. To guide is to attempt to lead others to do only what they will eventually acknowledge they have a reason for doing. Guiding is not a case of direct pleading whereby one subjectively attempts to get a person to act in a way one personally desires but is an example of indirect pleading,<sup>11</sup> as also are advising and warning, in which one avoids imposing one's will but rather looks objectively at possible courses of action from the other person's point of view and interests and tries to make him realize what in all probability he would want to do and would have the incentive to do were he aware of all the relevant facts. That is to say in effect that guiding like advising and warning but unlike all cases of coercion has an other-regarding orientation.

Advising is similar to guiding but may be distinguished from the latter in being less urgent and more a matter of offering information. To say to one's guest for example, 'Your last train leaves at 10.30 p.m.', offering the information just a few minutes before the time of departure, might be construed as an intent to guide and lead him with some urgency to decide to leave promptly, assuming that he does not want to miss it, but, if offered as a matter of fact when one's guest is arriving, it might be construed simply as a piece of useful information or unsolicited advice. In both cases of course it might be construed as a warning too.

It is not always easy to distinguish between guiding, advising and warning for the difference may depend upon the intent which may be conveyed in the same words in each case but with differences in expression, tone of speech and gestures. In reply to a request from you, for example, I might say, 'Try that', meaning in effect, 'My advice to you in the circumstances, if I were you, would be to do that', which could be interpreted as advice or guidance or a warning.

But warnings differ from guiding and advising in that they always involve an element of deterrence, though they are primarily intended to influence and not to threaten. Warnings are based on the facts as they are and have the interests of the subject in mind, though this does not mean that the interests of the person giving the warning are necessarily excluded. This would be the case if, for example, the aged head of a family business, not feeling capable of facing the new pressures the institution of an official union amongst his employees would likely bring, simply informed his workforce of his intent to retire and close his business should they persist in forming an official union branch. If, however, a warning is issued with a purely self-regarding intent, not that is in the context of an assessment or of a report of what someone else might do or of what might just happen, but rather in terms of what the person issuing the warning can, will or may do, then a case of coercion by threat ensues.

In some cases the recipient of advice, guidance or of a warning might feel he is constrained when, for example, he might have preferred not to have been given knowledge of the facts but rather to have remained in ignorance and to have taken his chance. Unsolicited information or advice about one's friends for example is not always welcomed especially if it undermines one's trust and induces one to prejudge their characters. Indeed a person might consider such unsolicited advice, guidance or warning, to be compelling though there may have been no such intent on the part of the author. Such cases then are not cases of coercion though the recipient may feel his position is worsened and his freedom curtailed and his interests jeopardized.

Direct pleading differs from indirect pleading in that in the case of the former a person is inclined to indicate or to voice his personal wishes in the expectation that it will add weight to his cause, making it more persuasive by resorting to less rational techniques of a more personal and subjective nature and employing his personal charm, wiles, skills and attraction as aids to argument. Here there would seem to be a suggestion of coerciveness in so far as the gentlest 'Please' or 'Would you?' may make the person to whom it is directed feel compelled in some way to comply or do something he would not usually do as a matter of course. So I might say 'I did it only because he asked me', meaning that I am not allowed to consider the matter on its merits but feel pressurised to bend to another's will. This, however, does not amount to coercion for there is no threat, and one may assume that I acted voluntarily, say out of sympathy or to please or simply to avoid unpleasantness.

But some cases of direct pleading would seem to be of a more compelling nature, such as persistent nagging, plaguing and badgering, as to amount to cases of goading or prodding. According to the Oxford English Dictionary, to goad is to assail or prick as with a goad,<sup>12</sup> to irritate or impel by some form of mental pain or annoyance, to drive by continued irritation into or to some disparate action or uncontrolled state of mind. Goading, it is suggested, is a mild form of compulsion which may be coercive and constitute a case of coercion should the victim feel impelled or provoked to avoid the threat of its continuance by choosing reluctantly to do what his antagonist desires, as for example in the case of the husband who conforms reluctantly to avoid his wife's nagging, or vice versa of course.

A further example of direct pleading which is not prima facie coercive is bribing. Bribes like offers and rewards seek to induce action not by fear but by offering a benefit. The use of bribes may seem to suggest an artful even deceitful means of persuasion, but to bribe is not to manipulate or deceive in the way a person enticing or seducing another may. A person offering a bribe need not necessarily have previously studied his victim's

weaknesses in order to exploit him and to bribe him most effectively, on the contrary he may just 'try it on' so to speak and quite possibly might not get the reaction he expected. Money bribes to strangers, for example, offered on the spur of the moment, may not always obtain the reception the offeror hoped for. It may for instance be contrary to the victim's moral code. Bribes may be used by the manipulator of course but in themselves they are not manipulative; they tempt but it would seem unreasonable to suppose that a bribe of any kind could make it impossible for a person to do his duty.

So bribes are really rewards but of a particular kind given that is in return for some service which is discreditable such as the revealing of confidential information or for 'telling' on someone. But bribes like offers and rewards are not usually considered coercive because they offer benefits rather than threats. If, for example, a soldier is made prisoner and in the process of his interrogation is offered every comfort and the cessation of his torture provided he agrees to reveal certain information, he is made an offer, and is bribed too if it is assumed that it is his duty not to tell; if instead he is threatened with even more severe torture then he is coerced. Sometimes a bribe and a threat may be made together. This would be the case if an employer for instance suggested to one of his employees 'If you tell me who instigated this strike I'll give you promotion but if you don't I'll see that you lose your job'.

When a person is induced to a course of action by artful and deceitful means so that he is unaware of what is happening to him we cannot say he is coerced, but we might say he has been manipulated<sup>13</sup> or used, that is made a convenience of and treated as an object of minimal intelligence rather than in a respectful manner as one would normally treat another rational human being. Manipulation may be manifested in two ways, (i) in a causal sense when for instance one is said to manipulate the functioning of some inanimate artefact or system or some animate being as in the case of conditioning when the existence of a rational will in the case of the being manipulated



is denied, and, (ii) in the context of some cases of irrational persuasion other than simple pleading when an attempt is made to undercut or bend the will of the victim. In the latter case the person who manipulates makes a study of his victim's character and dispositions in order to find and to exploit his victim's weaknesses and to use them to induce his victim by deceitful means to unwittingly follow a course of action predetermined but concealed by him his manipulator. Advertisers resort to such manipulatory practices when for example they seek to exploit a natural interest between the sexes by suggesting a relationship between sex appeal and say a particular kind of tobacco or perfume. Alternatively they may seek to exploit our inherent snobbishness by advertising a pedigree pram for instance against the background of a Rolls Royce car. If we are taken in by these techniques we might say we have been enticed and our normal rational consciousness undermined, but we are not coerced.

To entice, according to the Oxford English Dictionary, is to attract by the offer of pleasure or advantage, and especially to allure insidiously or adroitly. Children particularly are adept at enticing each other away from more serious tasks by exploiting each others' weaknesses. Similarly, a man may entice another man's wife to leave the matrimonial home by resorting to such devices as flattery, charm and affectionate attention, whilst concealing his real aim, relying on his attentions to so influence the woman's feelings towards him that she is induced to decide to leave her husband, which is what her enticer really desires.

Closely related to enticement is the notion of seduction. To seduce someone is to lead them astray or more particularly to entice them from rectitude or duty. In this respect seduction is more morally reprehensible than enticement for one may be enticed presumably to do good as well as bad things. The act of seducing in particular normally refers to the act of persuading a woman to surrender her chastity by making her feel she wants to despite her basic belief that to do so is wrong.

So in both cases of seduction and enticement our choices are rigged by skilful operators, who make us feel we want what they want us to want by resorting to psychological means of exploiting our weaknesses, but in neither case does coercion exist for no threat is involved and there is no clash of will between he who entices or seduces and his victim.

An alternative way of getting people to act in desired ways and in accordance with one's wishes is to try to alter and to undermine their fundamental beliefs, values and attitudes. And this may be achieved in ways other than those we have already considered, for instance by those processes and techniques associated with the notions of propaganda, indoctrination and brainwashing, which rely upon methods of a particularly deceitful and manipulatory kind, predominately persuasive in the case of propaganda and indoctrination, but causal also (as in conditioning) in the case of brainwashing.

The word propaganda <sup>14</sup> derives from the Latin 'propagare' which refers to the gardener's practice of pinning the fresh roots of a plant into the earth in order to produce new plants which will eventually take on a life of their own. The Roman Catholic Church adopted this word to describe one of its Congregations <sup>15</sup> founded in 1633 for the purpose of spreading the beliefs of the Catholic faith. Originally propaganda was regarded by the Church as a beneficent process leading the heathen to faith, but in modern times, as a result of its association with certain processes used as a political weapon, particularly in times of war, it is now used to refer in a pejorative sense to the use of sinister, deceitful and underhand practices of a manipulatory kind aimed to influence and to distort public opinion, allegiances and morale with the purpose of affecting the eventual outcome of wars, civil conflicts and political disagreements. Nowadays the propagandist does not confine his energies simply to the spreading of doctrines, but seeks at times to arouse feelings, emotions, passions of hatred and

approval for or against particular groups of people or causes.

Propaganda may be, but ought not to be, confused with other forms of persuasion of a more rational kind such as exhortation, in the form of speeches and appeals of an emotional nature, which involves the urging of a person to do his duty or something he is not particularly willingly inclined to do. Propaganda differs from exhortation in its deviousness. The propagandist eliminates choice so far as the victim is concerned though his presence cannot fail but to acknowledge the existence of alternative points of view, for were his views already universally held by everybody then his role and presence would naturally be superfluous. In this context it may be interesting to note that the Catholic Propaganda Congregation only emerged when Catholic doctrines were being severely questioned.

What therefore makes certain behaviour propaganda is not so much the nature of the material or content, which may be true or false, but the manner in which the material is presented. The basic technique used is that of suggestion, the aim being to induce belief without evidence either logical or otherwise. Usually the procedure takes the form of an appeal to basic instincts frequently of a most primitive kind such as the subject's greed, anxiety, fear or aggression. This is then followed either by a suggested solution to a proposed, imaginary and hypothetical problem, or by a message delivered in a variety of deceitful ways, such as by labelling or characterizing types in emotive terms, by misinterpreting and misrepresenting the facts, by persistently and continuously repeating the message, by appealing to loyalty and unity and authority, or by claiming quite falsely that everybody agrees anyway. Nevertheless persuasion by suggestion is only effective if the propagandee sees it as complementary to his own existing beliefs or perhaps as an extension of them. So, the propagandist does not coerce, he does not invite a conflict of wills, he does not threaten, for his aim is not to overrule the contrary intentions of his victim, not to compel by force, but to persuade and to induce and achieve if possible an enthusiastic and popular accord.

Indoctrination differs from propaganda in that it is concerned firstly with the teaching and passing on of ideologies, doctrines, beliefs and values of say a political, religious, or moral kind, which are not capable of verification, and secondly with presenting such doctrines as necessary substantive truths without question. Indoctrination is a process whereby people are induced to regard as certain and true beliefs that are not certain. The distinguishing mark of an indoctrinated man is that he holds such beliefs without questioning them, without evidence and with a closed mind. So an atheist, or religious believer, or say, for example, a Marxist who believes that economic forces are the fundamental forces in economic change, which fact cannot be proved or disproved one way or another just as the non-existence or existence of God cannot be either, may be regarded as indoctrinated if he accepts uncritically the propositions of his particular belief but not if he accepts them on rational grounds, for example in terms of their utility, say for their contribution towards the well being of society, or towards the personal development of the individual.

The use of non-rational techniques of persuasion certainly constitutes a necessary condition for indoctrination but is not sufficient, for it is the nature of the beliefs imparted that is significant and which distinguishes indoctrination from propaganda. Those who have been successfully indoctrinated may be able to give reasons for their beliefs but it is these reasons which they do not care to question. Like the propagandist the indoctrinator, whether he is conscious of it or not, undercuts the victim's will by persuasive and deceitful means, but he does not invite conflict, he seeks instead a willing acquiescence. The person who has been successfully indoctrinated is not aware of having been so, and certainly does not feel he has been coerced.

The notion of brainwashing suggests no fresh or further mysterious processes peculiar to itself but rather encompasses a combination of whatever means are deemed suitable at the time, which may range from rational

and irrational means of persuasion to compulsion and causally induced responses, even to the infliction of harm, with the principal aim of changing the victim's pattern of thinking and feeling. Whilst indoctrination is possible with say young and inexperienced children and gullible adults, and indeed can even happen by default in cases where parents or teachers, by example and force of their personality, manage to transmit values and attitudes unwittingly to their charges, brainwashing amounts to a recognition of the fact that once a person becomes a rational thinking adult it is more difficult to indoctrinate him. Something more fundamental than indoctrination may be required to change his beliefs.

The term 'brainwashing' was, it seems, first used by an American journalist, one Edward Hunter, as a translation of a Chinese colloquialism (hsi nao, literally 'wash brain') which became current in common parlance after the Communist take-over in China. It involves a much more rigorous, systematic and forceful onslaught upon a person's belief system than indoctrination implies. The aim of the brainwasher, who is a conscious and deliberate manipulator, is to break the victim's will so that weakened and exhausted, mentally, emotionally and physically, he is reduced to a state of indifference, even anomie, and is ready to believe whatever he is told. The techniques used by the Chinese interrogators in the Korean War were not new, punishment, kindness, rewards, lectures, social isolation, the award and suspension of privileges, self-confession, forced confessions, forceful interrogation, self-criticism and so on. What was new in the methods of the Chinese was the sustained way in which these techniques were alternated or a selection of them was used in appropriate circumstances as a package in a combined assault upon the victim's consciousness and physical endurance. Brainwashing, it would seem, is a system whereby some seek to reduce others totally to become instruments of their will, as is the intention, for example, in the case of hypnotic suggestion. So far as the victim is concerned his choice is eliminated by a combination of persuasive and causal techniques which are deliberately employed to

compel him to a particular end.

Propaganda, indoctrination, and brainwashing are clearly not identical to the notion of coercion in any of the three senses in which we have distinguished the concept. This is so because it is simply not possible to alter a person's beliefs and attitudes by coercing him, for a person cannot unwillingly take attitudes as part of himself, that is to say he cannot consciously unwillingly believe, though if coerced by threats or force he might pretend to believe or appear outwardly to adopt certain attitudes say for the sake of an easier life, or to avoid hassle, or to please his interrogators. Many soldiers, for example, captured by the Chinese in the Korean War adopted this course in order to survive. It was commonly referred to as 'playing it cool'. Consequently the wills of these men were never broken, nor were they deceived or manipulated, they simply went along with their captors, broadcasting for them and apparently doing as their captors wished, but upon their release they immediately re-assumed outwardly as well as inwardly their own former true beliefs and values. So, they could have argued, and no doubt some of them did, that they were compelled reluctantly or coerced into doing what they did. Certainly they were not deceived nor were they brainwashed, but whether in fact they were compelled, threatened, forced, bribed or enticed would in the circumstances be difficult to determine. So to be coerced is not the same as being subjected to propaganda, or to being indoctrinated or brainwashed, but coercive techniques and threats may be employed by people in the implementation of such processes, as a means or aid, that is, to the achievement of their particular ends.

Finally, coercion involves the infliction of harm on the coercee, though the notion of harm is generously interpreted in this context to include not just physical injury but the infringement of a person's freedom or interests, the frustration of his desires or a general worsening of his position. But it does not follow that the infliction of harm by one person upon another in every case necessarily amounts to a case of

coercion, for this would depend upon the state of mind of the two parties concerned. Just as there are some people who seem to enjoy the infliction of pain upon themselves, and may even seek it, so there are others who enjoy inflicting pain on other people, but the infliction of pain on another in itself does not amount to coercion for in the latter case a person inflicts harm in the form of a threat or by force with the specific intent to make the coerced behave in a way he the coercer desires. All cases of intimidation, sadism, punishment involve the infliction of harm in some way or other, but not necessarily are they always accompanied by the specific intent to motivate the victim towards a particular course of action.

To intimidate a person is to frighten him, to make him fearful, to dishearten him, and in so far as it describes the relationship between one person and another, it implies the threat of or the actual infliction of harm. But a person may be intimidated by agencies other than those capable of coercing, for instance by objects and events of the physical world such as storms and earthquakes, and by animals. Colloquially, it is true, the term intimidation is applied in cases in which a person is influenced or made to act in a particular way. We might say, for example, 'Don't allow yourself to be intimidated by him, do as you wish'. But in these cases the act of intimidation becomes part of an attempt to coerce constituting a threat or some forceful act calculated to impel the victim to respond in a particular way. So, intimidation may be distinguished from coercion in two respects, firstly in that one can be intimidated by things and events which cannot be considered as coercing agents, and secondly in that intimidation does not necessarily imply an intent to motivate another person towards a desired course of action as coercion does, that is to say I can be frightened and intimidated without being coerced. This is the case when someone intends to coerce me, threatens me and frightens me, but I manage to escape from his control or to resist his pressure. I may be frightened and intimidated but I do not allow myself to be coerced into doing what my antagonist desires.

In general we try to avoid the actions of others or situations created by others which we anticipate might cause us pain or unpleasantness, and this would undoubtedly be the case if the intentions of others towards us appeared to be particularly sadistic. The term 'sadism' derives its origin from the activities associated with the career of the infamous Marquis de Sade (1740-1816), a French soldier, adventurer and writer who pursued a life of sexual perversion, characterized by a passion for cruelty, which eventually led to his becoming insane.

Nowadays we apply the term 'sadist' to those people who inflict pain on other sentient beings for their own personal gratification, desiring that is the suffering of others and the experience of inflicting pain on others, causing them to suffer, for their own, the sadists', perverted enjoyment. But a person who coerces another may but need not do so in a sadistic manner. If he did coerce sadistically then he would be deemed to have caused pain and suffering to another for his, the coercer's, own pleasure and over and above what other desires and intentions he had with regard to the behaviour of the coerced. So teachers and parents who severely punish the young in their charge, in order say to make them work or to conform to certain rules of conduct, however senseless and inhuman their actions may seem, may not necessarily be acting sadistically. On the contrary, they may just be compelling and coercing the children to do things the latter do not want to do, for provided the teachers and parents do not seek personal gratification in inflicting pain and suffering on others they are not acting sadistically though they may be acting unreasonably and cruelly, that is if the fear and suffering they cause is excessive. The intention of the sadist then is not identical to that of the person who attempts to coerce or who coerces successfully but the two concepts of coercion and sadism may overlap.

Similarly, in punishing a person one does him harm but one's intention in punishing is not necessarily identical to that of the person who sets out to coerce, and the infliction of punishment does not necessarily amount to a case of coercion. In three ways, however, the notion of punishment



may be related to coercion.

Firstly, punishment in particular forms such as detention, imprisonment are clearly cases of coercion by force if they prevent and compel the victim from doing things against his will, and one would not in the normal course of events expect a person to agree willingly to be incarcerated.

Secondly, the threat of punishment, say for the infringement of rules, is, it has been argued in the previous chapter, frequently used as a deterrent. The positive laws of the state for example prescribe punishments for stipulated acts and omissions and such laws, it has been suggested, are more than warnings, for the state that makes them will see that they are carried out and enforced. Similarly judicial precedents enshrined in established cases are part of the law of the land as well. So long, therefore, as subjects have no wish to infringe such laws embodied in either cases or statutes then the laws in question remain just as standing threats backed by the sanction of punishment, but should subjects become so opposed to them that they comply simply for fear of punishment itself then the laws become coercive to them and the subjects in question we may say are coerced.

Thirdly, punishment may be used like coercion as an instrument of reform. Prisoners and schoolboys for example may be made to do, as part of their sentence or punishment respectively, tasks which are considered to be for their own good or in their own interests and necessary for their rehabilitation or improvement. Such examples may be considered as paternalistic and as illustrative too of examples of coercion imposed on the coerced for the latter's benefit.

But punishment is not in every case administered with the intention of motivating the victim to any particular kind of behaviour or action, on the contrary it may be inflicted for revenge, or to satisfy an outrage, or as a form of retribution, in which cases it would seem to relate more to the notion of justice than coercion. Only if punishment in the form of revenge or retribution is seen as a means of deterring the victim personally from repeating the act for which he is likely to be punished can punishment

in these senses be related to the concept of coercion.

In short, harm may be inflicted upon another in a variety of ways and for a variety of reasons, as an examination of the notions of intimidation, sadism and punishment has shown, but in itself it does not amount to a case of coercion unless, that is, it is imposed with the additional intent of influencing the victim's action in some way and it succeeds in doing so.

It has been argued that central to the concept of coercion is not the concept of choice but the notion of force involving compulsion by one agent against the other contrary to the latter's will, that is to say that coercion involves a clash of wills between coercer and coercee. It has also been suggested that it is not possible to distinguish between coercion by threat, in which the coercee has a degree of choice, and compulsion, in which the victim has no choice, because a distinction is drawn between on the one hand compulsion willingly accepted or causally induced without the victim's knowledge, and on the other hand compulsion administered against the victim's will and with his full awareness. Only the latter form of compulsion, it is suggested, whether in the form of a threat or overwhelming brute force is coercive.

Comparisons with selected concepts relating to coercion precipitated the following conclusions:

(i) cases of rational persuasion including direct and indirect pleading are distinct from coercion in that there is no clash of wills between the agents concerned but rather a desire for agreement;

(ii) cases of manipulation either in the causal sense of conditioning or in the sense of irrational persuasion do not constitute cases of coercion because the victim is unaware of what is happening to him as he is either mechanically compelled or deceitfully induced towards a course of action;

(iii) cases of altering a person's beliefs and attitudes as a means

to getting him to act in a desired way are not cases of coercion partly because the processes of propaganda, indoctrination and brainwashing are deceitful and manipulatory but also because it is basically impossible to coerce a person into a belief of any kind;

(iv) cases involving the infliction of harm on another are not necessarily examples of coercion though the infliction of harm in some form is a necessary condition for coercion to be established.

Finally, it is submitted that three kinds of coercion may be distinguished, namely,

(i) coercion by threat in which the coercee is left with a reluctant but not an impossible choice,

(ii) coercion by irresistible threat in which the coercee is left with a choice but of such a kind as to virtually amount to no choice at all,

(iii) coercion by force in which there is no choice left to the coercee at all.

But it is suggested that these three kinds of coercion may be reduced to two, namely,

(i) coercion by threat, and

(ii) coercion by force including cases of coercion by overwhelming and irresistible threat where choice is virtually eliminated.

The conditions relating to these two kinds of coercion may now be distinguished and summarized.

In the case of coercion by threat:

P coerces Q into doing (or not doing) act A when

(i) P threatens Q unless Q does (or does not do) some act A and Q knows or believes that P is making this threat and P knows or believes that Q believes P is threatening him (i.e. Q)

(ii) P's threat makes Q's doing (or not doing) act A less eligible as a course of action than not doing (doing) A respectively

(iii) Q does (does not do) act A.

In the case of coercion by force (including irresistible threat)

P coerces Q into doing (not doing) act A when

- (i) P compels Q into doing (not doing) act A against Q's will  
and Q is aware of what P is doing
- (ii) P's act of force (or threat) makes Q's not doing (doing) act A  
ineligible as a course of action
- (iii) Q does (does not do ) act A.

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CHAPTER 3

## The Presumption in Favour of Freedom

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It is commonly supposed that coercion is antithetical to freedom and that whereas there is a negative presumption against coercive interference in another man's affairs there is a positive presumption in favour of freedom itself. It would for instance seem odd, if only because it would not seem to be very fair, to ask the victim of a coercive threat or act to explain himself, instead it would more likely be the case that it would be the agent or author of coercion, not the victim, whom we would wish to call to account. Because coercion implies the infringement of liberty, there is a feeling, it seems, that its use should be justified since freedom is deemed to be desirable whereas coercion is not.

This and subsequent chapters are concerned with the justification of coercion, that is to say with reasons why coercion must be justified and, provided the effects claimed for its use are possible, the grounds upon which such a justification should, if at all, be based. Meantime, it is our concern to consider three aspects of the relation between freedom and coercion in the following contexts, namely, (i) the nature of freedom and the extent to which coercion may be said to be antithetical to it, (ii) the nature of arguments commonly offered in support of a presumption in favour of freedom and thereby implying a presumption against coercion, and (iii) the extent to which freedom and coercion may be regarded as being compatible.

It is not sufficient to say that coercion is the antithesis of freedom because coercion is only one of several means by which a person's freedom may be impaired. A person may be compelled by another without being coerced, or he may be constrained by non human factors such as an avalanche, or by his own inabilities or incapacities, and in all such cases he may be said to be unfree. So coercion cannot and does not exhaust all the possibilities of being unfree or, that is to say, the concept of unfreedom. R. Nozick acknowledges this when he argues that being coerced into not doing an act

is neither a necessary nor a sufficient condition for being said to be unfree. First, Nozick gives three examples to illustrate why being coerced into not doing an act cannot be considered a necessary condition for a person being said to be unfree:

(a) A person robs a bank and is caught and punished. If he had known for sure that he would be caught and punished, he would not have done so, but he did not know this and so robbed the bank. He was, therefore, unfree to rob the bank but was not coerced into not doing so.

(b) A lecturer is not coerced into not murdering a member of his audience but he is unfree to do so. That is to say, he is unfree by law and is only coerced if he wishes to commit murder but decides not to do so because of the sanctions of the law.

(c) If a person lures another into an escape proof room and leaves him imprisoned there, he does not coerce his victim into not going elsewhere although he renders him unfree to do so.

Secondly, Nozick argues that being coerced into not doing a particular act does not constitute a sufficient condition for being said to be unfree to do the said act, and gives the following as an example: "You threaten to get me fired from my job if I do A, and I refrain from doing A because of this threat and am coerced into not doing A. However unbeknownst to me you are bluffing; you know you have absolutely no way to carry out this threat, and would not carry it out if you could. I was not unfree to do A (no doubt I thought I was) though I was coerced into not doing A."

Though the notion of coercion does not exhaust the notion of being unfree it is nevertheless very closely connected to it. Though it is wrong to equate freedom with the absence of coercion, since the latter does not exhaust the range of non liberty or unfreedom, the loss of some freedom, of freedom in some sense, is always present no matter what form coercion takes, because coercion involves the deliberate interference of another human being in the area in which he would wish to act. Coercion denies freedom in the sense of being 'free from' and it is in this negative sense of being free



from constraint that a person free from coercion may be said to be free. A person is free, socially free that is to say, to the degree to which no other person interferes with his freedom of action, and liberty or freedom in this sense constitutes simply that area in which a person can do what he wants.

Coercion and freedom cannot be regarded as perfect logical contraries, nor can they be seen as being perfectly antithetical to one another in so far as neither one completely rules out the other. Even what might seem to be a most powerful coercive constraint will not necessarily rule out some measure or degree of freedom, nor is the freedom enjoyed by a person free from the restraint of another necessarily unlimited, for it may be limited by other things. If, for instance, a man is coerced by a threat of dire physical force amounting, say, to an irresistible threat he is still free to submit or to accept the consequences, and if he is not subject to any threat he may still be unfree in other respects. Constraint in the form of coercion only approaches, and then only imperfectly, the contrariety of freedom when overwhelming force is used to achieve those limited ends or the eradication of those limited freedoms that only such force is able to achieve. To imprison a man may deprive him of certain limited freedoms, say of communication and mobility, but not necessarily of all freedoms for he still may be able to think.

Coercion would seem to have a relation to freedom not of logical contrariety<sup>2</sup> but one of polar antagonism. The relation between freedom and coercion, it is suggested, may be conceived in terms of inverse proportion, whereby degrees of constraint relate in inverse proportion to degrees of freedom, the principle being the more constraint the less freedom and vice versa. We recognise this principle when we assume that the extent of freedom enjoyed by P and Q respectively is determined by the extent to which the freedom of one acts as a constraint upon the freedom of the other. My freedom to play the piano, for example, is measured by the extent to which my playing impinges upon my neighbours' freedom to enjoy peace and quietness. More freedom for the eels, we say, means less freedom for the minnows, or as the proverbial Irish judge is said to have remarked to a compatriot brought

before him on a charge of assault and battery, "Everyman's freedom is bounded by the position of the other man's nose."

Coercion cannot be considered as the perfect antithesis or antonym of freedom. A person may be coerced yet still be free in some respects, and may be unfree and constrained though not coerced. This is possible because coercion is but one of many forms of constraint, and it is constraint not coercion which is the opposite of freedom. But coercion is antithetical to freedom in the sense that there is a decrease in the amount of freedom enjoyed according to the increase in the amount of coercion experienced. So the common assumption, that the normal reply to the question "What is it that limits a man's freedom?" is "Coercion", must be questioned, and the supposition that coercion is simply the antithesis of freedom qualified.

The principal difficulty with regard to the proposition that coercion is the antithesis of freedom arises from the complexity of the notion of freedom itself. In its simplest form, that is in the negative sense of being 'free from', the notion of freedom presents little difficulty, particularly if it is limited to the non human world of things animate and inanimate. In which cases freedom, in a purely descriptive and negative sense, suggests a state of affairs implying the absence of restraint from external or internal hindrances. So one might refer to an animal as free as opposed to being in captivity or physically incapacitated in some way. And similarly, one might describe a piece of machinery or a mechanism, such as a watch, as freely working where there are no external or internal impediments causing its malfunction. In similar fashion people may be described as being free from constraining circumstances, free from work, from responsibility, from marriage, or from internal inabilities of one kind or another.

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Difficulties arise when the notion of freedom is applied to human beings who are not just things subject to contingent circumstances alone but rational entities relating to a noumenal world as well as to the world of natural phenomena. Human beings have the capacity of thought and are said to be additionally free in so far as they are 'free to' deliberate, choose, and to

determine their future and self-fulfilment. We move, then, from a negative to a positive sense of freedom, from talking about being 'free from' to being 'free to'. There would seem to be a variety of ways in which the term 'free' might be applied to human beings. They may be said to be 'free from' external or internal constraints, inabilities, and incapacities caused by things or circumstances, or, 'free from' physical or psychological constraints caused by other human beings which might but not necessarily take the form of coercive threats and actions, or, free in the sense of being 'free to' determine their own lives and destiny. Generally speaking it is in the context of the second sense of being free, 'free from' the interference of others, that it is appropriate to speak of coercion as opposing and being antithetical to freedom, but in other respects it would seem that coercion depends upon freedom and freedom upon coercion. In the first place, coercion assumes the existence of two autonomously and rationally free agents free to coerce and to impose their will on each other, and in the second place, one might argue that coercion is logically related to freedom in so far as a person who is coerced into being freed from undesirable impediments is free to pursue more desirable ends. So coercion, paradoxically, might not just restrict but even enhance freedom, might not just be antithetical to freedom but might actually support it.

The notion of being free in the human context poses two problems for the moral philosopher, that of social freedom, mainly the concern of the political philosopher, and the free-will problem which is principally the concern of the mental philosopher. The free-will problem or the relation of psychological and physiological causation to the human personality is not usually considered to be especially relevant to a discussion regarding the nature of social freedom and its relation to coercion, though such a view might be disputed. It is, of course, a basic assumption in ordinary moral life that individuals are both autonomously free and predictable, predictable that is to the extent that they can be held responsible for their own decisions and actions and can trust and rely upon one another

and anticipate each other's behaviour to some degree. In other words, in speaking of coercion and social freedom, one presupposes the existence of rationally free moral beings and that rational freedom is a necessary condition for coercion. It seems a nonsense to even try to contemplate an imaginary world of computerised, programmed, human robots coercing each other. We will assume, therefore, that individuals make choices which, though explicable in terms of causes, are not predetermined in a strong deterministic sense. People are reliable only to a degree and although their choices may be rationalised and explained they cannot be anticipated precisely, nor guaranteed, nor can their behaviour be predicted absolutely. Whether a person's actions can be causally explained and/or strictly predicted constitutes the essence of the free-will problem but as a matter of fact, in ordinary life, we accept that moral agents are free, predictable, responsible, and have feelings, or, in other words, are rationally free to intend and to attempt to impose their will on each other, to make decisions and to plan their own lives.

In a social context the term freedom, in both a negative and positive sense, is used by politicians to express a commendatory and prescriptive ideal. Employed in this way, as for example in the well worn revolutionary slogan 'Liberty, Equality, Fraternity', it tends to imply very little simply because it is intended to convey so much. To reify freedom in an all embracing ideal drains it of its descriptive meaning and leaves it with merely prescriptive overtones synonymous with desirable or good, and to say something is good is not to say very much at all.

Slogans expressed as ideals are useful in so far as they tend to invite a broad spectrum of agreement, but equally they are the cause of interminable disagreement. A person might claim for instance that we are more free than we used to be whilst his antagonist denies it, each drawing upon his own criteria of judgment. Clearly the word free needs a contextual base. It is not like the word 'square', for example, which suggests positive characteristics such as a figure with four right angles and four equal sides.

The word 'free' is sometimes used to exclude or rule out some suggestion implicit in the context in which it is being used, some impediment or constraint for example upon what a person might want to do. If we say, for instance, 'Smith is free', the description makes sense only if we have information about him, that he has been in prison, say, or hospital. In common usage the suffix '-free', which generally implies good riddance, illustrates this point. When we refer to a man being carefree or a house rentfree, the suffix '-free' rebuts the supposition that the man is full of care or that the house is subject to a rental charge.<sup>4</sup> So '-free' is used to rebut suggestions about actions and situations just as the word responsible is used to rebut the suggestion that a man could not help doing what he did because of ignorance or compulsion. This use of the word free reflects the classic tradition of social freedom in its negative sense, implying the absence of constraints imposed by the powers of other men.

Politicians appeal to the ideal of freedom in the positive sense when they attempt to redefine it in terms of opportunity.<sup>5</sup> Freedom from want, fear, ignorance, it is supposed, enables one to aspire to greater freedoms and all manner of imagined ends. And freedom from not being prevented from choosing may even be justified if it eventually leads to the more positive freedom of being one's own master. We recognise the possibility of justifying the coercion of some, say in the name of justice, welfare, education, so long as the end envisaged is a greater good with regard to the realisation of the individual self or for society as a whole. In assuming it is justifiable to coerce people for their own sake it is generally claimed, as in the case of politicians, parents and teachers, that the coercer knows best, and that the coerced, if only they were sufficiently wise and knowledgeable, would realise this too. It is presumed that there is a latent rational self in everyone, but since some individuals may not be fully aware of their own potential to a significant degree, others, who presumably are so aware, may, in the interests of these unfortunate ignorant selves, direct,

coerce, bully or oppress them in the name of their 'real' selves, the attainment of which eventually, it is supposed, increases their potentiality for freedom. Clearly the notion of positive freedom has inherent dangers, for it may be invoked to justify all manner of measures of the most authoritarian, dictatorial and coercive kind, on the grounds that such measures may lead to greater self-realisation and greater freedom for those being imposed upon.

Freedom and coercion share a common characteristic in being words of force and influence. But whereas in the former case the impression given is generally one of approval in the latter it is usually the opposite, and in this respect they may seem to be antithetical to each other. Both terms express distinct attitudes calculated to influence and to arouse similar responses in those people who understand them, and these causal or dispositional properties give each word a kind of propositional meaning.<sup>6</sup> When Rousseau wrote 'Man is born free but is everywhere in chains' he was not describing men as he might have done had he said 'Man was born naked but everywhere he is in clothes', rather he was prescribing that men ought to be treated in certain ways of which he approved. Freedom for Rousseau was commendatory and worth while.

But a further distinction must be noted, between freedom as liberty and freedom as licence. Whereas liberty is presumed to be good and worth while, to be free to do bad and undesirable things is not to enjoy liberty but licence, which is presumed to be bad. Liberty and licence do not describe different things in so far as they both imply freedom from constraint, but they do suggest and arouse different attitudes by their use. We approve of liberty but not of licence. Whereas we might wish to question coercive acts that impugn liberty, we might feel justified in using coercive measures to contain or negate licence. Whilst we assume a presumption in favour of liberty we do not in favour of licence.

In sum, the following points have been argued.

(i) Freedom is a wider concept than coercion which is only one of many forms of constraint. So the notion of coercion cannot exhaust the notion of unfreedom and one may be unfree yet not coerced, and coerced yet free in other respects.

(ii) Coercion as a form of constraint is antithetical to freedom, but freedom takes many forms. Freedom in the sense of being rationally free is a necessary condition of coercion, and coercion in certain cases may paradoxically be seen to enhance freedom, as moral and legal rules and sanctions are intended to do.

(iii) Two senses of freedom are distinguished, negative or freedom from and positive freedom or freedom to, and they are related in so far as the former may be seen to be a pre-condition for the latter.

(iv) Instead of viewing coercion as the antithesis of freedom it is preferable to regard both notions as antagonistic to each other, the amount of freedom enjoyed, in the negative sense, being related inversely to the amount of coercion applied.

(v) Both terms, freedom and coercion, evince and arouse a particular attitude or feeling as well as having a descriptive meaning. Such attitudes of approval and disapproval vary according to whether freedom is seen in terms of liberty or licence, and whether coercion is seen in terms of limiting liberty or constraining licence. But in general terms freedom, both in its negative and positive senses, is approved of whereas coercion is not.

We must now consider arguments in favour of a presumption in favour of freedom, for if such arguments can be substantiated the need to justify coercion will follow.

When we say men are free we presume they have a right to be free. In the past considerable attention has been given to the notion of man's rights in the form of natural rights, rights guaranteed that is by some natural law or some notion of an eternal, immutable, universally applicable kind of justice, divine or otherwise. During the eighteenth century the notion of natural rights was superseded by that of inalienable rights, nowadays we tend to speak of human rights. But common to all three perspectives on rights is the notion that people the world over, regardless of their local laws and customs, have certain basic fundamental rights of which one is usually recognised as being the right to be free.

Although there is an apparent finality expressed in the view that man has a fundamental right to be free, it is not sufficient in itself to establish a presumption in favour of freedom. To say that man has a right to be free merely restates the presumption itself; it does not explain it nor does it account for it; it simply begs the question. To say anyone has a right to anything is just to assert a point of view, not to substantiate it. We cannot argue that there is a presumption in favour of freedom because we feel we have a right to be free, but we may try to explain and to justify why men should be free and in what respects. We might argue for instance that there is a presumption in favour of freedom because freedom is conducive to happiness and enables us as self-governing, autonomous individuals to realise our talents and potentialities and that all these desirable ends are in turn conducive to the good of society.

Freedom is of value because people on the whole are not happy if their choices, wants, needs, desires and interests are restricted and their satisfactions frustrated. In this context happiness is taken as a state of being of which it is a necessary though not a sufficient condition that the individual is pleased with his life as a whole, there being nothing



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he wants that he has not got. So a person who is coerced or deprived of doing what he wants to do is likely to be that less happy and freedom justified because it gives people the opportunity to promote their own interests and to maximise opportunities that they consider to be worth while. J.S. Mill believed that a person's true happiness was reflected in the aggregate of all the things that a person pursued for their own sakes, be it wealth, virtue, power or fame. "Happiness", says Mill, "is not an abstract idea but a concrete whole; and these are some of its parts." A person, therefore, who is deprived of things he wants or desires for their own sake whether it be a job, house, car, success or what have you is that much less happy, whereas a person free to exploit such desires is more likely to be a happy man. Following this reasoning there must be a presumption in favour of freedom because only if a person is free does he have the opportunity to seek happiness conceived in these terms.

Several reservations may be expressed regarding this way of thinking. It is frequently assumed that only people themselves know what is good for them. This may be so in so far as only the individual himself can really say whether he thinks or feels happy or not. Only the drug addict himself can say whether in his own estimation he believes he is happy when under the influence. We might, however, hesitate to agree that the sadomasochist, sex deviant, or drug addict should be free to satisfy their respective desires even in private. We might wish to dispute that they would be really happy in so doing and to argue instead that to allow such freedom would be to condone licence not liberty and to countenance morally undesirable activities contrary to the well being of the individuals themselves and to society too. We might argue that such people and others like the aged and young children do not always know or choose to do what is good for them and that this is just a matter of fact of which parents and teachers and social workers are well aware.

Of course people like parents, teachers, and social workers tend to have

their own idea of happiness and might wish to include such criteria as 'being fortunate' or 'being admired'. People do claim to be better judges, say from experience or knowledge, of what tends to another person's happiness. And they will argue that there are some individuals who have to be protected from their wants and desires and others, like children, who have to be made aware of them, even by employing coercive measures if required. In response, others will argue that people, and children particularly, learn from their own mistakes and experience and thereby grow in stature with a greater potential for happiness. The freedom advocated for example by the progressive school of educators, it is supposed, tends to greater happiness in the long run compared to the procedures of a Mr. Gradgrind. Some truth rests in both these contentions, but the presumption in favour of freedom must surely stand for clearly a normal person is more likely to be happy if free than coerced against his will.

A second objection to the presumption, that freedom is of value because it enables people to pursue happiness through the satisfaction of their wants and desires, rests on the assertion that although people may be free it does not follow that they are motivated to do the things they are free to do, even though they may have expressed a wish to do them. Freedom does not entail that a person will actually do what he is not prevented from doing. People may express wishes and wants but lack the will to fulfil them. So we are reduced to saying that a man is free in so far as no one intends to stop him from doing what he might want to do. But even though freedom cannot guarantee that a man will attempt to realise the wants he expresses, assuming he knows what he wants, we must concede that it may provide him with the opportunity and conditions under which he may pursue his desires and happiness, and as such is worth while, and the presumption in favour of freedom justified.

Finally, it is objected that freedom, though it can provide opportunities for some to satisfy their wants, is not desired by those who prefer a more

secure environment. Some individuals find freedom antithetical rather than conducive to happiness.<sup>9</sup> Freedom is only one of a variety of factors that may be conducive to a happy life. Some people prefer a more structured and disciplined life style supported by recognised laws, customs, conventions enforced if necessary by coercive sanctions. Freedom in excess for some people occasions psychological strain and stress and can induce a desire to regress to a more limited, womb like kind of life. Too much freedom can bring too much responsibility and make people unhappy. However, these reservations apart, it is difficult to imagine a person who is coerced against his will being a happy man. Whilst freedom is neither a necessary nor a sufficient condition for being happy, and there is no logical relation between being free and being happy, for one can just as easily be free and unhappy, it is the case that for most people a degree of freedom is conducive to happiness,<sup>10</sup> and this explains why a presumption exists in its favour.

Happiness is an elusive notion and may be conceived other than in terms of the self-interested achievement of wants. Since Ancient Greek times there has been a tradition in philosophy that has envisaged the highest good for man to consist not merely in enjoyment or self-satisfaction or pleasure or passive contentment but in a process of self-realisation and the actualisation of those unique qualities that man, qua human, is considered to possess, his rationality and a capacity for moral consciousness. Aristotle refers to happiness as a feeling of well-being supervenient upon the proper functioning of man in accordance with his true nature and in the acquisition and exercise of practical and theoretical wisdom.<sup>11</sup> Similarly, J.S. Mill defends freedom not just as a social good but as a necessary condition for the realisation of the individual self, which he regarded as a principal individual ideal, but which he feared was in his time being eroded by the overriding influence and constraint of custom and public opinion leading to a pervading mediocrity.

Both Aristotle and Mill regarded self-development as necessarily

virtuous but neither would have recommended such liberty of self-development for the uncivilised, the immature, or the unvirtuous lest they abused it, for both subscribed to the principle of freedom of responsible choice.

"The human faculties of perception, judgment, discrimination, feeling, mental activity and even moral preference", says Mill, "are exercised only in making a choice. He who does anything because it is a custom makes no choice. He gains no practice either in discerning or in desiring what is best. The mental and moral like the muscular powers are improved only by being used."<sup>12</sup>

Mill lists the essential freedoms which he believed constituted human liberty and which he believed were necessary for the self-realisation and self-development of the individual: (i) those involving the inward domain of consciousness including liberty of conscience, liberty of thought, feeling; absolute freedom of opinion and sentiment in all subjects practical and speculative, scientific, moral, theological; liberty of expressing and publishing opinions; (ii) liberties of tastes and pursuits as framing the plan of one's own life to suit one's own character, doing what we like subject to not harming others even if they think we are wrong and stupid; (iii) liberty of association among individuals as freedom to unite for<sup>13</sup> any purpose not involving harm to others provided we are of full age.

No society, says Mill, without these liberties is free. The only freedom that deserves the name is doing one's own good in one's own way. Mill's concern with the self-development or self-improvement of the individual is a strand in his philosophy to which everything else seems to be subordinate. It forms the basis of his argument for the liberty of the individual and if accepted explains why a presumption in favour of freedom is so generally assumed.

A further argument in support of freedom is that it constitutes a necessary condition for the development of personal autonomy. A person may be said to be autonomous in two respects, morally and non morally.

An extremely self-disciplined, confident and self-contained person might be said to be autonomous but not necessarily morally so. A skilled and expert criminal who competently plies his trade might be said to act autonomously within the confines of his job but not in a moral sense, for a morally autonomous person would feel responsible for his actions and their effect upon his neighbours' welfare. In both respects autonomy in its moral and non moral senses requires freedom from restraint. But social freedom is not a sufficient condition in itself, for a person who is free of constraints imposed by others might still be autonomous or heteronomous by nature. A young child in a free school, a prisoner just released after a lifetime in prison, are both socially free, but in other respects they may not be free, one because of the immaturity of his years, the other because of the erosion of his independence over years of prison life.<sup>14</sup> Nevertheless, social freedom is a necessary condition for the outward expression of autonomous action; if a person is constrained, his ability to exercise his autonomy is clearly restricted.

In respect of the development as opposed to the expression of autonomy coercive measures may be justified in terms of the victim's anticipated long term interests on the grounds that they may in a paternalistic way be instrumental in enhancing the individual's potential autonomy at a future date. Schoolteachers coerce their charges towards literacy and numeracy in the expectation that such acquired skills will increase their potential development as autonomous adults. Similarly, parents coerce their children towards desirable and morally and socially acceptable skills, attitudes and habits. So two issues are in question, whether freedom is a necessary condition for the exercise of autonomy, and secondly, whether freedom is a necessary condition for its development. The fact that freedom might be considered to be a necessary condition for the former does not necessarily mean, however, that it may in every case be so considered for the latter.

Some educationalists will argue that a disciplined and structured childhood is a preferable and sound preparation for the development of the child into an autonomous adult, more progressive educationalists on the other hand will reply that a child requires freedom to choose in order to develop autonomously. But this surely does not mean that progressive educators, such as the deschoolers, assume that children from the start are already innately and autonomously able to choose as discriminating choosers. It must surely just imply that practice makes perfect, that a degree of freedom is necessary for children as for adults to allow them to make mistakes and to learn to accept responsibility for their actions and decisions, that some freedom is a necessary condition for the successful development as well as the successful maintenance of a morally autonomous personhood. Freedom is necessary for the development of and for the exercise of autonomy in both a moral and non moral sense in the case of both children and adults, which fact, it is supposed, sustains the presumption in its favour.

J.S. Mill takes the view that liberty is beneficial not just for individuals but for society as a whole, that social benefits accrue from allowing individuals the freedom of self-development. Those not desirous of a great degree of liberty, he suggests, can profit from the liberty allowed to others and can learn from the creativity and originality that ensues. "The initiation of all wise or noble things comes and must come from individuals", says Mill, "generally at first from some individual."<sup>15</sup> The strong and talented must lead and Mr. Average will presumably follow but he must not be compelled for this would infringe his freedom.

In Mill's view, people should be allowed to be eccentric and break the the tyranny of custom and its sanctions for, according to Mill, the amount of eccentricity in society is generally in proportion to the amount of genius, mental rigour and moral courage that society also contains. Mill acknowledges that improvement and liberty may not always be identical

but comes down on the side of liberty nevertheless. "The despotism of custom is everywhere the standing hindrance to human advancement, being in increasing antagonism to that disposition to aim at something better than customary, which is called, according to circumstances, the spirit of liberty, or that of progress or improvement. The spirit of improvement is not always a spirit of liberty, for it may aim at forcing improvements on an unwilling people; and the spirit of liberty, in so far as it resists such attempts, may ally itself locally and temporarily with the opponents of improvement; but the only unfailing and permanent source of improvement is liberty, since by it there are as many possible independent centres of improvement as there are individuals." <sup>16</sup> Individualism, Mill believed, promotes the well-being and happiness of society and mankind, just as it promotes the well-being of those who practise it. Freedom, for Mill, is the absence of restraint on the doing of good actions, for Mill has an optimistic view of human nature. If one accepts Mill's optimism and faith in human progress and fulfilment then his argument for freedom is convincing and plausible.

Similarly, if it is accepted that the idea of a rational moral being is an ideal to be striven for, it can be argued that a presumption exists in favour of freedom because people ought to be allowed to do what there are good reasons for doing on the grounds that any interference with the chosen course of a human being is a limitation imposed by force on the extent to which his actions may be rationally determined. "The central sense of freedom", writes J.R. Lucas, "is that in which a rational agent is free when he is able to act as seems best to him, without being subject to external constraint on his actions. Freedom is a necessary condition of rationality, of action, of achievement. Not to be free is to be frustrated, impotent, futile. To be free is to be able to shape the future, to be able to translate one's ideals into reality, to achieve one's potentialities as a person. Not to be free is not to be responsible,

not to be able to be responsive, not to be human. Freedom is a good if  
 anything is".<sup>17</sup>

R.S. Peters is of the opinion that a logical point may be made in this context, that a person who asks "What ought I to do?", or, "What reasons are there for my doing...?" must logically demand freedom from interference from others in two respects, from interference with his freedom to think for himself and from interference with any subsequent action he should choose; otherwise, says Peters, a person's deliberation has no point, he no choice, and morality no substance. Peter's argument is based upon the notion of practical reason. Man, it is assumed, is not an island and does not operate in vacuo but depends upon free intercourse with others and the meeting of minds. So restraint upon social intercourse and public debate is ruled out, so also are constraints upon a person's thinking for argument is paramount, not force or inner illuminative intuition. So practical reason, prudence and the principle of utility would seem to favour a presumption in favour of freedom of opinion, of discourse and of action; for otherwise, argument and deliberation would have little point, being merely theoretical and solitary contemplative exercises.

Of course, if a person who asks "What ought I to do?" is required to be free to act, then so should all others. If a person is necessarily involved with other rational beings in trying to answer questions of practical policy, and demands freedom of thought and action for himself, he can hardly deny it to others. Peters concludes his argument for freedom as follows: "Because, therefore, in the sphere of practical reason there is such a close link between discussion and action, in the sense that a rational man who asks the question "What ought I to do?" must demand freedom to do what there are good reasons for doing, freedom of action as well as freedom of thought can be shown to be a general presupposition of practical discourse in so far as it is a public activity to which rational beings contribute."<sup>18</sup> So reasons must be given for interfering with people rather than for allowing them to do what they want, the



presumption being that people are free to do what they want to do because basically we respect each other as rational beings.

The arguments so far considered in support of the assumed presumption in favour of freedom, with the exception of Peters' transcendental argument, have been of a consequentialist kind based on the assumption that freedom is a good because it leads to desirable outcomes such as happiness, self-fulfilment, the improvement of self, society, mankind, and the sustenance of a rational morality. They have also assumed that man is by nature good and therefore entitled to be free to do good things, a view which many might think is more wishful than realistic. Indeed, if one believes, as Thomas Hobbes did, that man by nature is not necessarily naturally good, then one's idea of freedom and one's attitude to it is likely to be different in some respects.

In its negative sense freedom as absence of restraint is maximised, presumably, in a society where there are no laws or moral rules exerting coercive sanctions. Hobbes conceived of such a state, his state of nature, and regarded liberty as the absence of all external impediments. His laws of nature are not rules in the normal sense, they do not oblige, they are maxims of prudence rationally arrived at by the individual himself. Hobbes believed that man in a state of nature had a 'right of nature', that is "the liberty... to use his own power as he will himself for the preservation of his own Nature; that is to say his own Life." <sup>19</sup> The condition of man in a state of nature is described by Hobbes as: "...a condition of Warre of everyone against everyone; in which case everyone is governed by his own Reason; and there is nothing he can make use of, that may not be a help unto him, in preserving his life against his enemyes; It followeth, that in such a condition, everyman has a Right to every thing; even to one another's body." <sup>20</sup> In Hobbes' state of nature men have maximum liberty in so far as they are free from the coercive power of the Sovereign to whom they are obliged to enchain themselves in order to obtain peace

and security. "The Liberty of a Subject lyeth therefore only in those things, which in regulating their actions, the Sovereign hath praetermitted: such as is the Liberty to buy, and sell, and otherwise contract with one another; to choose their own aboad, their own diet, their own trade of life, and institute their children as they themselves think fit; & the like."<sup>21</sup>

The greater liberty of subjects depends upon the silence of the law,<sup>22</sup> when the Sovereign prescribes no rule.

The acceptance of this Hobbesian view of liberty coupled with Hobbes' pessimistic view of human nature would, it is submitted, weaken the presumption in favour of freedom which relies also upon the more positive supposition that freedom leads to desirable ends. Hobbesian liberty is also self-contradictory because in Hobbes' state of nature or 'warre' individuals are not really free but rather are subject continually to the coercive threats and force of each other, which restricts their freedom. "For as amongst masterlesse men, there is perpetuall war, of every man against his neighbour; no inheritance to transmit to the Son, nor to expect from the Father; no propriety of Goods, or Lands; no security; but a full and absolute Libertie in every Particular man."<sup>23</sup>

For most men, surely, it is the quality of life that is of paramount importance, and consequently the quality of freedom must at times take precedence over its quantity. Hobbes was not unaware of this and recognised man's desire for peace and his need of a Sovereign, so that he might conduct his affairs profitably and with safety. Even Hobbes, in effect, could not and did not subscribe absolutely to freedom in a purely negative sense.

An analysis of Hobbes' view of liberty reveals the fallacy in arguments for freedom which follow the anarchistic principle that society or the state should allow everybody to do as they please. That is to say, in practice, that everyone should be allowed to turn up their wireless, or help themselves to each others possessions, or punch each other on the

nose, whenever they might wish. It is possible, of course, to conceive of a logical world in which everyone is free to do just as they may choose, in which, for example, P is dispositionally free to do A and Q is dispositionally free to prevent P from doing A.<sup>24</sup> If for instance P exercises his freedom and Q decides not to exercise his (but could if he so wished) both may be said to be dispositionally free. But for this to be the case in the actual world conflict between choices would clearly have to be eliminated, for once two men desire the same object, then one man's freedom to fulfil his desire can only be realised at the expense of the other.

The anarchistic principle obviously can only apply to a world in which human desires and choices, through a miracle of pre-established harmony, can never conflict. Kant perhaps may have had such a world in mind when he represented the categorical imperative idealistically in the Formula of the Kingdom of Ends: "So act as if through one's maxims as a law-making member in a universal Kingdom of Ends."<sup>25</sup> But such an imaginary, ideal world of harmony would in practice be impossible to achieve, and would certainly be an impractical guide to conduct, for no person in his right senses would be so foolish as to try to conduct his affairs on the presumption that his neighbours would always act in a scrupulously honest way.

In our imperfect and practical world conflict and competition are facts of life, and cries of absolute liberty for all, according to some anarchistic formal principle, would in practice only mean greater freedom for the strong and less for the weak, and would guarantee no secure freedom for anyone, not even the strong and powerful, for, as Hobbes observed, even the most tyrannical of persons must sleep and thereby render his person vulnerable at some time. Jeremy Bentham may have had this in mind when he distinguished between two aspects of liberty, liberty as against the law and liberty as against wrongdoers, and concluded: "As against the coercion applicable by individual to individual

no liberty can be given to one man but in proportion as it is taken away from another. All coercive laws, therefore, and in particular all laws creative of liberty are as far as they go abrogative of liberty." <sup>26</sup>

In reality to imagine living in a state of absolute liberty entails incurring the constraints imposed upon one by one's neighbours.

Philosophers who have addressed themselves to this problem have recognised this in one way or another. We have, therefore, the restraining influence of Hobbes' Sovereign, Locke's magistrates, Bentham's law-giver, and Mill's harm principle.

Statements based on formal principles are of limited value. The notion that each person should be granted full liberty to do what he pleases, provided only that he does not interfere with the like liberty of another is one such example. It simply implies that liberty should be distributed impartially. "Each person", says John Rawls, "participating in a practice or affected by it has an equal right to the most extensive liberty comparable with a like liberty for all." <sup>27</sup> So there is "a presumption against distinctions, classifications made by legal systems and other practices to the extent that they infringe on the original and equal liberty of the persons participating in them." This formal principle may represent a sound maxim of justice, but insists merely on an impartial procedure which may be applied to any kind of law, rule, custom, coercive or otherwise, regardless of its content. <sup>28</sup> A general law permitting nose punching could meet this criterion of impartiality just as one prohibiting nose punching would.

Rawls' formal principle, like the anarchistic principle, does not distinguish the quality of freedom that is to be allowed and, although it assumes a presumption in favour of freedom, it does not represent an adequate substantive principle of freedom distribution. My right, for instance, to keep my neighbour awake playing my wireless set all night may not be fully counterbalanced by his keeping a howling dog which does the same to me. Each party, in this example, according to the principle

in question, can use his freedom to the detriment of the other under a law which recognises a like liberty for the other to do the same if he can. But this law, though non-discriminatory, provides little consolation for either party if it so happens that their interests are seriously harmed. For these reasons it cannot be said that the principle that each should be allowed a full liberty to do as he pleases, provided he does not interfere with a like liberty of another, constitutes a substantive argument in support of freedom, though it does assume a presumption in its favour.

A general presumption, it is submitted, may justifiably be held in favour of freedom. This implies that constraints may be justified only in so far as they remove impediments to freedom, for it is supposed that we ought to be free to exploit our talents and personhood as human beings, since only by so doing can we aspire to a happy life and a prosperous society.

But the presumption in favour of freedom cannot be stipulated in terms of absolute freedom. Man can never be absolutely free. He is subject to his own inabilities. He cannot talk to rabbits or walk on the sea. He is subject to constraints imposed upon him by the natural environment and by his fellow men. It is, therefore, more sensible to speak in terms of degrees of freedom, and of the maximisation of freedom in relation to other desirable principles such as equality and justice. Most societies recognise certain fundamental rights or liberties as more deserving than others and duly protect them against liberties they consider to be of a morally inferior kind. So whilst a presumption lies in favour of freedom the use of coercive laws and sanctions is not ruled out, so long as they are used to maintain a state of liberty, as say opposed to licence, and to ensure a fair distribution of valued freedoms for all.

We suppose, as rational beings, that reasons ought always to be

given for treating people differently or for interfering with their freedom. This is because we accept the fundamental moral principle of respect for persons upon which our presumptions in favour of justice and freedom are firmly based. Our presumption in favour of freedom, or as Mill expressed it "All restraint qua restraint is an evil", <sup>29</sup> implies that the justification for any restraint lies with the restrainer. This seems to be the accepted practice in law where the writ of habeas corpus requires that the jailer show good reason why the prisoner should not be released; it is not considered to be the prisoner's responsibility to make a case for his liberty. Similarly it is submitted, in moral law, it is always he who interferes with the liberty of another person who must justify his action and not the victim.

We acknowledge legal and moral rules supported by coercive sanctions as protection from the arbitrary constraints and anti-social behaviour imposed upon us by others, as protection from molestation be it by tyrants, terrorists, street gangs or play ground bullies. In so doing, we set a constraint to catch a constraint so to speak, and limit freedom in one sense in order to increase it in another. The evolution of democratic life seems to follow this pattern. First one law is passed then another is fashioned to supersede it. First one then another constraint is imposed to weaken the grip of previous constraints as society readjusts its values, and presumably seeks to maximise freedom whilst at the same time ensuring that it is more equally distributed. In a paradoxical way, unfree, constraining, coercive measures become instruments for preserving freedom and of enhancing it. We are free because we are protected by the coercive sanctions of the law both legal and moral.

Most political philosophers acknowledge the paradox of freedom

though the interpretation they give to it may vary according to their view of human nature. Even Hobbes, as we have indicated, who regarded freedom basically as being free from all constraint, felt obliged to concede that the restraining influence of the Sovereign was a necessary condition for the realisation of those additional freedoms obtainable only in a state of peace and security.

John Locke did not share Hobbes' pessimistic view of human nature. He writes of a state of nature in which men are not wholly selfish but share a limited concern for one another and live, safe for a minority, in a state of comparative peace in which laws are required which are agreeable to all. The end of law, says Locke, "...is not to abolish or restrain but to preserve and to enlarge freedom....For liberty is to be free from restraint and violence from others, which cannot be where there is no law."<sup>30</sup> Locke distinguishes 'laws of nature', such as respect for property, respect for persons, and respect for freedom, and considers those who reject such laws to be irrational and deserving of punishment. And these 'laws of nature', the product of man's reason, are coercive, each man having the right to visit punishment upon an offender. But though coercive these laws, Locke states, do not limit freedom but increase it, for everybody as a rational being is obliged to recognise them. "And Reason, which is the law, teaches all mankind who will but consult it that being all equal and independent no one ought to harm another in his life, health, liberty, or possessions."<sup>31</sup>

Similarly, Locke suggests that civil laws, like the 'laws of nature', may also be regarded as coercive yet also as protecting the liberty of individuals. The sort of coercion that Locke sees as limiting freedom is that of being subject to the "inconsistent, uncertain, arbitrary will of another man"<sup>32</sup>, as in a Hobbesian state of war, whereas rational 'laws of nature' and legitimately agreed civil laws enhance freedom and in so doing justify an element of coercion in this respect. In

Locke's view, men are really free when they are not coerced into not doing actions that will promote the general good.

Jeremy Bentham shared with Hobbes the notion of a 'state of nature' in which men indiscriminately coerced each other, but whereas Hobbes considered it to be the Sovereign's task to impose harmony, a harmony of interests, so that each individual could better pursue his own selfish desires, Bentham envisaged his 'lawgiver' as reconciling conflicting interests in order to achieve the greatest possible amount of happiness for all. Bentham distinguished two kinds of liberty, liberty as against the law or being free of laws and liberty as against wrongdoers, and concluded: "These two sorts of liberty are directly opposed to one another and, in so far as it is in favour of an individual that the law exercises its authority over another, the generation of the one sort is, as far as it extends, the destruction of the other. In the same proportion and by the same cause by which the one is increased the other is diminished." <sup>33</sup> So, whilst Bentham regarded the free interplay of individuals to be conducive to the greatest happiness of the greatest number, he regarded the coercion of the minority of wrongdoers by the civil law as necessary in order to ensure the maximisation of the wishes of the majority. The coercion of deviants he regarded as being compatible with the attainment of a greater freedom for the rest.

J.S. Mill like Hobbes takes the stronger view that basically coercion of any kind is opposed to liberty, that a man is free only when his desires, choices and actions are determined by himself alone. Mill did not have Hobbes' pessimistic view of human nature but believed that each individual should live his life as he saw fit, provided that in so doing he did not harm other people. In particular cases, however, when an individual's freedom of self-fulfilment is impeded by certain undesirable actions on the part of others, Mill wishes to justify the use of coercion. In cases of threatened physical injury, offences



against decency, when a parent neglects the education of his children, for example, Mill approves of the use of coercion as a preventive measure on the grounds that every individual ought to be free of such restrictions if he is to be free to realise his full potential.<sup>34</sup>

Mill's intent was to liberate his fellow men by initiating them into his own rational state and understanding: "The uncultivated cannot be judges of cultivation. Those who most need to be made wiser and better usually desire it least, and if they desired it would be unable to find their way to it by their own lights."<sup>35</sup> So Mill, like Hobbes, distinguishes two kinds of freedom and concedes that coercion is compatible with freedom in so far as in certain circumstances it frees a person from undesirable restraints preventing him from realising freedom in a more positive sense. Mill's individual is not to be left entirely free but subjected when necessary to Mill's own brand of Victorian intellectual paternalism, which is justified by Mill so long as it is calculated to ensure a greater freedom and a more desirable freedom for the individual in the long run.

All four philosophers arrive at their own particular analysis of freedom from a consideration of the kind of constraints that each sees as being fundamentally opposed to it; in Hobbes' case it is the fear of physical force of one person upon another; in Locke's case, the fear of the arbitrary will of tyrants; in Bentham's case, the fear of law-breakers and wrongdoers; and in Mill's case, fear of the debilitating constraints imposed by custom and public opinion.

All four philosophers subscribe to the view that we are free in the negative sense of being free from constraints imposed upon us by others. But freedom in the negative sense is of limited significance; it does not seem to matter what we are expected to do with it; we are simply free if not constrained in any way. It is not surprising, therefore, that all four philosophers move in one way or another towards a more

positive concept of freedom and recognise that constraint, say in the form of coercive laws, can enable people to be freed from less desirable constraints, leaving them free to do more worth while and desirable things. Obviously, we are only free to do something when we are free from any impediments that might prevent us. Also, logically speaking, we might argue that to deprive a person of the positive freedom of self-fulfilment is to infringe his negative freedom, or right to be free from the interference or coercion of others. Clearly the two concepts of freedom, the negative and the positive, are related and interdependent.

To argue that constraints, such as the coercive sanctions of the law or moral opinion, can free people from constraints of a less desirable kind is to imagine or have in mind a kind of controlled or preferred freedom that is both demanding and prescriptive. It is a view that can take many forms, and which can be abused. It acknowledges the compatibility of freedom and constraint in so far as the latter is swallowed up or justified by the realisation of the former, and freedom itself is seen in terms of not being free. The Christian faith, for example, claims to offer the greatest freedom of all in return for the supreme sacrifice of becoming the prisoner of Christ; as the poet John Donne puts it in his address to God: "Take me to you imprison me for I

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Except you enthrall me, never shall be free."

Just as Christians labour under the coercive threat of deadly sin, so the atheistic Marxist toils under the threat of alienation lest he refute the Marxist creed that claims to relieve him of the constraints of capitalism and to set him free so that, like the Christian, he can realise his human potential to the full. Similarly, there are educationalists who will argue that the truly free mind is the disciplined mind, whereas the undisciplined mind is unfree.<sup>37</sup> This kind of reasoning appears in many contexts, for example in Rousseau's notion of the general will and in Hegel's conception of the state. It has been and is

adopted by many social and political institutions in society ranging from the family to political parties, including all sorts of social groups, and individuals, appealing to all kinds of loyalties and ideologies. If abused, such appeals in the name of freedom can be the means of supporting institutions, policies, ideologies of the most authoritarian, totalitarian and tyrannical sort imaginable to the detriment of freedom in every sense.

To suggest that freedom can be realised by rendering people less free suggests some trick of logic, an attempt that is to conceal the evident inconsistency or contradiction in claiming that  $p$  is not  $p$ , that freedom is not really freedom in fact but restraint. But this apparent confusion can be resolved, it is suggested, if a distinction is retained between freedom in the particular and freedom in the formal sense of being free, and so long as we do not confuse empirical manifestations of freedom with the formal meaning of the word 'free'.<sup>38</sup>

In the formal sense to be free is simply to be free of all constraint. Any constraint must obviate the formal principle of freedom if the word 'free' is to have any meaning at all. This is not to deny the significance of the qualitative and quantitative assessment of particular freedoms in the empirical world, of the idea, for instance, that a child's freedom might be justifiably limited by disciplined learning calculated to free his mind from ignorance and lead him to a fuller life. But the distinction between the formal principle of freedom and freedom in the particular must be retained, for if we relinquish entirely the formal principle that any restraint whatever is a limitation of freedom, we remove at once the onus on those arguing for constraints in the name of freedom to justify them, and we leave the way open for limitless claims for all kinds of coercive threats and actions in the name of freedoms of one kind or another.

So, the paradox of freedom may be explained. It is when we confuse

freedom in its formal and particular senses that we appear able to  
argue that we can coerce people into a more valuable or greater freedom.<sup>39</sup>  
Freedom essentially, it is submitted, means being free of all constraints  
whatever; and in this respect both Hobbes and Mill were right; and the onus  
of justifying coercive measures on the grounds that they will lead to  
a greater freedom or freedoms, however desirable, must rest with those  
who make such claims and propositions. It is for these reasons that we  
speak of the presumption in favour of freedom.

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CHAPTER 4

## Freedom Through Coercion

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It is generally accepted that coercion is antithetical to freedom. It is a more contentious claim that freedom can be realised through coercion, that instead of limiting freedom coercion might actually enhance or create it, that a person might become free through being coerced. Such assertions are better understood if we recall certain distinctions commonly made in relation to the complex notion of freedom. First, we may note the distinction between being personally free, having a free will and the ability to think for oneself and to make one's own choices, and being socially free or having freedom of action from interference by others to execute one's choices. These two concepts of freedom, we have already indicated, are not unrelated and are relevant to any discussion involving coercion. Secondly, we may note the distinction between negative and positive concepts of freedom which are also related, though the notion of positive freedom must be qualified for it can take different forms. Thirdly, in deference to ordinary language use and everyday experience, a distinction must be drawn between what might be called a commonsensical notion of freedom, embodying both a negative and positive perspective of freedom, and distinctly idealistic ideas of freedom that are exclusively positive, normative and prescriptive. Since it is largely in the context of the latter that claims are made that people may be coerced to be free, several idealist theories of freedom, that is to say theories of freedom grounded in metaphysical reasoning, will be considered. Finally, assuming that an autonomous person is in some respects a free person and conversely that a free person must in some respects be autonomous, the relation between coercion and autonomy will warrant some attention.

If we assume that to say 'P wants to do x' is really to say 'All other things being equal P would do x if he could' then we can conclude that a person is free only in so far as he is not restrained from doing



what he wants to do, or what he might choose to do if he knew that he could, or as Rousseau says: "... man is truly free who desires what he is able to perform and does what he desires." <sup>1</sup> So, leaving aside the question of restraints upon a person's abilities and means imposed by the constrictions of the physical world and contingent circumstances, a free person is essentially a person who is personally free in the sense of having a free will, whose choices are caused but not predictably determined and who is socially free being free from the interference of others. These two aspects of freedom, personal freedom and social freedom, must be related for there would be little point in being socially free if one had not the means to enjoy it, if one did not have a degree of autonomy, self-control and determination to profit from it.

Those who deny the existence of free will, as some behaviourists do, seem unable to ascribe any value at all to such important notions as social and political freedom. B.F. Skinner and his followers, for example, regard the notion of autonomous man simply as a fiction of our ignorance of what really determines human behaviour. <sup>2</sup> We reject this view, and argue that an understanding of the notion of coercion depends upon the recognition of the co-existence of two opposing autonomous wills, and that coercion is manifested when one is threatened and prevailed upon by the other. It seems strange, therefore, to want to argue that coercion can make a person free, for coercion inevitably restricts a person's options, impedes his freedom of action, limits his choices, and makes him do what he does not really wish to do.

The distinction between negative and positive freedom has historical antecedents as Sir Isaiah Berlin, who popularized this dichotomy in his seminal treatise 'Two Concepts of Liberty', admits. <sup>3</sup> Berlin's discussion of freedom or liberty, which terms he uses interchangeably, so far as an analysis of freedom and coercion is concerned, is helpful but confusing. Berlin wants to argue that freedom is freedom and cannot be redescribed

in terms of the acquisition of other desirable goods that man might habitually seek. Consequently, he adopts a strict and inflexible interpretation of the notion of negative freedom amounting in effect to a formal principle of non-interference and absence of restraint, from which it follows that coercion always infringes freedom. More helpfully, Berlin offers a critique of those assumptions which he argues underly idealistic notions of freedom, or positive freedom in terms of his own vocabulary, and reveals the dangers that such theories entail, indicating that their effects can be counter-productive in inhibiting freedom instead of promoting it.

Berlin's analysis is confusing in two respects; firstly, because he strips the notion of negative freedom of any meaning or significance by isolating it from more positive notions of freedom; and secondly, because he offers a narrow and singularly idealistic notion of positive freedom itself. Alternatively, the notion of positive freedom, it is suggested, might be interpreted in a variety of ways, for example, as being free from restraint and therefore free to do or not to do whatever one desires, as freedom that is realised in the acquisition of other desirable ends such as knowledge, justice, or law and order, as freedom conceived in some ideal sense, in terms of some metaphysical theory divorced from the empirical world. So, philosophers who are critical of Berlin's two concepts of liberty might be tempted to draw a distinction between a commonsensical notion of freedom based on ordinary experience on the one hand, and an idealistic notion of freedom grounded in metaphysical reasoning on the other. By so doing, some of the inadequacies in Berlin's analysis might seem to be accommodated.<sup>4</sup>

Commonsense seems to indicate that freedom can be conceived as a triadic relation.<sup>5</sup> When the freedom of someone is in question, it is seemingly always a case of being free from some constraint or restriction, interference with or barrier to doing, not doing, becoming or not

becoming something or other; in other words. freedom is always of something, from something, to do, not do, become or not become something. And this makes sense for if a person is actively struggling against some lack of freedom, he must be doing so for one reason or another. He must be struggling for the liberty not to do or to do something or other; otherwise, freedom in its negative sense, being free from, would have no apparent significance, because a person wishing to be free from some inconvenient restraint must surely believe he would be better off without it.

To be free from has no meaning unless it is related to some positive desire or consequence. The principle of negative freedom relentlessly pursued suggests an arid regression to the final solution when all restraints are relinquished, paradoxically by the final restraint of death itself. So commonsense would seem to dictate that freedom, whilst fundamentally implying freedom from restraint in a negative sense, entails being free in a positive sense too. Absence of restraint is not a sufficient condition for freedom because one must, if freedom is to have meaning and value, have some positive reason for desiring it. Nor is absence of restraint a necessary condition for freedom, because commonsense tells us that a degree of restraint is sometimes necessary in both a personal and a social sense in order to attain freedom in other respects. This is just so, it is a matter of empirical fact and simple observation.

Idealists' theories of freedom differ fundamentally from this commonsensical point of view. It is one thing to argue that some balance must be pursued between the absence and presence of restraint, that freedom in a negative sense is related to a positive perspective in some logical or consequential way, but quite a different thing to postulate that obedience to authority, in terms of some ideology, theory or faith, actually entails freedom itself and does so whether one submits to it willingly or not, because if one objects it is assumed that it is

only because one does not really understand what is the case. This is to postulate a positive view of freedom of a very special kind grounded in metaphysical reasoning that is regarded as 'real' in the idealistic sense as opposed to commonsensical reasoning associated with the everyday world of experience. Idealist theories of freedom are at one in positing an exalted, worth while, normative, prescriptive and categorical view of freedom. Each theory sees freedom as right and good. Freedom is not doing as you like or 'apparently' think is right but what is 'really' right. Since it is not possible for people to know all the time what is 'really' right and what is good for them for a variety of reasons, say lack of knowledge or intelligence or experience, idealists will argue that it is only fitting that those who lack such wisdom should, if necessary, be coerced to be free by those who are wise and knowledgeable until such time as they, the uninitiated, attain such wisdom themselves.

Since in different ways commonsensical and idealistic views of freedom admit the possibility of a person being coerced to be free, that coercive force may be a factor in enhancing or realising a person's freedom, these two notions of freedom deserve further consideration.

Sir Isaiah Berlin argues that his notion of negative freedom is the basis of the liberal tradition in political thought that regards a person as being free to the degree to which no other man or body of men interferes with his activity. Negative liberty, for Berlin, has intrinsic value, is of value in itself. And this explains why he seeks to discredit the views of those who advocate a positive, by which he means idealist, notion of freedom. Clearly coercion is antithetical to Berlin's strict notion of negative freedom and in no sense can make a man free. It is, says Berlin, because the ends that men seek conflict, are diverse, incompatible, and unattainable by any single magical solution that freedom in a strict negative sense must be regarded as intrinsically

valuable: "The necessity of choosing between absolute claims is then an inescapable characteristic of the human condition. This gives its value to freedom...as an end in itself, and not as a temporary need arising out of our confused notions and disordered lives, a predicament which a panacea could one day put right." <sup>6</sup> So in Berlin's view the principle of non-interference, in terms of social freedom, is of paramount importance, and this is substantiated by the fact that we must have unrestricted freedom of choice, leaving alternative courses of action open to us, so long as the ends that we seek impinge upon one another.

Freedom, says Berlin, is freedom and nothing is to be gained by confusing it with other desirable ends, that is to say by attempting to redescribe it in terms of some other value. Berlin concedes that some people may be willing to sacrifice a portion of their freedom to enable less fortunate souls to increase their share, to attain that is a greater equality of freedom in society as a whole, but denies that such a sacrifice can possibly amount to an increase in what is being sacrificed, namely freedom itself: "Everything is what it is, liberty is liberty not equality or fairness or justice or human happiness or a quiet conscience. If the liberty of myself or my class or nation depends upon the misery of a vast number of other human beings, the system which promotes this is unjust and immoral. But if I curtail or lose my freedom in order to lessen the shame of such inequality, and do not thereby materially increase the liberty of others, an absolute loss of liberty occurs. This may be compensated for by a gain in justice or happiness or in peace but the loss remains, and it is nothing but a confusion of values to say that although my 'liberal' individual freedom may go to the board some other kind of freedom - 'social or economic' - is increased." <sup>7</sup>

Berlin recognises the inevitability of a degree of restraint, but at the expense of freedom, and observes that being free is not everyone's primary need, for a starving man does not need freedom so much as food, a sick man medicine, an uneducated man schooling, and children security.

Recognition of the necessity of restraint, however, does not in Berlin's view suggest an alternative absolute principle of interference, for given that freedom from interference is of intrinsic value there can be no such absolute principle to the contrary. Berlin regards freedom much as one might regard peace. Peace like freedom may be regarded as a pre-condition for all manner of other goods which are in themselves indisputably positive and substantial, but peace is peace and need not be confused or identified with such goods, nor does it necessarily guarantee their realisation. Berlin argues for a strictly negative concept of freedom because it is his principal concern to establish the limits of coercion in order to safeguard freedom for individuals to function as human beings. Even the most autocratic of regimes, he observes, must preserve a degree of non-interference, and in Berlin's view the onus must rest on those who would interfere with a person's freedom no matter how expedient such interference in terms of other values may appear to be.

But it may be objected that Berlin's reasoning does not settle any real questions about freedom at all. He argues that to decide whether a man is free one must ask what he is free from, though this kind of enquiry simply edges one back to a re-evaluation and discussion of the nature of freedom itself; whether, for example, human nature being as it is, being free from the protection of the law really constitutes a state of freedom or not. And this in turn seems to suggest that the recognition of a positive dimension to freedom is unavoidable.

Berlin's refusal to associate the concept of freedom with other desirable ends leaves the question of the nature of freedom unresolved. A commonsensical view would suggest that any analysis of freedom must relate to the satisfaction of particular desirable wants, needs and interests. Once this move is made, coercion may be regarded as being instrumental in the realisation and maximisation of desirable ends for individuals and society as a whole. Everyone, be they scholars, lifemen,

games players, artists of any kind, must needs submit to the discipline of the materials and the rules of the sphere in which they operate, if they are to realise their potential and fully exercise their competencies and abilities. Similarly, the coercive influence of customs, laws, opinion, distinguishes for us a hierarchy of values in the attainment of which we express our freedom. We lose freedom in one respect to gain it in another form, like the prisoner who refuses to leave his cell preferring the security it affords to the hazards of life outside. Freedom is not just a question of unlimited choice, but depends upon the quality as well as the quantity of choice, which entails the inevitable choice of having to renounce certain desires if accepted norms and standards are to be followed. So, a degree of coercion, one might argue, is necessary for the sustenance of freedom, though the nature of such coercion and the extent to which it might be justified in the name of freedom, and the values in which freedom might be redescribed, are issues that will always be debated.

It is not surprising that philosophers of freedom distinguish between good and bad laws. A good law for Hobbes, for instance, is one that does not impose useless restrictions or burdens: "For the use of law...is not to bind the people from all voluntary actions, but to direct and keep them in such a motion as not to hurt themselves by their own impetuous desires, rashness or indiscretion; as hedges are set, not to stop travellers, but to keep them in their way." Locke also refers to the analogy of hedges but in a more positive way, suggesting that laws are the condition of liberty: "...since that ill deserves the name of confinement which hedges us in from bogs and precipices. So that, however it may be mistaken, the end of law is not to abolish but to preserve and to enlarge freedom...For liberty is to be free from restraint and violence from others, which cannot be where there is no law."

Locke's notion of negative freedom, which is associated with the liberal concept of the state, differs from Berlin's concept of negative freedom. Locke makes room for a positive dimension to the notion of freedom based upon three principal requirements, the removal of obstacles and hindrances, the assurance of a sphere of individual independence, and the restriction of state interference within prescribed limits. And these requirements recognise two distinct elements to the concept of liberty, freedom from frustration and inhibition and freedom for achievement and fulfilment. This, it is submitted, represents a commonsense view of the notion of freedom and its relation to coercion. Freedom is viewed positively in terms of being free to do or not to do desirable things or being free to achieve other desirable ends, and coercion is implicitly acknowledged as a form of constraint instrumental in enlarging and apportioning freedom in such terms for individuals and for all members of society in aggregate.

Idealist theories of freedom on the other hand rely upon reasoning of a special kind that differs from the commonsense notion of reasonableness as applied to ordinary men. Reasonableness in the ordinary sense of the word recognises the willingness to listen to critical arguments, to learn from experience, that one cannot expect too much from reason, that argument rarely settles questions but is simply a means to learning by enabling one to see things more clearly. Rationalism in the context of idealist theories of freedom is quite different. It is objective rather than subjective and can take a variety of forms ranging from the intellectualist theory of Plato, which regarded reasoning as a faculty that only the wise and gods shared, to more collectivist socially and empirically based theories such as Hegelianism and Marxism which acknowledge the social context of reason but which seek to discover or intuit a logic or theory or scheme of things governing the condition of man.



Idealist theories of freedom are grounded in reason and faith, a mixture of both, and constitute figments of the mind that are not verifiable by empirical observation of the human condition, though empirical evidence of a kind may be invoked to support such theories, as miracles are invoked as evidence of the existence of a benevolent and omnipotent deity. Idealist theories of freedom identify obedience to authority with freedom. A free person is one who understands and conforms to the theory or creed, and a free society one that recognises the assumed truths that such theories are deemed to reveal. Reality for the idealist exists not in the here and now but in ideas, in contents of the mind. In general such theories tend to suggest that there is some kind of single harmonious, Utopian and logical solution to the problem of human conflict. To describe freedom in such terms is to depart from ordinary language philosophy and to make assumptions based upon reasoning of a metaphysical rather than of an empirical kind.

Those who subscribe to idealist notions of freedom reject freedom as a formal principle of non-interference because the latter fails to distinguish between liberty and licence. And to allow a person to do as he wishes does not necessarily guarantee his being free, for he may still be a slave of uncontrollable personal desires and impulses. Such a person, it is supposed, might enjoy a kind of social freedom but remain in personal bondage like the alcoholic, drug addict, kleptomaniac, schizophrenic, or lay about, none of whom we may wish in normal circumstances to regard as being free if left to his own particular desires. The idealist will argue that licence may be a kind of freedom, but is not 'true' or 'real' freedom, that a man who is free to do evil, like a man who has no control over his desires, is not 'really' free at all. Freedom for the idealist entails being in control of oneself and doing what is right, and making the right choice which is the only choice.

So, a free person, following this reasoning, is a person who acts from a sense of duty and not a person who simply does as he wants and follows every whim. And in this respect idealists share common ground with Kant who also regards choice as rational and right, though derived from practical reason, and those ruled by their desires as making choices that are wrong. And this makes sense in ordinary reasoning too for there are times when we have to admit we have to will ourselves to do things we do not wish to do. Sometimes our wants clash and we may want things that will restrict our freedom. We resist our desires and choose to act out of a sense of duty, and in such circumstances it is presumably the strong willed person who aspires to freedom. But the idealist will argue, if no man is free in doing wrong, to coerce him from such action towards morally approved and dutiful behaviour is to ensure his freedom, to set him free, and this is what he truly needs, is truly in his interests, and what he would really want were he sensible enough to realise it.

A man is, therefore, only 'apparently' free to gamble his money to the detriment of his family, he is not 'really' free, but he would be free if he had the will, reason and good sense to overcome such a base impulse. If then such a person is forced or coerced into acting in a dutiful manner he is in a sense forced to be free or at least, it can be conceded, he is forced into a position from which he might come to realise where his freedom lies. It is better, the idealist assumes, to be coerced rather than to be left to the mercy of one's desires in which state one is neither master of one's destiny nor a morally autonomous being.

The assumption is that conduct based on desire is bad and necessitated whilst that resulting from choice is based on reason and is free. Choice implies a free will. Being free entails more than being left free of the interference of others, it means being free of irrational desires

and being free to make proper choices out of a sense of duty.<sup>10</sup> It follows that a person who feels his duty to be burdensome to him is already in danger of becoming enslaved by his desires, but is not unfree so long as he has the will to exercise a proper moral and rational choice from a sense of duty. Idealist notions of freedom assume the existence of free will, marry it with the notion of social freedom, and set both in a moral context.

This kind of reasoning relies on what is variously called the doctrine of the two selves,<sup>11</sup> or the two worlds concept.<sup>12</sup> Two selves are envisaged, the lower, baser self representing a person's lower nature, one's heteronomous self subject to worldly desires and pleasures, and one's true, ideal, higher or 'real' self, one's morally autonomous self, representing one's self at its best, rational, disciplined, moral, knowing and wise. If then my baser self is predominant it simply implies that I am ignorant, inexperienced, and/or incapable of recognising my true, latent, rational self which as a rational being I would recognise were I made aware of it, for this rational self is the only self, it is presumed, that deserves my serious consideration.

The notion of the two selves encapsulates a positive ethical doctrine of self-realisation, the realisation of the ideal self that is identified with being really and truly free. This constitutes what Berlin calls a positive doctrine of liberation by reason; freedom is not doing as one likes but what is right, is not to follow one's desires but reason.

Of course it is the case in life that the majority of people either have to or are content to be told what to do, for if left to themselves they would tend to squander their abilities, their opportunities, lacking a sense of duty to either themselves or to others. If, however, the idealist will argue, we can be made to understand the true nature of things we would not wish to behave so, for to want something to be

other than it must necessarily be is to be ignorant, irrational and  
 13  
 unwise. Berlin states the argument as follows:

"To understand why things must be as they must be is to will them to be so. Knowledge liberates not by offering us more open possibilities amongst which we can make our choice but by preserving us from the frustration of attempting the impossible. To want necessary laws to be other than they are is to be prey to an irrational desire - a desire that what must be X should also be not X. To go further and believe these laws to be other than what they necessarily are is to be insane. That is the metaphysical heart of rationalism. The notion of liberty contained in it is not the 'negative' conception of a field without obstacles, a vacuum in which I can do as I please, but the notion of self-direction or self-control. I can do what I will with my own. I am a rational being; whatever I can demonstrate to myself as being necessary, as incapable of being otherwise in a rational society - that is a society directed by rational minds towards goals such as a rational being would have - I cannot, being rational, wish to sweep out of my way. I assimilate it into my substance as I do the laws of logic, of mathematics, of physics, the rules of art, the principles that govern everything of which I understand, and therefore will the rational purpose by which I can never be thwarted, since I cannot want it to be other than it is."

Once the premise is accepted that people have to learn to be good and to do the right thing, the question arises as to how and from whom they will learn. Thereupon the notion of self-realisation through reason is transposed and grounded in a political and social context. The uninitiated will have to be told what to do and if necessary forced to behave accordingly. But this, the idealist argues, is not to enslave people, for if reason seeks truth then it will be the same for all, and what is reasonable for one cannot conflict with what is reasonable for

another. Harmony in any society is discoverable through reason, through getting to know the necessity of things. Only irrational men, it is presumed, conflict with each other, rational men respect reason in each other and thereby ensure that all true solutions to genuine problems are compatible.

Berlin explains the assumptions made by people who think in this way:<sup>14</sup>

"..the rational ends of our true natures must coincide, or be made to coincide, however violently our poor, unreflective, desire ridden, passionate, empirical selves may cry out against this process. Freedom is not freedom to do what is irrational, or stupid, or bad. To force empirical selves into the right pattern is not tyranny but liberation... Liberty so far from being incompatible with authority, becomes virtually identical with it. This is the thought and language of all the declarations of the rights of man in the eighteenth century and of all those who look upon society as a design constructed according to the rational laws of the wise lawgiver, or of nature, or of history, or of the Supreme Being."

The idea that wrongdoing is the result of ignorance is normally associated with early Greek philosophy and more particularly with the Socratic intellectualist theory of ethics that equates virtue with knowledge and ignorance with vice. Plato gave a practical, political and social dimension to this notion in the 'Republic' when he suggested that, since wisdom is inevitably limited to a few, the majority of people, being ignorant and therefore incapable of attaining virtue and freedom by their own efforts, must necessarily be guided by the knowledgeable, the wise, the guardians who alone understood the 'Forms' including the 'Form of Goodness'.

But not all who adhere to an idealist notion of freedom or indicate sympathies in that direction need necessarily subscribe to this kind of intellectualist theory of ethics; neither Rousseau, nor Hegel, nor Marx

did, though all three acknowledged the role played by reason in the search for freedom and the need to coerce the uninitiated and irrational for their own and everyone's good. Even J.S. Mill whose view of freedom was grounded in terms of freedom from restraint did not allow his inclination towards the notion of an intellectual elite to influence him in this respect. Mill argued, as an idealist would, that a man might justifiably be forcibly prevented from crossing a bridge if there was no time to warn him that it might collapse. For whatever such a person's behaviour might indicate to the contrary, Mill assumed that no reasonable man would wish to risk his life in such circumstances were he fully aware of all the facts.

Idealists assume that rational people normally would want to do what their 'real' or 'true' selves really want and what their irrational or empirical selves would deny them. This is to postulate a particular notion of reasonableness based on the theory of their being only one, right choice. Idealists posit a positive and prescriptive concept of freedom implying self-mastery, that suggests that man is divided against himself, between some transcendent self and some empirical bundle of desires. And this notion of the divided self is translated into religious or social or political terms in imagining some transcendent controller for society embodied in the understanding of some special kind of knowledge in the Divine or Platonic sense, or some kind of general will as in the case of Rousseau, or some notion of the ideal state as in Hegel's case, or some Marxian dialectic leading to a Utopian classless society, with which the individual through reason and understanding is obliged to identify himself or alternatively be coerced; for, only by so identifying himself can the individual aspire to be socially, politically, morally and personally free.

Rousseau did not subscribe to an intellectualist theory of ethics and did not share Plato's political sympathies either. Rousseau on the contrary is usually considered to have been one of the most dedicated champions of democracy in the development of political thought. But Rousseau's positive and idealist notion of freedom is similar to that of Plato, he merely substitutes for Plato's notion of obedience to the rule of the wise his own idea of obedience to the general will. In two respects Plato's influence upon Rousseau is recognisable, firstly in Rousseau's conviction that political subjection is essentially an ethical matter and not simply a case of law and order, and secondly in his presumption that the community represents the chief moralising agency and is therefore of the highest moral significance. Freedom for Rousseau is not the negative freedom of not being interfered with by others, whether individuals or rulers or agents of representative democratic majorities, but implies that all members of society have a share in government and in the exercise of public power and as such have the right to interfere in any aspect of each other's individual lives.

Whilst Rousseau's immediate predecessors in political philosophy preoccupied themselves with the contract theory of government, in practice, many subjects, of course, found themselves having to obey some sovereign authority or other even though they may never have explicitly consented to do so. And presumably they would continue to do so, so long as there was no one willing to suggest that such an obligation was unwarranted. That is to say it was assumed that those who accepted, reluctantly or not, the benefits of society automatically tacitly consented in some way to accept reciprocal obligations.

Rousseau's notion of the general will is an attempt to resolve this inconsistency. Rousseau argues that subjects always consent to

the actions of their rulers and in so doing attain perfect freedom, and those who through lack of understanding may not be inclined to consent must be made to do so. And this is necessary because, when an individual seems to want something different from that allowed by the social order or the community which reflects the general will, he is deemed not to know what he really wants or what is in his true interests. "In order then that the social compact may not be an empty formula, it tacitly includes the undertaking...that whosoever refuses to obey the general will shall be compelled to do so by the whole body. This means nothing less than that he will be forced to be free....This alone legitimises civil undertakings which without it would be absurd, tyrannical, and liable to the most frightful abuses." <sup>15</sup>

Rousseau's principal concern was to discover a formula, some way of reasoning, some means or some kind of association that could justifiably defend with common force each individual's rights and property whilst at the same time allowing each person in unison with everybody else to seem to be obeying himself and so to be retaining his original freedom and autonomy. <sup>16</sup> And this, Rousseau argues, is realisable through a proper understanding of the twin notions of the social contract and the general will. Through the former man is said to renounce his 'natural liberty' to find his 'true liberty', civil and moral, when he enters a state of obedience to law since only then is he free, that is when he becomes master of himself obeying laws which he has prescribed for himself.

Rousseau with arguments anticipating Kantian notions of autonomy and freedom divests the notion of contract of its normal meaning, its preoccupation with individual rights and duties, and presents it as a positive 'idea' rather than an act, implying not the sacrifice or bargaining of rights and duties but their positive sustenance and attainment. Liberty becomes in this positive sense self-government and autonomy. The social contract becomes a kind of mystical experience



through which the individual is reborn in society and emerges from a limited and unimaginative existence to an intelligent and mature personhood. When Rousseau says man is everywhere in chains, he is, of course, implying that a bad society is a burden from which citizens can realise their true natures through acceptance of the social contract and the general will, as members that is of a special kind of community sharing a common ideal of the common good.

Rousseau's notion of the general will<sup>17</sup> is complex, and perplexing. It is regarded as the source of sovereignty and power and also of moral value; it alone is always right and only through obedience to it can man fulfil his moral life. It is a truism of course to claim the general will is always right, for if it is supposed to represent the social and common good then it surely must be right, and what is not right must simply not be the general will. It must not, however, be confused with the view of the majority, nor does it imply that the majority is always right. The object of the general will is the common good which does not imply that it is simply the sum of particular wills of particular people. It is the will each man has as a citizen and moral agent, not the sum of particular individuals' desires and interests taken in isolation. Nor does it represent the will of all as opposed that is to the will of the majority, for should we all be assumed to desire the same thing there would be no *raison d'être* for creating the fiction of the general will in the first place. And the same would apply if we supposed we could wait till everyone reached agreement, assuming this is possible, for our good sense must tell us that in practice few decisions would ever be made. The notion of the general will suggests some kind of association, but not an aggregation of wills rather some fiction of the mind that is given a moral and collective personality.

Rousseau insists that the object of the general will is the common good, and argues from the presumption of a common good to the assumption

of a general will though the latter does not seem to necessarily follow  
 from the former.<sup>18</sup> It does not seem possible to argue that the assumed  
 existence of a common good shared by several people necessarily  
 presupposes that there exists a common will also shared between them.  
 The unity of the general will, therefore, must lie in its object rather  
 than in a unity of the wills it is supposed to represent. Any attempt  
 to analyse the notion of the general will seems to lead to the  
 evaporation of the notion altogether. It is not a will in the normal  
 sense of the term, but a notion representing a multiplicity of wills  
 each of which attains and shares some common characteristic in aspiring  
 to the common good. A common goal, then, is reified and personified  
 in terms of a general will. This is a practice not uncommon amongst  
 men who from time to time have reified all sorts of things, individuals,  
 animals, ideas, nations, attributing to them a personality with its own  
 intentions.

T.H. Green in his 'Lectures on Political Obligation' conceives  
 the idea of the general will slightly differently as "that impalpable  
 congeries of the hopes and fears of a people bound together by common  
 interests and sympathy."<sup>19</sup> In no sense did Green regard the general  
 will as an individual will in itself but as a collection of the unselfish  
 wishes of individuals forming a community for a common object or objects.  
 But, like Rousseau, Green suggests that the uniqueness of the general will  
 is deduced from the singleness of its object; otherwise, it would not be  
 possible to speak of a general will at all. And by the common good,  
 which is the object of the general will, it is not meant that which all  
 men should aim for but what all men really want to aim for. So, in being  
 forced to the common good people are merely forced to do what they really  
 want to do anyway. Each man's 'real' good, it is assumed, must be in  
 harmony with that of every other because conflict in any form is harmful.  
 And harmony is achieved if the interests of all are each other's aim

and in so far as the general will is expressed in the laws of the state. In obeying the state, subjects discover, it is supposed, their own 'real' will, and the state, in so far as it compels citizens, contrary to their 'apparent' will, to follow such laws on pain of sanctions, coerces them to be free and is, presumably, justified in so doing.

Rousseau believed that the majority of people, the blind multitude, were in need of guidance: "Of itself the people wills only the good, but of itself it by no means always sees it. The general will is always in the right but the judgment which guides it is not always enlightened. It must be got to see the objects as they are, and sometimes as they ought to appear to it; it must be shown the good road it is in search of....The individuals see the good they reject; the public wills the good it does not see. All stand equally in need of guidance." <sup>20</sup> And Rousseau is in no doubt as to the means by which such guidance should be given. His message in 'Emile' is that the best institutions are those which best succeed in denaturing man. And he repeats in the 'Social Contract' that the shaping of a nation may require that human nature itself be changed. And this can only be achieved by training and compulsion. Souls, it seems, as far as Rousseau is concerned must be taught as well as forced to fly.

Rousseau sees no real conflict between freedom and authority either in a political or a social sense or for instance in the relationship between teacher and pupil. In his account of Emile's education, Emile is expected to succumb to the authority though benign of his tutor whose function is to structure the environment in which Emile is left to learn, when he is ready and at his own pace but within the limits of the tutor's control of events. Emile is placed in a position of controlled freedom, in situations in which he must learn for himself the necessity of things and the need for a particular course of action before he embarks upon it. And force may be used to precipitate this state of

affairs. The tutor is expected to manipulate, coerce, guide his pupil until the latter develops the required and desired insight. "Hitherto all you have gained", says the tutor to his pupil, "has been won by force or guile." <sup>21</sup> As in the case of the social contract the general will of all works through the individual so that he can become his 'real' self, so in Emile's case the authority of the teacher works through Emile who gradually develops his own authenticity, self-reliance and freedom.

Rousseau's notion of freedom is as idealistic and as improbable as his notions of the general will and the social contract with which it is associated. Rousseau's free man is a member of some ideal, imaginary, sterile society uncontaminated by the ordinary empirical world of affairs. Similarly, Emile aspires to freedom in an environment unpolluted by human contact, prejudices and feelings. Rousseau's claim that man can be forced to be free relies upon the acceptance of a non-normal notion of freedom and implicit acknowledgement of the doctrine of the two selves that one's undesirable, natural and empirical self must be forced or coerced, if necessary, to realise one's 'real' or 'ideal' self.

It follows that in the empirical world man can never be free, though on the other hand Rousseau's free rational man would be sadly out of place in the ordinary world of affairs. Emile would only be suited to a society such as the 'Social Contract' depicts, that is to say where in theory all citizens are rational, understand the nature of things, and live in complete harmony. Rousseau's free man is a rather unusual figure. He must learn to control his desires, to be submissive to authority, to the laws of necessity and reason, and to his teachers. He would obviously find the imperfect, material, empirical world perplexing and irrational.

For the main part, Emile's education is non-authoritarian. His tutor implicitly facilitates and manipulates rather than explicitly coerces him. But in the long run Emile cannot do without his tutor

and Rousseau is loath to put his trust in Emile lest he succumb to the corruption of the world. This contradictory and authoritarian conclusion to an otherwise non-authoritarian account of Emile's education is in keeping with the concept of freedom revealed in the 'Social Contract'. In both cases, in 'Emile' and in the 'Social Contract', the freedom of the individual does not consist in his doing what he may superficially want to do, but in doing what, it is supposed, impartial reflection tells him there are reasons for doing. So, in both cases there are grounds for forcing him to be free, because he might for instance not be appreciative of the necessity for particular courses of action.

In the case of the general will we have the mysterious lawgiver charged with its interpretation; in Emile's case we have the tutor to point out what necessity demands. In effect, in 'Emile' and in the 'Social Contract', the same view of freedom and its relation to authority prevails; the former describes the education of the child towards freedom and autonomy, the latter the continuation of this process in the case of the adult citizen in society. Rousseau was loath in the final analysis to admit that individuals could ever attain perfect freedom or autonomy on their own, or that they would be able to resist the temptations of the heteronomous world. On the contrary he believed there would always be times when individuals would need to be coerced for their own sakes towards freedom.

Rousseau sought to show that, provided the state aimed to the common good, subjects were perfectly free when they were coerced by it, because Rousseau still retained some allegiance to contract theory. Hegel sought to justify man's obligatory subservience to the state on quite different grounds. He suggested that the good common to all members of the state reposed in the existence of the state itself,

and that the common good that both governors and the governed sought was embodied in the harmonisation of the interests of both in an atmosphere of trust and respect.

In the 'Philosophy of Right' Hegel reveals how human activity creates an objective order through which human freedom is actualized. Man, he presumes, has a subjective need to be free but cannot attain freedom within the limits of his own particularity and subjectivity. The free-for-all of the bourgeois market place did not, for Hegel, constitute true freedom, nor did the individual subject to his natural desires and impulses. Hegel postulates a rational and objective view of freedom that can be predicated only of rational men and which is opposed to the egoism, caprice and competitiveness of bourgeois society and the personal desires and inclinations of individuals.

This freedom, according to Hegel, evolves over time as men seek to rationalise their subjective need and implicit rational demand to be free. History in effect, according to this view, becomes a sort of collective struggle by men to create a world in which they are 'truly' free, and this is realised in the development of the nation state and its institutions which represent the culmination of reason and freedom and moral goodness in historical development. From this it is deduced that the law of the state represents more the product of reason than say the wants of any particular individual, and so, it is concluded, enforced obedience to such laws can only make a person better than he is, free and really what he wants to be.

Hegel's theory of freedom rests upon a metaphysical and logical dialectic which he believed represented a necessary law of historical development that controlled the evolution and course of human events. For Hegel the term dialectic had much the same meaning as Plato gave it, a logical process proceeding from thesis to antithesis and then to synthesis combining both. But whereas in Plato it was confined to

argumentation, for example in the Socratic dialogues with Cephalus and Polemarchus in the 'Republic', to what logicians might call the method of the contrary case, Hegel applies it to historical events and human development in an organic sense. One nation develops, a thesis, is opposed by another nation, the antithesis, from which there emerges a new society of a higher order, the synthesis, containing all that is good in both, which new society itself or nation in turn becomes a new thesis. And the process is repeated until perfection ensues. This continual ebb and flow and interaction of opposite forces is seen by Hegel as a selection process from which the 'real' will or 'spirit' of the state emerges and is manifested and refined in the law and institutions of the state.

What Hegel intended as a simple explanatory theory of historical development, a statement of what is rather than a prescriptive exhortation of what ought to be, is nevertheless confused with a presumptive theory of value. Although paradise for Hegel, as for Hobbes, is to be fashioned by the sword, through conflict, Hegel, unlike Hobbes, considers the state to be not just an instrument for preserving peace and freedom in a negative sense but also the embodiment of ultimate moral value, rationality and freedom.

This is not meant to imply that the state is to be regarded as a separate transcendent entity with a spirit independent of its citizens, rather that individual subjects are indispensable parts of and are engaged in a continual dialectic and interaction with the state, through which process they themselves realise their own self-fulfilment. "The state is the realised ethical idea or ethical spirit....The state is absolutely rational...(Its) substantive unity is its...absolute end."<sup>22</sup> "It (the state) is the objective spirit and he (the individual) has his truth, real existence, and ethical status only in being a member of it."<sup>23</sup> "The individuals (citizens) belong to this spirit (of the nation); each of them is the son of his nation, and also in so far as

the state to which he belongs is still developing, the son of his age - for no one can remain behind the age he lives in, let alone transcend it. This spiritual being is his being, and he is its representative; he arises out of it and exists within it."<sup>24</sup>

In Hegel's theory of freedom the state represents the crystallization of all that is good in human experience and individuals are considered to be as dependent upon the state for their own fulfilment as the state is upon them. Hegel's idea of freedom, like Kant's, depends upon a notion of rational, autonomous activity, but whereas Kant sees freedom emerging from the categorical imperative Hegel envisages it evolving from a process of organic development and interaction within human society. So, individuals do not achieve freedom primarily through the application of formal principles, as Kant suggests, but through their experience in society itself. Consequently, whereas in the Kingdom of Ends there can logically be no disagreement between the participants, in Hegel's case there is room to suppose that less perfect souls in the course of their development might need to be coerced. Hegel rejects the notion of pure practical reason just as he rejects Rousseau's commitment to the notion of contract and proposes in its place a political and social doctrine of an unusually mystical and religious kind.

Several inadequacies are detectable in Hegel's scheme of things. In Hegelian terms only the wise philosopher would apparently be able to attain the necessary degree of self-consciousness and understanding to enable him to actualize his freedom and become truly free. Hegel indulges in wishful thinking and postulates the impossible when he insists that freedom can be actualized in a perfectly absolute sense, complete in and for itself. And is inconsistent too in professing a dialectic of the kind he describes yet insisting at the same time that the process has already reached its culmination in the existing



national state. And Hegel, erroneously, it is suggested, does not seem to think it is at all significant that if states can do evil, as they most certainly can, as well as good, that such an assumption in any way might challenge the validity of his theory.

A clearer account of the relationship in Hegelian thought between the individual and the state, between the ordinary wills of subjects and general or real will or spirit of the body politic, is proposed by B. Bosanquet in 'The Philosophical Theory of the State'.<sup>25</sup> Bosanquet posits the paradox of self-government: "How can the self be self-governing when it is coerced?" He admits that when laws of state in an external sense enforce observance through sanctions the expression 'force to be free' appears as a simple contradiction, but suggests that this can be overcome by invoking a doctrine of internal or implicit consent whereby an individual may be said to be doing as he wishes when he appears to be forced to the contrary. This implies that when a man acts rationally he acts freely, but when he acts in subservience to his impulses and desires and lower nature he does not. It is only in the former case that he acts in accordance with his 'real' will and 'true' nature that is identified with the general will of the state.

"Liberty no doubt", says Bosanquet, "is as Rousseau has told us, so far as agreeing with Mill, the essential quality of human life. It is so because it is the condition of being ourselves. But now that it has occurred to us that in order to be ourselves we must be always becoming something which we are not, or in other words, we must always recognise that we are something more than we have become, liberty, as the condition of being ourselves, cannot simply be something which we have, still less something which we have always had - a status quo to be maintained. It must be a condition relevant to our continued struggle to assert the control of something in us which we recognise as imperative upon us or as our real self, but which we only obey in

a very imperfect degree."

Two reservations may be expressed regarding the Hegelian theory of freedom. Firstly, it is not very clear what is meant by real, or good, or rational, or their relation to one another. If only what is rational and good is taken to be real, that is to say that it exists, then the irrational and what is evil cannot exist and cannot be real. But we would not wish surely to deny the reality of evil, for the evil men do seems plain enough. Furthermore, it is equally clear that good men need not necessarily be rational, but like saints just good by nature, nor need rational men, say certain criminals, be necessarily good. Two notions of real are obviously being confused, one referring to a metaphysical objectivity recognised by idealists, another to the subjective world of here and now, but to comprehend the former one must surely recognise the reality and existence of the latter; otherwise, it would be odd to claim that the realisation of the real, good self depends upon the coercion of another self that in fact does not exist at all but only appears to do so.

Secondly, a further reservation is in order regarding the very existence of a general will and the validity of the assumption that it can be manifested in the political institutions of the state. The claim for its existence would seem to rest upon the illogical notion of the concrete universal and the implausible relation of identity-in-difference,<sup>27</sup> that together are taken to entail that an entity such as the general will exists only in its manifestation in individual wills, and not merely as a representation of some quality that is discernible in each of them. It is possible to conceive of a general will in terms of an abstract universal existing in its particular wills but only in the sense of standing for some qualitative identity that is perceived in each and that warrants their being classed as a whole. But more than this is claimed. The general will is not just regarded in terms of an abstract

universal, as the identification of a quality discernible in individual wills, but in terms of a concrete universal, as an entity that manifests itself in difference in its particulars, being an aggregate of wills and not just an entity representing a qualitative identity.

But, it may be objected, this is not possible, for though a whole must be composed of a multiplicity of parts it does not manifest itself in them. "A unity whose nature it is to manifest itself as multiplicity and which exists only because it is so manifested is unthinkable. It is possible for one thing to appear to be many things and yet to exist only in its appearance. Only an abstract universal can exist in the multiplicity of its particulars." <sup>28</sup> If this is so then there is no such thing as identity-in-difference and there can be no such thing as a general will which is supposed to be an instance of it. And it is not possible to identify individuals' rational or 'real' wills with the general will of the community as idealists wish to do.

It also follows that since there is no such thing as a general or 'real' will that is identified with individuals' 'real' or rational wills then the law too cannot be an expression of a general will, nor can it be claimed that the law, representing the general will, never interferes with the freedom of individuals who appear to be coerced by it. So, the idealists' theory of implicit consent, which explains why it is the duty of subjects to obey the law and government, fails. It is not established that when an individual does what the government commands against his will he is 'really' doing what he wishes. The notion, therefore, that the general will is manifested in the institutions of the state, and that the law represents what individuals 'really' want and does not interfere with their freedom when they are coerced in its name, must be challenged.

Finally, three empirical observations warrant some attention. First, the assumption, that the law of the state represents the embodiment of reason and therefore commands citizens to do what they would wish to

do were their motives always rational, is clearly not supported by available empirical evidence. It is plainly obvious that the laws and customs of even the most enlightened of countries fall short of being the embodiment of reason, many being outrageously irrational, harmful, and certainly not calculated, even if obeyed, to bring into existence what rational men would desire, or to make them free. Secondly, it is one thing to claim that the general will is 'real', existing as an idea, an ideal shared by individuals, but another to claim that it is realised and manifested in practical life through the association of individuals. Men may have the will to share an ideal but not necessarily the will or means to implement it; they may share a common aim but not a common will to action. Lastly, in practical life, as Berlin indicates, Hegelian reasoning based upon the doctrine of implied consent can lead to the most tyrannical of regimes, to the detriment of individual liberty, when authority and freedom are conflated and considered one and the same thing.

Hegel's successors differed regarding the application of his theory of history to socio-political development. Some accepted the personification of the Prussian state as the culmination of the dialectic, others, like Marx, rejected the idea on the grounds that the nation state was far from ideal and awaited instead the next stage of historical development. Marx rejected Hegel's romantic idealism but retained his methodology through which he sought to establish a necessary law of historical development destined to lead to a perfect and ideal society in which all would be truly free.

Marx believed Hegel had failed to grapple with the realities of life, that is to say the everyday issues of contemporary society, its existing social and economic divisions, and argued that the desired

free ethical community could only be realised if these divisions were eradicated. Marx rejected Hegel's brand of idealism in favour of an explanatory theory of history leading to the eventual solution of all society's problems, not because he did not approve of the idea of universality of community as such, but rather because he valued it more highly.<sup>29</sup> He just did not think Hegel's nation state could ever achieve it. Marx intended to bring Hegelianism down to earth. Even so, the thinking of both men, as prophets, is grounded in a transcendental understanding of man and his destiny and the belief that the end for man, self-realisation, is attained through some form of self-transcendence within a totally new kind of society.

In Marxian terms this final stage of freedom and total bliss is encapsulated in the positive transcendence of the process and feeling of alienation experienced within the capitalist system. But it is essentially a transcendence within the community and the natural world, not within an imagined supernatural world but a world transformed by man's own labour into a classless society. Both Hegel and Marx argue in metaphysical terms in so far as they both deduce their theories regarding the nature of change from purely logical and idealist considerations.

Both regarded self-realisation as a process whereby alienation, a state of being in which a person is confronted with something other than or alien to himself, is overcome. But whereas Hegel saw the solution in the evolution of an absolute spirit or will, Marx saw it in essentially practical and economic terms, as a process of overcoming the effects of man's disassociation from the means of production and the products of his own labour. Marx regards man as part of nature, but also as a product of his environment which determines his consciousness. So Marx is, in effect, an epiphenomenalist taking the view that consciousness is non material in itself but is determined by material things, rather than a materialist holding the stricter view that consciousness is itself

30  
 material. Herein lies the distinctive feature of Marx's concept of man, a social being who realises himself in a totality of social relations. The kind of person a man is, Marx believes, is determined by the kind of society in which he lives. It is not the consciousness of men that determines their being but the social being that determines their consciousness.  
 31

Man is distinguishable from other animals in that he produces his own means of subsistence and, says Marx, imposing a value judgment upon this matter of fact observation, it is right and proper that he should do so. Alienation and bondage ensue when man is divorced from the means of producing for himself and loses control over his own productivity. Consequently, in capitalist society man is not really free because he is denied satisfaction in his work, he becomes a thing, another person's pawn or tool or commodity. "The most obvious phenomenal expression of alienation is the worker's inability in capitalist society to own the product of his work....once the products of the worker's self-realising activity have been taken away from him he retains only his biological and animal like functions."  
 32  
 Capitalist society denies man his true being and instead coerces him to participate in a life that is egotistical, competitive, anarchical and individualistic to the extreme and then, Marx claims, invokes religion to counteract his despair and alienation, precipitating him still further into subjection.

Although the alienation of the wage earner is regarded as the principal form of alienation, employers, capitalists, idle investors, owners of enterprises are not exempt: "In a world of advanced division of labour, of private ownership of materials, instruments and products of labour, of institutions and ideologies, of having and ruling, alienation is generalised: not only the worker who sells his labour but also the employer who appropriates the product of another man's work and the merchant who takes the commodity to market, the 'haves'

and the 'have-nots', the rulers and the ruled, are in such a world alienated from their work, from others and from themselves. In many ways it is a world upside-down where objects, appropriated by man, acquire the crazy power of owning men." <sup>33</sup> In other words, in capitalist society, everything becomes a commodity, even people who are as a result mentally and physically dehumanized, and the more goods the worker produces the cheaper a commodity he becomes in a world of things. <sup>34</sup>

The power of things over man in a society based on commodity production is concentrated particularly, says Marx, in the power of money. Gold becomes the commodity of commodities that sustains <sup>35</sup> the process of the alienation and depersonalisation of humanity. "The relations connecting the labour of one individual with that of the rest appear not as direct social relations between individuals at work but as what they really are, material relations between persons and social relations between things." <sup>36</sup> Marx refers to the fetishism that attaches itself to the products of labour, that is to say the power commodities assume in people's minds to coerce and determine the character of relations between men, overpowering the very people who produce them and consequently objectifying and dehumanising all human relationships. <sup>37</sup> This state of affairs, Marx predicts, will only be overcome when extremes of wealth and poverty, extravagance and misery, the power of the few to dispose of the products of the many, have disappeared, and society has become a totality, united by a communal spirit and providing for all.

So fundamentally a social being does Marx consider man to be that he regards any form of individualism a betrayal of man's true nature: "Man is a species-being, a being whose essence is to be social, to live in a society where the contradiction between the individual and the species will disappear, where each man will have become, in company with all other men, all that man is capable of being, but so far has

been prevented from becoming."

Such an authentic, truly universal community is clearly impossible in existing society and unattainable by any ordinary political revolution even one leading to some form of democracy. The latter, Marx believed, could offer only a negative and inadequate kind of freedom, the state posing as a limit to, as well as a protection for, the individual expressing his liberty and individualism. "But this means man in his unsocial and uncivilised aspect, in his fortuitous existence, just as he is, corrupted by the entire organisation of our society, lost and alienated from himself, oppressed by inhuman relations and elements - in a word a man who is not

yet an actual species-being." Marx does not argue against political revolution and political emancipation, far from arguing against them he argues beyond them offering man a 'beyond' where all men shall be saved

and made anew.

Marx's Utopia lies beyond ordinary political arrangements and revolutions. Men are liberated through reason, through understanding what is necessary. In the same way as the scholar becomes free through an understanding and acceptance of the logic of his discipline, so man in general becomes free through an understanding of the logic of history. Such knowledge liberates by automatically eliminating irrational fears and desires. Marx makes two assumptions which are not logically connected, first, that men are unfree because they lack knowledge, and secondly, that there exists a body of rational laws which bind men unless they are understood, whereupon men of their own free will accept them and are freed from their constraints.

Marx does not deny free will, and K. Popper is surely wrong to suggest that Marx looked upon the human actors on the stage of history "as mere puppets irresistibly pulled by economic wires - by historical forces over which they have no control." On the contrary, Marx appeals to man and relies upon him to make the right choices. He does not regard



man as a predicate of historical forces. Men make history even if their choices are partly determined by material limits, presuppositions, and objective conditions independent of their will. Circumstances make men and men make circumstances. But it is important, says Marx, that man should understand the conditions under which his free will operates, for by understanding the same he is able to liberate himself from their uncompromising control. Marx believed that the capitalist system and forces emanating from it, like laws of nature, forcibly determined men's lives so long as men did not comprehend them, but that "when once we understand them, when once we grasp their action, their direction, their effects, it depends only upon ourselves to subject them more and more to our will and by means of them to reach our own ends."<sup>42</sup>

These natural and social forces that determine human conduct are not self-imposed like the laws of promise-keeping and telling-the-truth, nevertheless it is possible, Marxists believe, to mitigate their dominance through understanding them and making use of them. "Freedom does not co-exist in the dream of independence from, but in the knowledge of, those laws and in the possibility this gives of systematically making them work towards definite ends. This holds good in relation both to the laws of external nature and to those which govern the bodily and mental existence of men themselves - two classes of laws which we can separate from each other at most only in thought but not in reality."<sup>43</sup> Engels is not saying here that when we understand what is the case we are necessarily free, but that having understood what is the case we can use our knowledge if we wish to gain control over nature, whereas if we are ignorant of the nature of things, or are not ignorant but choose to take no action, we cannot achieve our ends or be really free.

Marx's view of the metaphysics of free will and determinism is equivocal. He attributes all change to economic and natural causes but appeals also to individuals, whose behaviour presumably is not

predictable, to seek diligently to know the direction in which history is heading in order to anticipate the desired Utopia more expeditiously. He exhorts people to be "the midwives of history, to help to bring about the inevitable."<sup>44</sup> And the necessary laws of history do not enslave, for to understand what must inevitably be the case is, it is presumed, to will it to be so. "To want necessary laws to be other than they are is to be prey to an irrational desire....and to go further and say such laws are other than they are is to be insane. This", says Isiah Berlin, "is the metaphysical heart of rationalism."<sup>45</sup> From this it is deduced that those who are ignorant may need to be guided, forced or coerced towards the promised land, to freedom and their own salvation.

Marx anticipates a golden age at the end of history. He secularizes the theological principle of salvation into a promise of worldly fulfilment within a free and classless society.<sup>46</sup> His notion of freedom is not the negative concept of freedom from, though neither he nor Engels would deny the freedom from want that capitalist technology such as the steam engine has provided, but rather the positive notion of self-control, self-direction, and self-realisation.

Marxism follows in the tradition of liberal and democratic philosophy in so far as it rejects the rule of the few, the capitalist entrepreneurs, for the interests of the wage earning majority, and the power of capitalist technology in favour of the importance of human values. But objections can be raised to the metaphysical aspect of Marxist theory which challenge its authenticity.

First, it is questionable whether it is possible to substantiate the existence of broad, general laws of history. An enquiry along these lines can contribute towards an understanding of the past and can offer some explanation of the present, but it cannot provide an infallible means of predicting the future with such certainty as Marx seems to think. Marx's conception of historical development as an inevitable progress

towards a classless society is not supported by experience. It is a claim the validity of which is not established by empirical observation.

Secondly, Marx presumes that each stage of historical evolution is superior and of higher moral value to that which precedes it, until eventually perfection is achieved in a classless society. This is, in effect, a theory postulating historical progress rather than an explanatory theory of historical development and change. It is a theory that depends on the presumption of an absolute moral criterion, an ideal, the existence of which Marx in other respects and with some inconsistency denies. Moral values, Marx also assumes, are not expressions of eternal truths, but are relative to the society in which they are held.

Marx's conception of historical progress in terms of objective ideals is incompatible with his subjective view of social morality. If it is questionable whether a state of freedom within an ideal classless society, such as Marx envisaged, is at all attainable, then it is not possible to argue convincingly that such a theory can justify the coercion of subjects towards the attainment of such a society and their own self-fulfilment within it.

Apart from reservations that have been expressed in respect of the three idealist theories of freedom of Rousseau, Hegel and Marx respectively, several objections applicable to all three may be noted. Each theory posits a notion of freedom that is assumed to be realisable through reason. Such theories are useful in reminding us of the need to strive for better things and to accept the possibility of having to be coerced from time to time to realise our true potentialities, but can become potentially dangerous vehicles of exploitation and oppression if used to justify the coercive influence of those who claim to know over those who clearly do not.

Theories of this sort, according to Berlin, propose a doctrine of liberation by reason and have been utilized to justify paternalistic interference by those who profess to know into the affairs of those who are ignorant since ancient Greek times. And the reasoning behind such theories, Berlin suggests, is the same as that used to justify the conduct of any petty school bully or any would be political dictator, or any authoritarian political system be it a reign of terror, an omnipotent nation state, or a supposed dictatorship of the proletariat.

According to this doctrine of liberation by reason, the authority of reason is, says Berlin, identified with individual freedom, the assumption being that only rational ends can be the true objects of a free man's real nature and that rational laws are freely willed in the natural functioning of a person's own rational activity: "Only the truth liberates, and the only way in which I can learn the truth is by doing blindly today what you who know it order me or coerce me to do in the certain knowledge that only then will I arrive at your clear vision, and be free like you."<sup>48</sup>

Berlin's critique of this kind of reasoning ignores such notions as 'rational law' or 'a rational world' implied in such theories, instead it is based upon a direct appeal to normality and criteria associated with the ordinary world of experience. From these two standpoints it is possible, as Berlin suggests, to contest particular assumptions associated with theories that subscribe to the doctrine of liberation by reason and to question the validity of the claim made by them that men may be coerced or forced to be free.

First, experience seems to cast doubt upon the presumption of there being a single harmonious purpose of rational self-direction impelling individuals to accommodate to a particular harmonious, Utopian kind of society devoid of human conflict, in which each individual respects the principle of reason in the other without the desire to dominate, in which

everyone wants the same things, and in which all values become one and all good things compatible. No allowance for sure could be made in a society conceived in these terms for differences in individual tastes and personal preferences, though people clearly do differ in their wants, interests, needs, knowledge, preferences, tastes, desires and capacities. Likewise, it makes little sense to claim that all the good things people seek are compatible. Individuals singularly and in groups face a life of continuous decision making between alternative ends and values in an ongoing system in which the realisation of some desires precludes the realisation of others, the necessity of choosing being an inescapable characteristic of the human condition. The assumption that all the diverse ends of men can be resolved in one solution, in some imagined heavenly kingdom, some perfect society is plainly demonstrably false.

Secondly, it may be objected that it is difficult to associate freedom with notions of harmony according to which individual choice is eliminated and no alternatives are available. This suggests an odd kind of freedom that is the consequence of equating freedom with virtue and both with knowledge and understanding. The implication is that when a person chooses in ignorance he does not choose at all for only the right and proper choice is acceptable, and so in forcing a person to make the right choice one is forcing him to be free. But if a person has only one choice one would not in normal circumstances say he was free. A person's freedom one might wish to say is in proportion to the number of choices available to him, assuming of course he has the ability to choose and is not afflicted by abnormal irresolution or indecision. Idealist notions of freedom leave no room for choice as we understand it in its normal sense. If it is assumed there is only one choice open to a person then he must necessarily make it whether he appears to want to or not. This constitutes not a state of freedom but a state of bondage.

Consequently, our third objection must be to contest the assumption that when a person chooses in ignorance he does not really choose at all. This implies that if we cannot achieve a desired end by the means we have chosen then we do not really choose these means for we have no reason to adopt them in the given circumstances. On the contrary, it is assumed we have simply made a mistake. So, presumably, a man would not choose to cross a bridge knowing it to be dangerous for it would be irrational to do so. To prevent him, therefore, is to preserve his freedom, for no man will choose to cross a bridge if he cannot reach the other side. But if all this is really true then it is not possible to make sense of the statement that a man may choose to cross a bridge not knowing that it is dangerous, and even less sense of the statement that a man crossed a bridge knowing it to be dangerous. Everyday experience, however, tells us that this is plainly possible. We do decide to cross bridges for all sorts of reasons whether we know they are dangerous or not, say for a wager, a challenge, or with courage to rescue a friend or some person, pet or animal in distress, or to test the bridge's safety. In our imperfect world we are continuously making choices for a variety of complex reasons, frequently based upon imperfect knowledge. If this were not the case hardly any action would take place at all. To suggest that whenever a person takes a decision on imperfect knowledge he does not choose at all is clearly to misrepresent the nature of choice.

Fouthly, it is objected that theories of freedom based upon the principle of self-realisation are in danger of degenerating into solipsism in so far as they attribute the motivation for men's actions to prudential rather than altruistic or ordinary moral reasons and deny the possibility of men choosing to act out of concern for others or out of benevolence. If it is assumed men basically wish to do what is right and proper for themselves and treat others similarly only

because to do otherwise, say to treat them unfairly or wrongly, would rebound upon themselves and be to their ultimate disadvantage, then a very cynical view of morality is implied. Self-interest or prudence is substituted for concern for others, and duty to oneself predominates in every case over duties to others. It is an odd kind of freedom that does not recognise the possibility of men acting for reasons other than their own narrow selfish interests, for if the latter were the case men would seem to be necessitated to behave only in one particular way and therefore would not be free.

So, fifthly, it is objected that the three theories of freedom in question deny what is ordinarily understood to be a free moral choice. That is to say they deny a person the freedom to make a wrong decision, the freedom to choose evil as well as good. For idealists, like Kant in this respect, choice is rational and is to be distinguished from desire which is causal. So, freedom for the idealist, paradoxically, is seen to consist in making the right choice which is the only choice available, and therefore no choice at all. But, of course, a saintly person, say an inherently good person who always makes the right choice, need not be free but just good by nature, destined to be good, enslaved just as much by his good nature as any other might be by baser desires. There is a temptation to equate freedom with a state of inner harmony which could be just another form of necessitation, the saintly person being no more free of his own nature than the bad man. Our ordinary moral sense and our recognition of duty and responsibility imply that we are capable of making choices between good and evil.

Of course people may not always be aware of what is in their best interests and may have to be forced to do what is for their ultimate benefit, but this can hardly be said to make them free, though it might result in their being better able to develop their capacities and to make better use of their opportunities. It is possible to justify

paternalism for a variety of reasons, but not on the grounds that it makes a person free, for it clearly interferes with a person's choices and actions. It is a mistake to confuse right and good with freedom, though we like to imagine that good always triumphs over evil in the long run. A free man must surely be, in normal parlance, one who is free to make mistakes. This is not to deny that some restraint in society is inevitable, for absolute freedom would clearly result in no freedom at all, everyone living in fear and suspicion of each other.

A sixth and further objection to idealist theories of freedom that rely upon the notion of self-realisation through reason is that they presuppose an unnatural and inflexible view of human motivation. All desires are assumed to be causal and as such bad and to enslave leaving people with no real choice. To act rationally is good and is to act freely, but to act irrationally is to be constrained by one's lower nature or desires. Naturally the behaviour of some always and of most at some time might be determined by uncontrollable desire and impulse and therefore not free, but there are desires and desires and the behaviour of the kleptomaniac differs somewhat from that of the normal thief, just as the overriding desire of the alcoholic differs from that of the fitful social imbibor.

There is clearly a difference between an uncontrollable craving and a sophisticated taste or preference, between an instinct and a desire of the intellect. Most systems of positive law distinguish between crimes resulting from uncontrollable impulse and those premeditated by people who are considered to be normal in most respects. There is a difference between irresistible desire and ordinary desire, that is to say a difference in intensity and also in their respective relation to human reasoning. Not all action motivated by desire is necessarily determined in a strictly causal and predictable sense. Desires conflict and the solution is not merely a matter, as it is



presumably in the case of non thinking animals acting on instinct, of one strong desire simply overriding another weaker desire, but rather a matter of ordinary reasonable choice in which process a person's desires and feelings naturally play a part but are not necessarily dominant. Our desires certainly motivate our thinking processes and actions but it does not follow that all motivation by desire is a form of bondage or that all desires enslave.

Finally, it is objected that idealist theories of freedom, which redescribe freedom in positive terms of the realisation of a true or real self, deny freedom in its negative sense. The identification of self-realisation with freedom is confusing. Normally speaking a degree of freedom in the sense of being free from is recognised as a necessary precondition for self-fulfilment, but it is not possible to deduce from this that self-fulfilment itself constitutes the state of being free. Freedom we have argued, like peace, is a necessary precondition for a variety of desirable ends other than self-realisation, but we cannot say freedom is identical to any one of these ends though we would concede it is related to them. Idealist notions of freedom leave no room for a negative concept of freedom or for the recognition of particular freedoms dependent upon it that are normally regarded as being very important in everyday life, such as freedom of speech, of discussion, of opinion and freedom of action.

It is unjustifiably presumptuous to identify freedom with a particular desired end such as self-realisation because such a move rules out the pursuit of other ends that freedom in its negative sense allows. Idealist theories are unable, therefore, to provide an adequate solution to life's problems. A degree of coercion might be supportive in helping people to become self-reliant and to realise their potentialities, and this might, in some cases, be preferable to allowing people to do as they like. It is not the same, however, as allowing people to exercise

their own free will and free choice, or to be socially free to implement their own free decisions.

Interference with another person's options, for whatever reason, infringes his autonomy, because it limits his control over his own choices and their execution. The notion of autonomy is related to the notion of being free. Just as there are different kinds and degrees of freedom, so it is with the notion of autonomy also.

Philosophers customarily attribute the formulation of the notion of autonomy to Kant, though the idea was anticipated by Rousseau who noticed the positive connection between law and freedom when he wrote:  
 "Obedience to a law which one has prescribed to himself is freedom."<sup>49</sup>

In Kantian terms autonomy is a theoretical and rational construct. The autonomous man is free because he is in control of his desires, and because he obeys laws which he has discovered through his own reason and of which he is the author. Freedom and autonomy, therefore, imply obedience, but obedience to laws that the autonomous man has legislated for himself. He is not coerced, for no man is able to coerce himself. The unfree, heteronomous man, on the other hand, is at the mercy of factors outside himself. To the negative concept of being free from natural causation Kant adds the positive concept of man as an authentic first cause and self-legislator. The notion of freedom through authority that Rousseau pioneered in the political context in the form of the general will, with which the free and autonomous man's own will is identified, is borrowed by Kant to establish his own notion of a free autonomous person, namely, one who obeys self-discovered and self-imposed laws.

But here the comparison with Rousseau ends because Kant's autonomous man cannot, logically speaking, be coerced to be free. He is free

because he is the sole author of his own destiny and is, in Kantian terminology, an end in himself. Some philosophers would say that Kant assumes a teleological view of nature that is essentially anthropocentric, that he sees man as the final end of creation without which the chain of subordinate ends would have no meaning. <sup>50</sup> Grass exists for food, food for animals, animals for man, but man being rational exists, it is supposed, only for himself, being of supreme value and having no value in relation to anything else. Consequently, all other ends exist and have value only in terms of man. And this is so because man's actions cannot always be fully explained as motivated by natural phenomena or in accord with causal laws of nature, but are explicable in terms of distinctive rational motives or reasons which are not existences or events that can be located in time and, therefore, cannot be in causal relationships with other events. <sup>51</sup>

Human beings are free, says Kant, because their behaviour is explicable in terms of reason, and is not simply caused as is the behaviour of all other non rational objects. In Kant's view human beings are not slaves to heredity and environment, but are rationally free to act despite causal influences upon them. Man as a knowing being is capable of attaining knowledge of the natural laws of the physical world of nature, but is also conscious of himself as an acting being and an original cause. This must be so, Kant argues, if one accepts the notions of morality, moral obligation and the moral law.

And Kant reverses the argument when he argues that morality is grounded in the fundamental concept of autonomy, the notion of a rational agent both author of and subject to the moral law expressed in the principle of the categorical imperative: "Act only on that maxim through which you can at the same time will that it should become a universal law". The notion of autonomy is related to the notion of free will which Kant provisionally defines as follows: "Will is a kind of causality

belonging to living beings so far as they are rational. Freedom would then be the property this causality has of being able to work independently of determination by alien causes; just as natural necessity is a property characterising the causality of all non rational beings - the property of being determined to activity by the influence of alien causes."<sup>52</sup>

Kant's notion of will involves the capacity to act independently of the laws of physical necessity.

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The notion of causality involves the idea of law. In the case of physical necessity these are laws in accordance with which something we call a cause necessarily brings about an event later in time which we call an effect. In the case of the will conceived as an original cause, the notion of being subject to immutable laws also arises, but these are 'laws of willing' and are of a distinctly different kind. Kant calls these laws that express the principle of universality in action 'laws of freedom'. He assumes that we are aware of the power of reason within us as a sort of pure spontaneity, and that we are therefore justified in supposing that we are free even if we cannot prove that we are.<sup>54</sup>

So a free will is a will that acts on laws that are legislated by reason itself and which are valid for rational nature as such. But this says Kant is how autonomy is defined, so he concludes that a free will and an autonomous will are one and the same thing.<sup>55</sup>

If Kant's argument, that men are autonomous ends in themselves, is accepted, then to treat them in any other way is to deny them freedom and respect as self-determining autonomous beings. So nobody can coerce or compel me to be happy in his own particular way because paternalism is antithetical to Kant's notion of free autonomous man. Paternalism entails treating people as human objects to be moulded in accordance with someone else's wishes. "In the name of what," writes Berlin subscribing to this view, "can I ever be justified in forcing men to do what they have not willed or consented to? Only in the name of some

value higher than themselves. But.....there is no higher value than the individual. Therefore, to do this is to coerce men in the name of something less ultimate than themselves - to bend them to my will, or to someone else's particular craving for happiness, or expediency, or security, or convenience. I am aiming at something desired by me or my group to which I am using other men as means. But this is a contradiction of what I know men to be, namely ends in themselves."<sup>56</sup>

Kant is obliged to reject the notion that a person may be forced or coerced to be free.

But Kant's proposition, that freedom exists in the individual legislating for himself, is realisable only in a perfect, ideal and harmonious world, the Kingdom of Ends. Kant is obliged to concede that in a political context, in the normal world, no law that one rational being approves could possibly deprive another rational or irrational being of freedom.<sup>57</sup> Thereupon Kant, the protagonist of individual freedom and autonomy, descends from the ideal to the practical world and confusing the two makes it possible to argue that to be forced to obey rational laws, qua rational, even if made by another, is to be forced to be free, since in obeying rational laws even irrational men become free. And this is based upon the assumption, common to the idealist philosophers we have considered, that all rational men make the same choice in accord with their capacity for rational self-direction. Kant's notions of freedom and autonomy are seemingly based in a metaphysic from which they cannot be extracted without being transformed.

Kant sought solutions to man's practical problems in reason. He sought general principles influencing a person's conduct when faced with the ordinary problems of life. The just man, Kant assumes, acts in accord with the principle of universality. But this may be challenged because any fanatic can logically universalize any rule, however undesirable, to which he himself is willing to submit. Moreover, people might not

always wish to be treated in the way you might wish them to treat you. Kant's metaphysics provides, in duty, a reason for moral action but does not provide us with a satisfactory solution to either the problem of justice or freedom. Existentialists by comparison attempt to resolve the condition of man not in metaphysical reasoning but in terms of the individual's consciousness. They focus on individuals themselves rather than theoretical abstractions. In Sartrean theory, for example, man is just born free and cannot therefore avoid freedom.

In Satre's view nobody is free to cease to be free. We are free in existing and just have to decide what to make of ourselves. We are condemned to be free so long as we are conscious beings. In Sartre's understanding existence precedes essence. Human beings are not conceived for a particular purpose or function, say like a paper knife or pruning fork, they just exist and what they are and what they become depends entirely upon themselves. A human being is not a born anything in particular, not a cook, not an engineer, not a liar, not anything. He simply chooses to become whatever he becomes in order to fill the void in his life.

This means that our freedom is a total freedom entailing responsibility for everything we think and do, for our emotions and for our dispositions. So, if I am sad, it is only because I choose to be so. Individually we exist in a state of anguish, conscious of our freedom, the unpredictability of our behaviour, and of the constant necessity and obligation to make fresh decisions. To try to escape from this inevitable state of freedom and the responsibility entailed, says Sartre, is to deceive oneself, is to pretend like the actor playing a role, and is to act in bad faith. The waiter, actor, dancer, receptionist, host, or anyone who misrepresents his true self, is too anxious to please, is too obsequious, is too conscientious, is too good to be true, denies his freedom and authenticity in seeking to become an object or, in Sartrean terms, a being-in-itself

instead of a being-for-itself. The girl who reluctantly receives the attention of a would be admirer lest she hurt his feelings denies her freedom in misrepresenting her real intentions. Tact, apparently, in existentialist thinking is not a recognised virtue; any evasion of strict responsibility to oneself amounts to bad faith.

Following this reasoning, it is not possible to coerce a person to be free simply because he is born free, his very existence being his freedom. Likewise, it is not possible to force a person to be autonomous. We cannot claim we can coerce a person into a state of self-deception in order to avoid the burden of choosing for this would not render him free but simply deny his freedom. It is possible to argue that we might coerce a person into a position in which he is induced to exercise his freedom of choice, though excessive force could also deny his freedom of choosing. Existentialists have to deny the possibility of coercing a person to be free except to this limited extent.

Some existentialists obviously conscious of man's painful condition were tempted to seek a positive solution. Kierkegaard sought a solution not in the coercive influence of the institutionalised church, which he criticised, but in faith, which he regarded as man's highest passion and through which man supposedly achieved salvation through the grace of God. Similarly, Sartre in later life flirted with the belief that a commitment to a Utopian Marxist society might provide a similar kind of solution. In this respect both writers were apparently willing to supplement their existentialist notions of freedom with positive notions of freedom of an idealist kind.

The existentialist view of the nature of human freedom and autonomy is unsatisfactory in several respects. It is contradictory to suggest that man is born in a state of absolute freedom yet at the same time to claim that he is bound by the inevitability of having to make choices, because this is tantamount to saying that man has one unavoidable

obligation, namely, to make choices, and since this is a state he cannot avoid he really has no choice at all.

It is a misrepresentation of the nature of choice and of responsibility to claim that we choose every aspect of our characters. This is clearly not the case. It is not possible for us to choose the chemistry of our physical existence, to exercise complete control over our physical environment and physical health, yet these are all factors that affect the kind of choices we make. We do not choose in a vacuum but in relation to criteria, values, knowledge, beliefs that we imbibe from the social contexts in which we live and have been nurtured. It is not possible therefore to claim that we choose all the criteria by which we make our choices, because each choice presupposes additional criteria in an infinite regression. The only alternative is to conclude that at some time we must have originated a choice out of nothing. We are obliged to concede that all our choices are tinged with relativity, for the possibility of being able to make criteria-free choices seems to be patently inconceivable.

Consequently it is not possible in every case to choose what we would wish to be responsible for; our values, beliefs, attitudes, dispositions, emotions are either inherited or unconsciously internalised rather than deliberately chosen. Nevertheless we are responsible for them and the behaviour that ensues from them. If we choose them in any way at all it must be by acquiescence and acceptance, and just by being aware of them. Even so we are expected as reasonable and responsible beings to take full responsibility for our respective characters.

It has been argued that the concepts of freedom posited by Kant and Sartre are logically incompatible with the assumption that individuals can be coerced to be free. It has been noted, however, that both philosophers, conscious perhaps of inadequacies in their theories, also entertained notions of freedom of a positive and idealist



kind which of course do make it possible to argue, from an idealist point of view, that people may be justifiably coerced in order to set them free.

In comparison, in the context of everyday life and ordinary parlance, commonsense indicates that we expect autonomous people to be independent, self-governing and, in these respects, free. We would not expect an autonomous person to be ruled by blind impulse, insatiable instinctive cravings, or spontaneous feelings, but by reason and reasonable beliefs. We would expect such a person to be master of himself to the greatest possible degree to which his natural capacities, as a rational being, allowed him to be. We would expect his reasons for action to be authentic in the sense that they would represent and genuinely explain his behaviour, for a person who continually deceives himself cannot surely be considered to be acting autonomously. We would expect an autonomous person to be committed to his reasons for action and to care about them because they would reflect his character and general way of thinking and be truly his own, not borrowed or copied from another for whatever reason. The reasoning of an autonomous person, therefore, has a distinct quality and character and is expected to conform to recognised rules and standards. We would expect an autonomous person to have a mind of his own, to be able to think critically for himself and to have the will, courage and tenacity to do so, and to be in these respects intellectually and emotionally independent and personally responsible.

It is not a plausible objection to suggest in reply that those who follow rules and conform to standards are less autonomous than those who do not, or that only rebels in fact can be said to act autonomously. Often it is more difficult, it requires more courage and a greater degree of self-discipline, to abide by rules rather than to reject them. A person who deliberately chooses to follow rules cannot for that reason alone be considered to be any the less autonomous.

Intellectual and personal autonomy is insufficient in itself. The intellectually and personally autonomous person requires a degree of social freedom, freedom to execute his choices; otherwise, he is not master of his own fate. He may be free to the limited extent of enjoying a state of inner harmony and the capacity to think for himself but without being socially free to implement his choices.

Coercion presupposes the existence of two intellectually and personally autonomous agents whose wills clash, the will of one being imposed upon the will of the other. As the force imposed increases so the freedom of choice available to the coercee is decreased. The notion of coercion whilst depending upon autonomy in one sense is in another sense antithetical to it. Coercion may infringe a person's freedom of choice and/or his freedom of action. Normally we do not conceive the notions of freedom, autonomy, or coercion in absolute terms but rather in terms of degree. A degree of coercion is required to safeguard the autonomy of some by limiting the autonomy of others.

A distinction is made between the exercise of autonomy, to which coercion in so far as it limits a person's freedom of action is opposed, and the development of autonomy that might be facilitated by the use of coercion. And this distinction is relevant whether autonomy is regarded as a moral notion or as a morally neutral concept, whether one thinks in terms of a morally conscious and responsible person or, leaving moral consciousness aside, simply in terms of an intellectually autonomous and independent individual. In either case there are certain distinct and identifiable objectives which must be attained by the aspiring autonomous individual, though the attainment of such will not necessarily guarantee that a person will in fact become autonomous. If the use of coercion can be seen as an aid to the realisation of these desirable ends then it must be seen as facilitating the potential development of autonomy itself.

Knowledge is an essential characteristic of an autonomous person because knowledge of oneself, others and of the world in general is a source of power and influence. A knowledgeable person is better equipped than an ignorant man to deal with life's problems, with people, and is potentially more capable of creating opportunities from which he might benefit. And knowledge can be acquired under threat, subject of course to the limits imposed by the victim's natural ability, capacity, understanding, and willingness to learn.

Secondly, an autonomous person will surely have interests and will be interested in things, for it is difficult to imagine an autonomous individual without any interests or concerns. And the more interests a person has the more knowledgeable he is likely to be. An autonomous person is curious, interested to learn, and capable of sustained interest. Parents and teachers are aware of these basic conditions for the development of personal autonomy in their charges and customarily resort to coercive pressure in order to guide young people towards appropriate habits, attitudes, values that will hopefully lead towards the development of autonomy at a future date.

Thirdly, it is essential that the individual's basic physical needs such as food and shelter be adequately satisfied if he is to be given the opportunity to develop to his full potential. In this respect it is possible to force individuals to consider and to recognise and to respect their own basic needs, and to coerce members of society in general to provide the means of satisfying these basic needs of survival.

An autonomous person, therefore, is distinguishable in several respects. He has will and the courage to make decisions, and he has the courage to execute his decisions and to abide by them and to defend them with responsibility and resolution. In so far as these attributes can be regarded as acquired virtues, distinct that is from being inherited, and in so far as they may be regarded as being socially generated, the judicious use of coercive influence might facilitate their acquisition

through enforced practice. States of character, says Aristotle, like skills in the arts are developed and fashioned. If this were not so, Aristotle continues, we would not have any need for teachers. <sup>63</sup>

It is not possible to avoid making value judgments in discussions about autonomy because it is necessary to make decisions about what needs have to be satisfied, on what grounds, and by whom. And this is so whether the notion of personal autonomy is conceived as being a morally neutral concept or as depending upon the development of a moral sense. There are philosophers who will argue that a state of autonomy cannot be conceived outwith a moral context and that a thief, no matter how competent and self-governing he may appear to be, is not really a free and autonomous person because he does not act in a moral and socially responsible way. It is their belief that the conduct of anyone, including the thief, who acts without a moral sense or concern for others, is inclined to solipsism which is a state of enslavement by self-interest. And people in this state are not considered to be free or autonomous but slaves of one overriding desire. Kant, for example, regarded self-interested action, even if rational, as heteronomous and no better than action prompted by sheer irrational impulse. <sup>64</sup> Kant regarded wants as not chosen but identifiable with impulse, whereas moral principles, he argued, were grounded in reason, a sense of duty, respect for law, and respect for human beings as ends in themselves.

Two views, therefore, may be taken of the notion of autonomy, one that conceives autonomy as an intellectual quality and another which <sup>65</sup> imputes a necessary moral dimension to it. The former attributes autonomy to intelligence and independence of thought and judgment involving not necessarily a particularly high degree of originality but primarily a readiness to think for oneself free from bias and unreasonable prejudices. The latter conceives autonomy as basically a moral virtue comprising intellectual and moral insights coupled with a degree of

temperance. It is the latter view that commonsense indicates is unavoidable on the grounds that one cannot as a general rule or principle, or as a reasonable person, justly deny others what one desires for oneself, nor may others deny me what they think is good for themselves. No man can demand unqualified rights to steal, to kill, or to break his promises, without infringing another's autonomy.

The observance of rules, moral, legal and conventional, is unavoidable because it is necessary that we recognise the freedom and autonomy of others if we are to preserve our own. In a social context autonomy becomes a moral concept. Even thieves must subscribe to some form or code of honour if any meaningful relationship is to exist between them. Autonomy implies the acceptance and observance of a degree of authority. A person who rationally and willingly submits to a moral or legal structure governing human conduct must not be considered to be any the less free or autonomous for so doing. His autonomy is only infringed to the extent that he is forced to acknowledge rules, customs and laws against his will and better judgment.

The infringement of an individual's autonomy is sometimes necessary and may be justified if it serves a just and moral purpose, if for instance it is likely to lead to a fairer distribution of freedom in society as a whole or to enhanced opportunities for the development and exercise of autonomy by the individual concerned. In all societies the experienced and the wise are assumed to know what is best for the uninitiated and the inexperienced. Parents, teachers, politicians, clerics, doctors, lawyers, social workers and experts of all kinds profess that there is more to autonomy than just leaving people to do as they like.

The judicious use of coercion, it is proposed, is instrumental in and may be conducive to the development of appropriate skills, habits and attitudes, and, thereby, to the potential development of individual personal autonomy and the maintenance of those conditions necessary

for its exercise within the social system. This is not to claim, however, that being coerced is identical with being free. Only those who subscribe to an idealist view of freedom can regard freedom and coercion as identical. They only can argue that forcing people to do the proper thing is really just enabling them to realise their own true, autonomous, free selves and to be and to do what they really want to be and do though they may not be aware of it at the time. But this kind of reasoning we have argued, if logically pursued to the extreme, leads not to autonomy and freedom but on the contrary to the elimination of personal choice and its substitution by a state of bondage.

There are various locutions of the word 'free', and this confuses the issue whether in fact a person may in any sense be coerced to be free or not. We speak of 'being free from something', of 'being free to do something', of 'being free with respect to something', of 'acting freely', of 'feeling free', and of 'being free to do as one wants'. Freedom can be and is represented in different ways, in terms for example of feeling and wanting.

If 'feeling free' is significant, if we accept that it is desirable to feel free and is important that we should feel free, then it is possible to argue that a person who is coerced into a situation that gives him a feeling of freedom, who submits for instance to a coercive and authoritarian relationship in return for the sense of security that ensues, is in fact forced to be free.

Some philosophers, like Oppenheim, dismiss the notion of 'feeling free' as being relevant to an analysis of human freedom on the grounds that it is 'acting freely' and not 'feeling free' that is the real issue. Certainly, 'being free' and 'feeling free' are not identical, synonymous terms. It is possible for an individual to feel free in circumstances

in which a normal person, an impartial observer, would not readily admit that he is free. A person under the influence of drugs or overpowered by the influence of some other person might imagine and feel that he is free, whereas normal beings might wish to say that he is mistaken, that he is behaving abnormally, that he is not free because he is not master of himself and his own affairs. Conversely, it is possible for a person to appear to be free and to act as if he is free without being aware of any sense of freedom, not having perhaps given the matter any serious thought. If for instance I am asked whether I feel free I might reply quite sincerely that I do not really know. Expressions such as 'I think I am free', or 'I do not for sure know whether I feel free or not', are not completely meaningless and nonsensical. On the contrary, they are ordinary, legitimate, commonsensical expressions used in everyday parlance indicating either that we have not given the matter much thought or that we simply do not know.

But 'feeling' and 'being' free are related. The relation between 'feeling' free and 'being free' may be compared to the relation between 'feeling happy' and 'being happy'. We cannot deny that 'feeling free', whatever it entails, is an ingredient of 'being free', just as 'feeling happy' is part of 'being happy', or that it is important that we should both feel free and happy. The drug addict who presumably feels free and happy cannot be denied his feelings in so far as only he in his own particular, idiosyncratic state can be the true judge of his own idea of happiness or freedom.

The distinction between 'being' free or happy and 'feeling' free or happy emerges when in search of greater objectivity we appeal to standards of normality and everyday experience. We then invoke conventionally accepted criteria to describe the respective states of freedom and happiness from which we deduce that some individuals are not always the best judges of their own happiness or freedom.

We would not wish to admit that either the drug addict or the contented slave is free, whatever they might respectively feel, because no self-respecting person would normally be expected to want to be enslaved or dehumanised by either the power of drugs or by another person owning -and treating him like a chattel. We are obliged to admit that the notion of an average, normal, reasonable, moral human being is as indispensable and as necessary a fiction in moral reasoning as that of the reasonable average man on the Clapham omnibus is in legal theory and practice.

Superficially, freedom, expressed in terms of how a person feels, accommodates the paradox of the free, contented slave. It suggests that freedom from responsibility, anxiety or tension, can be identified with submission to authority. Some individuals may feel free when they feel secure, but it does not follow that freedom can be reduced to how a person feels. Our idiosyncratic feelings, taken as representing for each individual what freedom really is, will not necessarily correlate with what is normally recognised as a state of being free. The contented slave is neither free nor normal; any normal person would not wish to remain in a state of bondage subject to the will and whims of another.

Different people profess a feeling of freedom for different reasons. In a sense what I am is what I feel, and I may prefer to be bullied, misgoverned or imposed upon by others, of my own family, class, race, religion or nation, in return for a minimum of understanding and recognition. This point is made by Isaiah Berlin when he argues that freedom should not, indeed cannot, be redefined in terms of other values. "Provided", says Berlin, "the answer to 'Who shall govern me?' is somebody or something which I can represent as 'my own', as something which belongs to me or to whom I belong, I can, by using words which convey fraternity and solidarity as well as some part of the connotation of the positive sense of the word freedom which is difficult to specify



more precisely, describe it as a hybrid form of freedom, at any rate as an ideal which is perhaps more prominent than any other in the world today yet one which no existing term seems to fit. Those who purchase it at the price of their Millian freedom certainly claim to be 'liberated' by this means in this ardently 'felt' sense." <sup>68</sup> To conceive freedom in terms of feeling entails redescribing freedom in terms of a variety of different values. This makes it difficult to arrive at any one agreed account of what freedom is.

Similarly, it is no more helpful either to redescribe freedom in terms of what a person wants or to assume that freedom entails that a person is free who can simply do as he wants. Wanting like feeling is equally indeterminate. Individuals may want a variety of different things and their wants may be described in a variety of ways, in terms of what they desire or crave for or on terms of what they will or intend as a result of responsible, rational thought and deliberation. We appeal, therefore, to normality in search of a more objective criterion of what constitutes a person's wants. We conceive wants in terms of commonly accepted and socially derived needs and deduce therefrom the presumption that some people do not always know what they really want or need.

The suggestion that freedom might be interpreted in terms of the satisfaction of individuals' respective wants must be qualified. In practical life we decide whether a person is free or not by comparing his own estimation of his feelings and wants with those of an assumed normal person and do not rely solely upon the individual's particular, subjectively declared feelings, desires or whatever. Commonsense decrees that any attempt to say what freedom is must refer to the existing everyday world of experience and be tied to an assumed consensus and criterion of normality. Basically coercion is a way of getting people to do what they do not want to do rather than a means of getting them to want to do something else. In achieving the former

we sometimes achieve the latter with the result that additional opportunities offering the possibility of greater freedom are revealed to the individual concerned. In this process freedom is not identified with the satisfaction of the individual's immediate wants but is the result of forcing him to do what he does not want to do.

The immediate and obvious response to the question posed in this chapter - 'In what senses and to what extent may a person be said to be coerced to be free?' - must be the unexceptional observation that the meaningfulness of the enquiry depends upon the meaning given to freedom itself, whether freedom is conceived in a personal or social context or both, whether it is described in terms of a formal, negative principle of non-interference or some normative/positive idealist theory, or whether it is conceived in commonsense terms reflecting normal practice and experience. In sum, the following propositions have been argued.

(i) Freedom conceived in terms of a formal, negative principle of non-interference is the basis upon which all other versions of freedom must ultimately depend and is logically incompatible, as Berlin argues, with the notion of coercion. It is not possible to talk of coercing a person to be free when freedom is conceived in terms of freedom from interference and restraint.

(ii) Idealist theories of freedom such as those posited by Rousseau, Hegel and Marx, conflating freedom with authority, present a positive, normative, prescriptive view of freedom which presumes that individuals may be forced to be free. But idealist theories are of limited relevance to the ordinary world of experience; they fail to provide a satisfactory moral justification for the use of coercion in this respect. If abused such theories may lead not to freedom but to tyranny. The importance of idealist theories of freedom, however, as ideals of perfection sustaining human aspirations, motivation and achievement in

practical life, is in no way denied.

(iii) A commonsensical interpretation of the notion of freedom is to be preferred which encompasses both negative and positive/idealist perspectives of freedom. Freedom, it is conceded, is related to and is redescribed in terms of other values. It is accepted that the use of coercion can and may be instrumental in developing and maintaining conditions favourable to the exercise and development of personal and social freedom. In this limited sense, it is conceded, individuals may be said to be coerced to be free.

(iv) The notion of personal autonomy is related to the notion of freedom. Neither Kant's nor Sartre's respective concepts of autonomy can logically accommodate the proposition that individuals may be coerced to be free. It is noted, however, that both philosophers recognised a positive concept of freedom, which might indicate their awareness of the restrictions imposed by their respective theories. In so far as habits, skills, attitudes appropriate to the development of personal autonomy can be encouraged by enforced practice and attention it is possible to argue that individuals may be coerced to be personally free and autonomous. Coercion is also instrumental in maintaining the conditions necessary for the free development and exercise of personal autonomy within the social system.

In this chapter it has been implied that there are limits to the use of coercion, first in the sense that there are things that coercion cannot do, secondly in the sense that there are things that coercion should not be meant to do. These issues are the concern of the next three chapters.

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CHAPTER 5

## Limits to Coercion: Impossibility Claims

- it is not possible to coerce a person to know or to understand	160
- .....or to believe	174
- .....or to have emotions or to love	182
- .....or to be moral	189
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There are limits to what coercion can achieve, to what it is possible to achieve by the use of force. Limits are imposed as a consequence of the logic of the concept itself and its relation to other concepts that form the bases of the various claims made in its favour. It is not logically possible, for example, to force a person to be free so long as freedom is understood to mean freedom from the restraint or interference of another person. It is proposed to argue that an individual cannot be coerced to understand and, since a minimum degree of cognitive awareness or understanding is involved in a variety of activities relating to the human mind, that it is not possible to coerce a person to know, believe, think, be moral, to have particular attitudes or dispositions, feelings, emotions, or to love or will in a predetermined way.

These entities, it is suggested, are part of the human consciousness and as such are beyond the absolute control of the individual himself or any other party seeking to manipulate their manifestation by coercive threats or force. It is conceded, however, that coercive pressure might be conducive to the precipitation of appropriate behaviour that could possibly in turn be conducive to the achievement of such ends.

Finally, within the logic of the concept of coercion itself it will be proposed that individuals cannot coerce themselves, or be coerced without being aware of it, or without being threatened, or without the coercer being aware of an intent to coerce, because all such claims would be contrary to the conditions of coercion stipulated and discussed in the first two chapters of this thesis.

The term 'to know' is ambiguous and can mean a variety of things. We speak of 'knowing', 'knowing of', 'knowing that', 'knowing how'. To discover what it is to know or what a person, as opposed to an animal or

machine, has when he is said to have knowledge, different senses of the word know must be distinguished and the term knowledge disambiguated. And this could become a complex task because the concept of knowing is related to a whole family of concepts including perceiving, remembering, thinking, apprehending, understanding, believing and doubting.

In one obvious sense 'to know' implies having some kind of skill or competence or ability. To know French suggests one possesses certain linguistic skills and techniques in the use of the language, and to know one's tables suggests a facility to manipulate and to apply them. To say that I know the way home implies that I have confidence in my ability to arrive at my intended destination. 'Knowing how' suggests competence and ability, but not exclusively of skills of a practical kind. Knowing how to speak French presupposes the possession of skills of a cognitive, theoretical and intellectual kind, say of grammar, as well as the obvious physical skills of diction and pronunciation. Similarly, knowing music implies having skills of theorising and composition as well as the practical and physical skills of playing a particular instrument.

In another sense, knowing 'of' or 'about' is associated with being acquainted with. If I say I know 'of' Jim, I am implying that I am just aware of him, that I know who he is, something about him, what he does, but not necessarily that I fully understand him or know very much about him. Likewise, if I declare that I know Glasgow, I may be implying that I just know of it, where it is, that it exists, but I might also be implying that I know Glasgow in the sense already described, that I know all about it and how to find my way around it competently. The term 'know' can indicate more than one meaning at the same time.

In another sense knowing may imply 'knowing that'. This might mean knowing in a simple repetitive sense, recall without understanding, or, more usually, knowing in the sense of full understanding of propositions and concepts. But in all cases of human knowing a degree of understanding

is required. Knowing 'how', 'of', 'about', all presume a degree of knowing 'that'. I must have some information about and understand something about Glasgow if I am to be expected to be able to find myself around it. All human knowing involves an element of understanding; it is this that distinguishes it from the kinds of 'knowing' that are attributed to animals, parrots, computers, which can only 'know' by instinct or by being conditioned or, in the case of computers, programmed.

It may be objected that an examination of the ordinary language use of the word 'know' is a useful but not a conclusive analysis of what it is to know because it concentrates upon the word rather than the thing knowledge itself. Instead we might ask 'What does knowledge stand for?' or 'What are the conditions of knowing?' or 'What does it mean to say one knows instead of saying one believes, claims, thinks, guesses or conjectures?' There are, it is presumed, four necessary and, if taken together, sufficient conditions of human knowing, namely adequate evidence, belief, truth and understanding, two of which, belief and understanding, are our present concern.

Believing and knowing are not synonymous terms. Even supposing it were possible, which it is not, to coerce a person to believe it would not necessarily follow that he could be deemed to know. It is possible to believe without knowing; I may believe, I may think, that God exists without really knowing whether He does or not. On the other hand, if I claim to know that God exists I must surely believe He does. Belief is a necessary but not a sufficient condition of knowing. A claim to belief will not guarantee my knowing. If, however, I could be coerced to know then I also could be coerced to believe.

A different relation exists between understanding and knowing. Knowing presupposes an element of understanding, at least in the form concepts, notions, basic ideas, symbols, in terms of which it is formulated and expressed. A person who claims to know must surely be aware of and understand relevant concepts, words, rules of grammar,

which are the tools of human thought, and he must also possess, presumably, the required sympathy, curiosity, interest and disposition to learn and to think. Understanding is a precondition of both knowledge and belief in so far as there is an essential cognitive element in both knowing and believing. We sometimes say that a person thinks or believes he knows when in fact he does not, because he may have an insufficient understanding of what is involved, say of basic concepts and their relation to one another. We sometimes say a person is not fully aware of his own knowledge, that he does not understand the relevance of the knowledge he already has in relation to the question at issue. In neither of these cases, however, can we say knowledge exists because a person, if he is to be said to know, must know that he knows, because knowing implies understanding that one knows.

If it is accepted that understanding is a necessary condition of knowing then it is pertinent to enquire whether it is possible to coerce a person to understand and therefore to know, learn or believe. People responsible for the rearing, teaching, educating of young people, and for the teaching of adults too, are obviously concerned to know whether coercive procedures can possibly promote understanding in their clients. P.H. Hirst, an educational philosopher, writes: "But even when handing on information we want our pupils to understand the information, and, as soon as we say that, difficulties arise as to what exactly we mean by this term (i.e. understanding) and how we would know pupils had understood what was presented to them."<sup>4</sup>

We sometimes refer to a person as understanding when we wish to infer that he is a person of sympathetic character or kindly disposition, but this is not to be confused with the notion of intellectual understanding or comprehension with which we are concerned. Understanding does not exist in a vacuum; there are many and diverse objects of understanding such as language, words, actions, events, artefacts, works of art, people as well as the disciplines of knowledge. We speak of

understanding in breadth or depth and of levels of understanding. We are born with the potentiality to understand but we do not seem to be born with a fully fledged understanding; we witness, hopefully, the development of our understanding throughout our lives. Our idea of the nature of understanding is inevitably influenced by the particular view we take of what it is that constitutes a mind, of what is human consciousness, and of what it is to be a person.

It is plainly not possible to decide at will to understand; we do not have a free choice in this respect. We cannot choose to understand in the same way as we can choose to eat, drink, rest, or polish the car. Understanding is like thinking and remembering; we cannot always anticipate the results of our thinking, though we do have some control over what to apply our minds to; we cannot always recall what we may wish to recall and we sometimes remember things we would prefer to forget. We may try to understand or to think about something, we may choose to dismiss certain thoughts from our minds and refuse to try to understand, but we do not have full control over our ability to understand or over the outcome of our thoughts.

Understanding and thinking are not the only things over which we have limited control. We cannot, for example, decide to be creative or original, or to invent or to discover at will. We may attempt these things but whether we are successful or not will ultimately depend upon our innate capacities, abilities, and factors outwith both our own personal and anyone else's control. If all this is so then it follows that it will not be possible to teach understanding in the sense of guaranteeing absolute success in one's pupils because it will not be possible to force a person to understand or to do any of these other things like creating, discovering, inventing.

A variety of theories have been proposed, particularly by psychologists, which attempt to identify determinants of understanding and to reduce

understanding to something other than it is. Understanding cannot be reduced to, nor can it be identified with, any particular physical or psychological event or occurrence, or with any physical or mental behaviour or act that is observable or even explicable in dispositional terms, that is in terms of anticipated or expected behaviour in hypothetical future circumstances. Understanding and related concepts like remembering, thinking, believing, perceiving, possess features that physical and psychological occurrences do not; they are consciousness concepts applicable only to the inner world of human beings and to no other animate or inanimate thing, neither to animals nor to machines, computers, mountains, rivers or trees.

Understanding is not reducible to any single act or occurrence or any event as a flash or moment of insight, though acts or occurrences may or may not be evidence of understanding as teachers who test the behaviour of pupils are fully aware. Acts, events, occurrences, have a time scale and are temporally determinate whereas understanding does not appear to be so. I can possess understanding, an ability, a skill, belief or knowledge, when asleep; they may not always be physically and continuously manifested but they still exist when latent. Understanding and similar related concepts, therefore, cannot be the preserve of empirical investigation alone; they are the proper concern of conceptual investigation too because they do not simply exist within the limits of time and space. It is for these reasons that G. Ryle has suggested that understanding is more akin to a disposition.

Materialist and physicalist accounts of thinking and understanding that see the mind in terms of neural circuits, brain processes, changes in the physical state of the brain, and which reduce understanding and misunderstanding to empirical questions regarding the proper functioning of the same, do not provide an adequate explanation of human thinking and are not, therefore, an adequate substitute for conceptual enquiry.

To assume that brain processes and understanding are one and the same thing is like assuming that lightening is the same as an electrical discharge, which it is not. Temporal contiguity between a brain event or brain process and understanding does not establish identity between the two, or that a causal relation exists, or that understanding is an epiphenomenon; it merely indicates a temporal/contingent association. In the case of a H-bomb explosion, for example, heat, light, blast, sound are all caused contemporaneously when the explosion occurs, and they may all have a common origin, but it does not follow that they are all of the same substance or that one necessarily causes another. Materialist and physicalist accounts of thinking and understanding do not and can not provide an adequate description or explanation of human conduct and human consciousness. The study of brain processes cannot tell us whether a person has been rule-following, has acted rightly, has achieved anything or reached any particular standard, though all these things are associated with the notion of understanding.

Understanding cannot be equated to overt behaviour, but the latter may be evidence of understanding and practised behaviour, over a period of time, might be conducive to its development. Nevertheless there has been a common presumption amongst cognitive theorists of educational psychology to associate practised behaviour with the development of understanding. Jean Piaget<sup>8</sup> saw understanding as a process of internalisation whereby physical operations were somehow transposed or transferred to some kind of logical structure(s) in the mind. That is to say that the mind is presumed to operate logically with concepts which are formed in the mind by some process of abstraction from the physical manipulation of physical objects. It is assumed that the understanding of concepts arises from specific behavioural events, which concepts once formed exist in some internal realm of the mind. But this notion must be rejected, that the mere physical manipulation

of physical objects such as sand and water can possibly guarantee the development of concepts such as conservation, volume, reversability, or some such logical truths. Behavioural tasks or activities may or may not aid the development of understanding but they can not be identified or confused with understanding itself.

9

J.S. Bruner subscribes to a similar theory of internalisation in his studies of cognitive growth and the acquisition of language. He draws attention to the importance of non-physical determinants of understanding. He argues that the growth of understanding depends upon the mastery of skills and techniques which are transmitted within the cultural environment of the individual, principally through language and the acquisition of appropriate symbol systems. Undoubtedly the mastery of symbol systems and/or language must be regarded as a prerequisite of cognitive growth and understanding of particular kinds, but it can not be identified with understanding itself unless it is intended to limit the notion of understanding to a kind of programming, say of a robot, which reduces understanding to the acquisition, storage and transmission of data in some particular language or symbolic form.<sup>10</sup> But symbols themselves must first be understood, correctly used, and their meaning explicated. Bruner either chooses to ignore, or is oblivious of, the fact that he has not resolved the question of understanding; his theories of cognitive growth and mastery learning must ultimately and inevitably depend upon understanding the very symbols and techniques whose acquisition is supposed to explain his own notion of what understanding is.

Bruner does not discuss what is to count as understanding or what is to be achieved by saying that understanding is present. This achievement aspect of understanding is generally neglected in accounts of intellectual and cognitive development although understanding the nature of understanding is clearly not exclusively either a psychological



or physical problem but a conceptual one too. The criteria that characterise understanding are complex and are governed by the context in which understanding is claimed to take place, by the nature of the objects of understanding, and by the nature of the person to whom understanding is ascribed. It is not denied, of course, that Bruner is right to emphasize that the understanding of symbols and language determines a person's level of understanding in many respects in so far as it makes possible further dimensions of understanding beyond the symbols themselves. But in concentrating on the task of developing certain aspects of understanding Bruner does not consider what it means to achieve understanding, what understanding really is; and the latter cannot be described in terms of the former because they represent two different categories. It is one thing to describe the individual steps in an ice-dancer's repertoire in a competition, for instance, but quite a different thing to describe the winning of the competition itself. The latter cannot be explained simply in terms of a description of the individual steps and movements making up the competitor's programme but requires in addition an account of what a competition is and of what winning means. Similarly, we may agree about certain steps, conditions that may be conducive to the development of understanding but understanding itself is quite a different matter.

Understanding, thinking, believing, remembering, differ from descriptions of physical events; the former need an object of intention to complete their meaning. One has understanding of, belief of or in, knowledge of, how or that, whereas when describing physical events one talks of the wind blowing, the river flowing, making no reference to further objects for these latter expressions are complete in themselves. Understanding belongs to a different category of intentional concepts which do not exist within limits in time or space and do not refer to occurrences, or acts, or ongoing activities, but to something much less

tangible. For this reason some thinkers, like G. Ryle, have suggested<sup>11</sup> that understanding is more like a disposition or tendency and refute theories that suggest it can be explained in empirical terms alone, in terms that is of some physical change or occurrence taking place within the person to whom it is ascribed. But Ryle's view still implies that understanding can be identified with observable overt behaviour; even a dispositional account of understanding fails to fully explain the nature of understanding in every respect.

Dispositions are ascribed to people following the observation of their behaviour in particular circumstances. This applies in the case of moral and emotional dispositions as well as the disposition to understand. What a person has said or done becomes the basis upon which dispositions are ascribed to him. Dispositions, being forward looking, suggest that under similar circumstances, at some future time, the individual will act in a similar way. Ryle argues that dispositional statements are hypothetical rather than causal or categorical, that they are similar to such notions as tendency, trait, ability, and habit. Simple repetition of particular behaviour, he says, is not in itself a guarantee of understanding; the behaviour must be repeated in a particular context; understanding is the tendency to repeat certain behaviour in particular and similar circumstances. Teachers, for example, are wont to ascribe understanding to pupils when they satisfy tests of understanding in the form of successful behavioural tasks indicating their ability in particular contexts in such a way as to suggest that they are not just guessing.

But Ryle's theory of understanding fails to provide adequate evidence or proof of the proposition that it is possible to coerce a person to understand. A dispositional account of understanding reduces understanding ultimately and wrongly to observed overt behaviour of one kind or another. The coercion of a person to behave in a particular

way will not in itself guarantee that understanding will ensue. Like kindness, understanding cannot be reduced to observed behavioural acts; in neither case, respectively, is my stroking the cat or my passing a test evidence of my kindness to animals or of my understanding. Simple performance does not in itself imply understanding. Habits and nervous ticks represent behaviour of a kind but do not necessarily imply understanding. Behaviour may be feigned, imitated or simply accidental; it is not necessarily always indicative of understanding. A person's behaviour can only be evidence of understanding; it is not identifiable with a person's state of mind. Passing a test is not identical to the ability to understand because, logically speaking, the ability to understand must exist before the test is set or completed.

L. Wittgenstein likened ability, knowledge, understanding, to the notion of 'fitting'.<sup>12</sup> He asked when is cylinder C said to fit into hollow cylinder H? Is it only when C is stuck into H? But the actual pushing of C into H (alternatively the cylinders could be measured) is, he suggests, only the test. This pushing (or measurement) is not identical to the ability of C to fit into H. Knowledge and understanding, says Wittgenstein, are similar in this respect to the notion of 'fitting'. Tests of knowledge and understanding do not elicit behaviour that is identical to what they claim to test.

So, understanding cannot be considered to be a disposition identifiable with unactualised behaviour at some future date if it cannot be identified with actual performance in the present, for a person's understanding is logically prior to the ascription to him of the disposition to understand, and the ability to understand is not the same as the grounds for its ascription. It is not, therefore, possible to coerce a person to understand by forcing him to behave in any particular way because understanding is not the result of any unavoidable and predictable causal chain of events or of any set pattern of known overt behaviour.

All that can be established is an apparent contingent relation between behaviour of a particular kind and understanding on certain occasions.

Understanding is individual and personal, being part of a person's inner self or consciousness. It is individual because only I can understand something for myself irrespective of the influence others may try to assert over me. It is a person concept, a notion we apply to people like learning, thinking, remembering and believing. These are concepts we do not normally apply to machines, computers, animals or incomplete persons, except in an analogous sense perhaps. They are complex concepts like man whose conduct is not as predictable as that of a robot or machine; consequently, a data-processing analysis of human understanding, based entirely on observed overt behaviour or a theory of physical causation, is not sufficient. As a conscious being man feels, thinks, perceives, remembers, doubts, believes, intends, chooses, decides, understands and misunderstands; his consciousness is not something over and above these things but the category under which they are all subsumed.

13

Some believe that eventually human consciousness will not only be explained in causal terms but will be predicted and anticipated in causal terms as well, that it will be reducible to physical changes in the brain or body. We have argued, however, that so far materialist explanations have only established a contingent, concomitant association with the various manifestations of consciousness and that something more than mere temporal association has to be established before identity between cause and effect can be claimed. Understanding remains, therefore, the concern of philosophical enquiry. Furthermore, to understand understanding we must understand what it is to be a person because the behavioural functioning of human beings is not just quantitatively different, say more complex than behaviour in the non human world, but is additionally qualitatively different too.

It has been necessary to give some consideration to the nature of understanding because understanding is related and is central to the notions of knowing, believing, approving and disapproving, feeling in an emotional sense, acting morally, and willing, which are the concepts that have been selected for discussion in this chapter in relation to the presupposition that there are certain things that the use of coercion cannot achieve. It has been argued that it is not possible to make or force a person to understand or to coerce a person to understand anything. Similarly, it is not possible to bribe, entice or trick a person into understanding; a person may simply refuse to try to understand or to consider the evidence or argument or to listen. Understanding is not something that the individual has completely in his power. Understanding cannot be predicted or programmed with certainty; it cannot be induced to order by a coercive threat or by physical or psychological force. If the use of coercion cannot guarantee understanding then it cannot necessarily harm it or impede it in any way either, though coercive measures might possibly put obstacles in the way of a person's understanding just as they might also be used to aid or to facilitate it.

It is conceded, therefore, that it is possible to coerce someone into behaviour that might aid or hinder the development or exercise of their understanding. Letting children play with sand and water, even in a structured situation, will not guarantee their understanding of the concept of conservation, but it might be conducive to their realising the significance of the principle of conservation because understanding depends upon a familiarisation with the object(s) of understanding and their contextual background. A person who is coerced to go to school, to practise skills, to visit theatres and art galleries, to travel, to meet people, will have opportunities, which he might not otherwise have, to increase his knowledge and to exercise his understanding, but in no way will such experiences guarantee the development or exercise of

understanding itself. Indeed, in some cases, for some individuals, such experiences, if forced upon them unwillingly, might prove to be counter-productive. The ability to understand cannot be commanded or forced, though behaviour that might or might not be conducive to the development of understanding can.

Understanding might be triggered off, prompted, when a person is confronted with some immediate threat, some danger, causing feelings of anxiety or fear; tension and pressure can certainly persuade a person to apply his mind and to sharpen his wits. But threats in this sense are merely aids to understanding; they may be instrumental in motivating the victim's thoughts but they have no direct influence upon his ability or capacity to understand. It is not possible to force a person to understand in the same way as one can make him take his medicine or leave the room or walk in a different direction.

The notion of understanding is central to all kinds of knowing because knowing implies a degree of understanding. It is not possible to force a person to know in so far as it is not possible to force a person to understand. Understanding is central also to a proper comprehension of a variety of related notions such as being educated, learning and teaching. It is a contradiction to say that a person is educated but understands nothing. It is possible to understand many things without being educated, but an element of understanding is a necessary if not a sufficient condition of being educated. Similarly, human learning, as opposed say to operant conditioning employed in animal training, is dependent upon the understanding of concepts, words, symbols, and arguments. To be engaged in learning is to attempt to become master of and knowledgeable in theory and practice, which involves an element of understanding of the object of one's attentions. To be engaged in teaching, as opposed to just informing or telling, is to try to bring about the mastery of such knowledge and skills in others and to intend one's students to develop their own understanding.

Consequently, coercive threats and procedures are of limited effect in the processes of educating, learning and teaching because understanding cannot be compelled or commanded, but coercive threats may be instrumental in precipitating conditions in which a pupil's understanding is facilitated and in which educating, learning and teaching can more advantageously take place.

Understanding, in sum, is a consciousness concept relating to the non-physical inner world of man like remembering, perceiving, doubting, seeing, realising, thinking and believing. What has been said about the relation of coercion to understanding is relevant also to an explanation of the relation between coercion and these concepts too; one cannot force a person to remember, perceive, doubt, and so on, under threat, for neither the individual himself nor any other party has full control over his mind or mental capacity in these respects.

Belief and understanding can be distinguished, but they are also related. Belief of any kind involves a degree of conceptual understanding; belief in God requires having some idea of what the concept of God means. Conversely, understanding entails holding certain true beliefs about the object of understanding, and to misunderstand is to hold certain false beliefs. It does not follow, however, that understanding is identical to believing; I may believe, that is to say I may think, I understand when in fact I obviously do not, say through ignorance or lack of ability. It is possible to believe something is true, and to be right to do so, without fully understanding what one presumes to believe. Imagine, for instance, that a pupil is told that  $x=4$  in the equation  $x+3=7$  and is then asked to give the value of  $x$  in the two equations  $x+1=2$  and  $x+5=9$ . If he gives the answer 4 in both cases he has clearly not understood the logic involved, though in the case of the second equation his answer is right. Expressed belief might constitute

evidence of understanding in some but not in all cases, whereas an understanding of relevant concepts is necessary for a person to be able even to attempt to formulate any kind of rational or intelligible belief in the first place. If it is the case that it is not within our power to force a person to understand then it must follow that it is not possible for us to coerce a person to believe.

Believing can take a variety of forms. We speak of believing 'that', of believing 'in', but not usually of believing 'how', because the latter can be reduced to believing 'that we know how'. We can distinguish between believing in something in a factual sense, that God exists, and in an evaluative sense, that God is good. In both cases belief involves an object of understanding.

One view is that belief constitutes a state of mind not only in which propositions are taken to be true but which implies an attitude to the state of affairs set out in the belief in the sense that the believer takes to be true what the belief asserts. This is a view that is commonly recognised by philosophers and which is taken to represent the paradigmatic use of the expression 'to believe'.<sup>15</sup> Believing that, in other words, may imply an attitude of approval and entail a disposition to ascribe to propositions of a similar kind the value of being true. This raises the issue whether and to what extent, if at all, the notion of belief might be explicated in attitudinal and dispositional terms, and whether, if this is the case, it affects the issue whether individuals can be coerced to believe or not.

The expression believing 'in' is used in different ways. We can believe in fairies, free will, comprehensive schools, a friend, Marxism, or God. In all such cases, however, belief 'in' is reducible to believing 'that'; to believe in something we must first believe that it exists. Conversely, if I believe that something exists then I must surely believe in its existence.



When we express belief in an ideal, such as telling the truth, or in a person, we express belief in terms of believing 'that' but in an evaluative rather than in a verifiable logical or empirical sense. When we say we believe an idea is a good thing or that a person is a good sort, we evince a feeling or approval. Believing 'in', therefore, may also suggest esteeming, trusting, or having confidence in, all of which represent attitudes of mind. Belief can involve, in addition to a cognitive element of understanding, an element of feeling and an attitude of approval too.

A person who believes may appear to have a disposition to say or do the same things in similar circumstances and to express particular attitudes to the object of belief which is within his understanding and which makes sense to him. This is not to suggest that belief may be simply redescribed as a disposition. Such a move would not substantiate the argument that it is possible to coerce a person to believe; it would simply evoke an argument already posited, namely, that a presumed disposition to understand is dependent upon observed overt behaviour which is only evidence but not proof of understanding.

If belief, like our attitudes and dispositions, is dependent upon understanding and if we cannot choose what we will or will not understand then we cannot choose what to believe, nor can we choose our attitudes and dispositions. Belief, like understanding, just happens. It is not possible to coerce a person to do something, believe or understand, that he is not free to do. We cannot will ourselves to understand or to believe because we do not have absolute control over the outcome of our thinking. Evidence presented to us in the form of threats or otherwise may or may not facilitate our understanding or belief, but its effect cannot be predicted. I may wish with all my heart to believe but find I simply cannot.

It might be objected that in a court of law one can be made to believe

on the grounds of belief beyond reasonable doubt. This, however, is not to use the term belief in the sense we wish to use it, as a state of consciousness, but rather in a specialised and restricted legal sense. We do have some control over what we believe in the sense that we can choose to ignore evidence or to apply our minds in other ways, but we must not confuse the activity of thinking and the ability to apply one's mind, over which we have some control, with the notion of belief itself. The fact that we can choose to think does not explain how belief happens or how it comes upon us as a conscious revelation like understanding. We sometimes speak of entertaining, adopting, or accepting a belief, but this does not imply that we are capable of choosing what to believe. We are not able to choose the time or occasion to believe or to understand. We can think about things, but we are not autonomous in the sense of being able to believe or to disbelieve at will.

Consequently, we cannot argue that it is possible to coerce people to believe. Coercion implies that the coerced has the capacity to intend to do or not to do something against his will. But if believing, like understanding, is not an activity or an occurrence or an event, is not something a person has full control of or can stop or start at will, is not something he can choose to do but is a capacity within him, then he cannot be coerced to do it, because he does not have the means. This is not an empirical claim that can be established from observation or experience of man's behaviour; it is essentially an 'a priori' claim with regard to the nature of man's inner world and consciousness. It is simply not possible to observe exactly why a person acts or behaves in one way or another although it is possible sometimes to observe how he behaves.

An alternative view of belief which shifts the emphasis from the 'a priori' to the 'a posteriori' has been proposed by R.B. Braithwaite in his exposition of 'actual belief'. He writes: "My thesis is that

'I believe one of these propositions p', where believe is used in the sense of actual belief and not of a disposition to believe, means the conjunction of the two propositions: (i) I entertain p (where entertainment is similarly used of an actual mental state and not of a disposition to entertain), and (ii) I have a disposition to act as if p were true. And similarly, 'I have a disposition to believe p' means both that I have a disposition to entertain p and that I have a disposition to act as if p were true. In either case, the former proposition is one about my mental experience and the second one about my physical behaviour. The former is subjective or phenomenological, the second objective or behaviouristic. It is the latter proposition which on my view is the differentia of actual belief from actual entertainment and of dispositional belief from dispositional entertainment. It is a hypothetical proposition about my present and future physical behaviour, which like all propositions about physical objects can only be known indirectly on authority or on inductive grounds. Many thinkers will admit that a tendency to action is a criterion of genuine belief: the doctrine which I am advocating states that not only is it a criterion but it is part of the actual meaning of believing." In the biblical sense of 'by their works ye shall know them', belief or 'actual belief' is thus presented by Braithwaite in dispositional terms. Belief or faith, he argues, must be manifested in behaviour to be real.

Contrary to Braithwaite, we argue that behaviour, verbal or physical, is merely evidence and not conclusive proof of understanding or believing or of any other related conscious state. Sometimes an individual's behaviour is contradictory. He may say one thing, that he thinks the stock market will fall, whilst his actions, he buys shares, may imply something quite different. This leaves some doubt as to whether the person in question really believes what he says or not. One explanation might be that he is not fully conscious of his belief. Our explanation

is that a person's behaviour is only evidence, and not necessarily reliable evidence, for justifying the ascription of belief and that it is in no way identical to belief itself. Believing, for example, is not like being obedient. A person's behaviour, either in speech or action, is decisive and conclusive proof as to whether the person in question is being obedient or not. 'To obey' refers to an occurrence, 'to be obedient' to the disposition to be obedient, but 'to believe' refers to no particular occurrence or event. So, a disposition (observed) to respond favourably to what someone says, say God says or Marx says, may be evidence of faith or belief in the person or his ideology, or in what he says, but does not represent belief itself, for the response may have been generated by other causes. Belief is irreducible to overt acts or omissions and cannot therefore be identified as a disposition.

Braithwaite's thesis does not provide a fool-proof way of discovering whether someone believes *p*. Having a disposition to believe *p* is not the same as actually believing *p*. Behaviour may or may not be evidence of a state of believing or of a disposition to believe. There is no one particular kind of behaviour which in all circumstances represents 'believing as if *p* were true' or which is appropriate to '*p*'s being true.' In a modified version of his thesis Braithwaite seeks to explain 'appropriate to *p*'s being true' as meaning 'tending to fulfil the springs of action (intentions, desires etc. of the believer) if the proposition is true but not if it is false'.

But these 'springs of action' are not themselves directly observable, which suggests that a circular argument is unavoidable. If I explain 'P believes *p*' as meaning 'if P desires *x* he will be disposed to do *z*', then I have to explain 'P desires *x*' as meaning 'if P believes *p* he will be disposed to do *z*'. There is no good reason to identify belief with a disposition to behave any more than to identify desire or intention with such a disposition. Belief is itself one of the 'springs of action'

which collectively dispose a person to believe in the way he does.

If belief and action are of separate worlds, forcing a person to behave in a particular way will not necessarily result in his believing, and John Locke was probably right to say: "Such is the nature of the understanding that it cannot be compelled to the belief of anything by outward force"<sup>20</sup>. It cannot be expected that belief in God will necessarily follow enforced church attendance, or enforced obedience to religious rituals, although such repetitive behaviour, if habitual, might constitute a contributory factor towards the development of religious belief in some people. For this reason a variety of symbolic rituals, ceremonies and special acts of performance, are characteristic of all religious faiths. It is not possible to force a person to have faith, to believe, or to approve, but it is possible to coerce a person to behave in particular ways in the expectation that such enforced behaviour might precipitate belief or an adjustment of attitude. It is possible that a man who lacks faith but who acts as if he believes may come to believe in the course of time.

A threat might constitute such an impelling reason as to cause a person to believe instantaneously. Suppose, for instance, someone, waving a large axe, came up to me in a threatening manner and said: "Believe me, I am not normal. If you don't believe me, I will cut off your head". In such circumstances I would seem to have a very good reason for not doubting him. The seriousness of the threatened injury would probably furnish sufficient evidence for my thinking my antagonist really was mad and fully intended to carry out his threat. In other words, it is possible to get somebody to believe something by making it appear to be the case that something is so. The threat in this case provides both the the reason and the evidence for belief. It is, however, the coercee who has to decide what to do, whether to believe the coercer is mad or not, and this outcome cannot be predicted with absolute certainty.

The coercee could be slow witted. He might misunderstand the situation. He might think the whole matter a huge joke. Reasons are simply aids, like causes of other kinds, which may precipitate belief but which cannot guarantee it.

It is possible that I might believe something because I am told it, but I will not necessarily believe anything because I am told to believe it. A threat will not necessarily provide a reason for believing  $p$  in the sense of making believing  $p$  a more eligible proposition than it might be. This must be so because, if it is not within my power to believe  $p$ , I cannot decide, though I might pretend, to believe  $p$  because, say, it will be more profitable or because by so doing an even more unpleasant circumstance will be avoided. Conditions that normally pertain to an explanation of coercion are not applicable in the case of believing.

The empirical claim, that coercive threats can precipitate a change in behaviour which may in turn be a contributory cause of a change in attitude or belief, is not contested. Threats, like bribes or rewards, can be used to get people to do all sorts of things. Policies of social engineering and social control are enforced by law and custom under the threat of coercive sanctions. Parents and teachers, similarly, use their moral and legal authority to elicit acceptable conduct from their charges. Psychologists have found, however, that the effect of coercive procedures, if used excessively, is limited and may even be counterproductive. If the threats imposed are excessively oppressive, little change in attitude or belief can be expected; on the contrary, bitter resentment may result instead.

If coercive procedures are mixed with other means of persuasion, such as bribes, rewards and punishment, leaving the victim with differing degrees of choice and sometimes with no choice at all, the coercee might in time evince a change in attitude or belief simply to avoid the effect

of such varied procedures upon his mental state. In psychological terms, he will seek unwittingly to avoid a state of cognitive dissonance, that is to say a psychological state of mind in which he holds conflicting cognitions, caused by the brain-washing procedures employed by his antagonist.<sup>21</sup> Even if a change of belief is forthcoming and the victim does profess a change in attitude as a result of such procedures, this will not be the result of coercion alone but the culminative effect of a variety of rational and irrational means of persuasion. And such professed belief cannot be regarded as the victim's bona fide belief; it will be held for all the wrong reasons, will have been precipitated by all the wrong means, and will more than likely cease to be held once normal conditions of life are resumed.

In sum, it is not possible to change by force a person's beliefs, attitudes, which are ultimately dependent upon the individual's understanding that is not within his personal control and which cannot, therefore, be commanded by others. It is possible, however, to influence by coercive means a person's overt behaviour and to change it in such a way that it might, but might not, be conducive in turn to a change in his beliefs and attitudes.

Emotions, likewise, are not within our power to realise or bring about at will. They too, therefore, cannot be commanded or brought about by the threats of any other person. I cannot, for instance, be made or forced to like my neighbour, or, as Kant put it: "...it is not possible for man to love someone merely on command".<sup>22</sup>

Emotions are manifested and instantiated as occurrences limited in time and space, but it is possible, of course, to have emotional feelings without displaying them. A person is not outwardly angry or fearful all the time, or in a constant state of loving or shame. I do not demonstrate my love, either in talk or physical attention, towards

my loved one every minute of the day. Nevertheless, it is only by observing the outward signs of emotion that we can suppose a person to be disposed to love, or anger, or fear, on particular occasions and in particular circumstances and in relation to particular objects. A person cannot claim to be emotionally involved without some obvious manifestation. I cannot express an emotion in words alone as I might express an attitude of approval or disapproval. Emotions differ from attitudes in so far as they are grounded in physical instances which testify to their presence. Some emotions are described primarily in an occurrent sense such as 'being frightened', others in a dispositional sense like 'loving' and 'hating', and some in both senses such as 'being afraid' or 'being angry'. But in all cases we recognise the expression of feeling as an indication of the presence of an emotional state.

But emotions are not like tickles that can be explained solely in terms of physiological causes. Emotion words are not to be identified with, that is to say they are not the names of, particular feelings;<sup>23</sup> on the contrary, they are dependent upon a degree of cognition and understanding. Emotions are to be distinguished from attitudes and sensations although they encompass something of both. Typical uses of the general term 'emotion' have to do with emotional states rather than attitudes or other general dispositions or abilities. I am not termed an 'emotional person' because I have a lot of admiration, contempt or gratitude, for other people, but because I frequently get into states of anger, indignation, grief or joy, and am wont to express such feelings<sup>24</sup> freely.

In order to experience an emotion I must be capable of believing, understanding, and appreciating the object of concern. I must, for example, be able to understand the concept of guilt and must believe that I am guilty in order to experience the emotional state associated



with the feeling of guilt. To love another means that I imagine some other person to be good in him or herself and to possess particular qualities which arouse in me emotionally the feeling of love based on my belief in the goodness of the object of my interest. Likewise, ignorance will prevent my being conscious of danger and therefore aware of and sensitive to such emotional states as are associated with it. A knowledgeable and intelligent person is better equipped to recognise danger and therefore to appreciate the feelings that it will arouse. Only the knowledgeable, it is presumed, are capable of courage.

Not all emotions are desirable. Jealousy and self-pity are regarded as anti-social, unprofitable, and contrary to a positive view of living. On the other hand love, above all the emotions, is habitually extolled, although it does not always lead to happiness or well-being. If it is unrequited, all sorts of undesirable feelings might ensue.

I would not normally say that I have 'decided' to love so and so, nor that I will 'decide' to be afraid, angry, or embarrassed, because there is a recognised degree of spontaneity about the emotions which distinguishes them from rational and deliberate appraisals. I am not likely to come to love some one through a process of calculated reasoning as I might convince myself of a particular attitude of approval or disapproval. The appraisal that forms part of the cognitive aspect of love is more than a simple calculation of relevant reasons. Love is not a matter of arriving at some premeditated, deliberate decision, or a simplistic weighing up of pro's and con's.

If a man decides to marry a particular person simply because he thinks she will be an asset to him and will help to further his career prospects, he will not be marrying for the right reasons, that is for love, but for selfish instead of altruistic reasons, and a loving relationship might not ensue. No plan, correspondence course, set of skills or attitudes, will necessarily lead anyone to a state of loving. Love cannot be predicted, planned, guaranteed, or anticipated. Individuals

cannot make themselves love, nor can they force one another to love. Love is not a goal that I can set out to achieve. An arranged marriage, therefore, however well intentioned, will not necessarily lead to a loving relationship.

I cannot force a person to love another by threatening him. Indeed, my threats could be counter productive. And this is so with all emotional states, though some may seem to be more easily anticipated and more easily induced than others. P's threats of personal injury might provide good reason and cause for Q's being either afraid or angry, but will not guarantee either response in particular. Love is by its nature less predictable than either fear or anger because it depends upon a particularly unique personal relationship with another human being. Threats may induce people to behave in certain ways and to apply their minds in particular directions, which activities might release, stimulate, or cause affectionate feelings and love for another to develop, but they cannot be used to make a person love.

Loving is not something which can be started and finished at will, though it is expressed in a variety of activities such as caring, pleasing and being attentive. It may even entail doing harm to one's loved one, for example, by aiding and abetting her premature demise in order to terminate her suffering caused by some painful, terminal condition. Loving is not a purposeful activity with a definite beginning and end. The realisation, the discovery of being in love, is not planned; frequently, it is unsolicited. Loving cannot be planned or worked out like some mathematical problem. It is because I cannot decide to love, or cease to love, and because loving is not an activity, or an occurrence over which I have control, that my love is unable to be determined and predicted at the will of another by threats or any other means.

No particular kind of behaviour is proof of love or will, if practised,

cause love, though we associate certain kinds of behaviour with expressions of love, such as fondling, embracing, kissing, caressing, and the utterance of verbal endearments. But a person might indulge in any or all of these activities and be simply dissimulating, experiencing no feelings of love at all. Alternatively, he might do none of these things yet still be appreciative of the goodness perceived in a loved one and inwardly experience the feeling of being in love. Loving is not reducible to any particular kind of behaviour in the same way as such activities as eating, sleeping, or playing darts obviously are. There is no one particular form of behaviour that is characteristic of any particular emotion in the way in which eating is characteristic of hunger.<sup>27</sup> Whereas I might be able to coerce a person to swallow and consequently to allay his hunger, I cannot by coercing a person to fondle, embrace, kiss, get married, write letters, speak sweet words, ensure that he or she will come to experience the emotion of love. This is so, we have argued, because no behaviour is necessary or sufficient to guarantee the experience of loving, for a variety of behaviour may be typical of any particular emotional state without being logically or conceptually connected to it. Certain behaviour, which may vary a little from society to society, is conventionally recognised as indicating the likely presence of affectionate feelings. We buy presents, get engaged, and send flowers. But it is not the case that should a person be coerced into any of these activities that such behaviour would necessarily be evidence of the presence of love or that it would cause feelings of affection to develop.

It may be objected that it is in fact possible, so to speak, to force a person to make love. But this is to use the term love in an erotic and sexual sense. It is conceded, of course, that an individual might be forced to indulge in the behavioural techniques associated with sexual intercourse and, in this sense, be forced to make love. Such enforced behaviour, however, would not necessarily indicate a

loving relationship or the expression of love in its altruistic and other-regarding sense. Love is conceived in a variety of contexts. We speak of filial, brotherly, paternal, maternal, platonic, as well as romantic love. All of these share the altruistic, other-regarding, element that is associated with the emotional state of loving and which distinguishes these kinds of loving from that associated in common parlance with the mechanics of sexual behaviour and the satisfaction of selfish lust and desire.

It may also be objected that some emotional states, other than loving, are more easily induced, that it is relatively easy for instance to cause a person to have good reason to be afraid simply by threatening his sense of well-being. The threat of imminent sanctions carefully chosen will more often than not precipitate a fearful state in most people. But love, it is suggested, is not so predictable an emotion as fear. Often a person's love for another is on the face of things quite contrary to his own individual well-being, self-advancement, career prospects, happiness and peace of mind. Many husbands and wives appear to retain considerable affection for their respective unfaithful and even unrepentant partners, and mothers do likewise for their own wayward offsprings. It is simply not possible to predict with whom and when a person will experience feelings of love for another. Love is not rational; it does not conform to preconceived rules or standards shared in consensus with others to the same extent as the emotional state of being afraid does. Love, on the contrary, is a unique, individual and personal experience. The reasons we give, for example, for being in love are usually highly subjective. We say, 'I like her', or, 'he makes me feel good', or, 'she attracts me'. And these are private as opposed to public reasons and follow no obvious set of norms. In this respect love is more like a  
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matter of taste than an evaluation based upon reasoned judgment. People sometimes seem to love one another for no apparent reason at all.

Love appears at times to be totally irrational. It is conceded, therefore, that whilst it is seemingly possible to give people good reason or cause to be afraid by threatening them, it is not the case that by threatening a person we will necessarily furnish him or her with any reason or cause to love another, for love is not so predictable nor can it be so easily induced as the emotional state of being afraid.

Although it is not possible to coerce a person to love, or, to predict that threats will precipitate the intended emotion, coercive sanctions are customarily embodied in the moral, conventional, and legal codes of all societies and are enforced by public consensus in order to limit, direct, and control expressions of love, and to limit and inhibit behaviour inimical to it. Young people are nurtured and coerced into appropriate behaviour, talk, thought to be conducive to the development of caring attitudes and habits from which it is hoped love might ensue. In these respects coercion might be instrumental in the possible future development of loving relationships, but the fact that the love of one for another might sometimes ensue from such enforced behaviour is purely fortuitous and incidental. Love cannot be anticipated in any way at all. It is logically impossible to coerce a person to love, nor is it possible to guarantee that any enforced behaviour will even help to initiate or to develop the love of any individual for another.

It may be further objected that there is one particular kind of love that can be commanded, agape or Christian love. But in response it is argued that agape is not an emotion and therefore cannot be cited as a valid example of the emotion that is called love. Agape represents the dutiful attitude that is universally expected of all Christians towards their fellow human beings. Agape does not demand an appraisal of its object in the same way as love demands. It is possible to give, to be charitable, to show concern, to have and show respect, without necessarily having any particular feelings of love towards the objects of concern. Agape is a Christian virtue and duty

that is manifested and exercised in actions of kindness, sympathy, concern, tolerance, towards one's fellow men out of respect for God and in obedience to His will. Unlike love, agape can be deliberately exercised. Individuals may choose to act with kindness, charity, or sympathy for others in order to gain Grace and Salvation. <sup>29</sup> Alternatively, they may choose to refrain from showing agape on pain of forfeiting entrance to the Kingdom of Heaven. Agape is mistakenly taken as being a form of the emotion love because it appears to be altruistic like love, but the altruism of agape arises from a sense of duty and obedience to God's command and from the fear of occurring God's displeasure, and not primarily from the appraisal of goodness in an object of affection. Agape is not a paradigm of the emotion called love; on the contrary, it seems to prompt the question whether in fact a person can be coerced to be moral, a question which might now be considered.

The institution which is morality exists before the individual and remains after him. It consists of rules, sanctions, to which individuals are exposed, with which they interact, which they internalise and in turn modify. In sociological language morality is socially constructed like positive law, custom, convention, social etiquette, but differs from positive law in that its sanctions do not include the threat of physical force but rather sentiments of approval and disapproval, praise and blame. Morality is social in another sense; a moral judgment or a moral point of view is essentially other-regarding. Prudence is not normally considered to be an exemplar of moral virtue except in so far as every individual is expected, out of concern for other people, to be respectful of his own person and to look after himself. It is not normally considered to be a moral view, however, that all individuals should judge all acts and views in terms of their own selfish wants

and desires.

Philosophers differ in their views with regard to what constitutes the motive force of moral judgment and moral action, but all have to agree that in order to have a moral view one must possess a degree of understanding. Some take the view that the motive force of moral action is a kind of moral sense, say a sentiment of benevolence, a feeling of sympathy, or a desire to do what is right for its own sake and according to one's conscience. Others stress the importance of reason and individual moral responsibility, and argue that each individual must make his own decisions and think out and through the principles upon which he makes his own moral choices. According to this view it is supposed that the individual aspires to a state of self-determination, responsibility, individual autonomy and independence, progressing from a pre-rational, habitual or group morality, such as one would expect of a child, towards a personal, individual, reflective morality characteristic of adulthood. The implication is that an individual's thinking on moral issues is in some sense his own and that he has a duty and a right to work out his own moral position. W.F. Frankena explains the institution of morality as follows.

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"The general idea....in much recent social psychology and moral philosophy is that morality starts as a set of culturally defined goals and of rules governing achievement of the goals, which are more or less external to the individual and imposed on him or inculcated as habits. These goals and rules may and generally do, at least to some extent, become 'internalised' or 'interiorised', that is, the individual takes them as his own and regulates his own conduct by them; he develops a 'conscience' or 'superego'. This process of internalisation may be quite irrational but....it is typical for morality to accompany its inculcations with at least a modicum of reason-giving. Thus, we...tend to give reasons with our moral instructions as soon as the child has

attained an age at which he is capable of something like discretion, and we even lead him to feel that it is appropriate to ask for reasons....

We may, then, without leaving the fold, move from a rather irrational kind of inner direction to a more rational one in which we achieve an examined life and a kind of autonomy, become moral agents on our own, and even reach a point when we can criticise the rules and values of our society....Some find too much anxiety in this transition and try to 'escape from freedom' in one way or another....some apparently can make the transition only with the help of psychoanalysis, but for others it involves no major difficulties other than the use of some hard thought..."

An individual, according to Frankena, takes a moral stance or adopts a moral point of view if and only if (i) he is making normative judgments about actions, desires, dispositions, intentions, motives, persons or traits of character, (ii) he is willing to universalise his judgments, (iii) his reasons for his judgments consist of facts about what the things judged do to the lives of sentient beings in terms of promoting or distributing non-moral good and evil, (iv) his reasons, when the judgment is about himself or his own actions, include such facts about what his own actions and dispositions do to the lives of other sentient beings as such, if others are affected. <sup>31</sup> A person is presumed, that is to say, to have a morality only if he makes normative judgments according to this kind of moral action guide.

This represents a commonly held notion of what it is to have a moral view and how such a moral view develops. It assumes that individuals aspire to a state of autonomy or freedom in which they are accredited with the ability to plan their own lives and to choose what to do, to think for themselves and to form their own opinions and views on moral issues. This is a view of moral autonomy that might appear to make assumptions about the abilities and capacities of individuals which we have already argued ought to be qualified; it might seem to imply, for



instance, that individuals are autonomous and are in control of their destiny in ways in which we have already argued they are not. <sup>32</sup> And this is clearly an issue that is relevant to any discussion with regard to whether it is at all possible to force individuals to a moral view, or judgment, or to behave in a moral way.

If making a moral judgment or holding a moral view entails working out and deciding that something is the case, that something is right or wrong, just or unjust, then in so far as it is not possible, as we have argued, for individuals to anticipate the results of their own thinking, or to guarantee their own understanding, or to choose their own beliefs, then it is not possible for them to be able to choose or to anticipate their own moral stances at will, for they will not possess either the psychological power or autonomy of mind to do so. <sup>33</sup> That is to say that if to have a moral view means holding particular attitudes, having certain feelings, then to the extent that our attitudes, feelings, dispositions, are dependent upon belief and understanding over which we do not have ultimate control we cannot be said to be empowered to predict or to choose our moral positions and views.

It is not, therefore, following this reasoning, conceptually possible to imagine that any individual can be coerced to a moral point of view or to make an authentic moral judgment, for if he cannot determine the outcome of his own thinking he cannot be forced to hold a view that he cannot decide to have. Indeed, it is the case that people will sometimes feel they have to assume particular moral positions contrary to their own good reason and common sense.

If, however, holding a moral position is interpreted as simply being a matter of entertaining, adopting, identifying oneself with, but not necessarily believing in or understanding, a particular socially recognised moral view, and, if it is assumed that we are free to choose and to try to engage in any activity either mental or physical, then, it must be conceded that we are able to make such choices for a variety of

reasons, from a sense of duty, out of regard for our own self-interest, or from a professed respect for some particular authority residing in some particular person, belief or ideology, or simply because we are forced or coerced. In other words, whilst it is possible to coerce individuals to believe and to act 'as if' moral, it is not possible to make anyone believe in anything or to arrive at any particular moral position or judgment, which is also their own authentic choice, if they do not have the capacity and power to do so.

In any event, it is not logical to argue that a person may be coerced to a moral view because a moral position, qua moral, must surely be held, and a moral act done, for the right reasons. A moral choice, surely all but the short-sighted egoist would readily agree, is essentially altruistic and other-regarding, not prudential or self-seeking. Consequently, a view adopted or an act done purely from fear of harm or under threat cannot be claimed to have moral value, because such an act is prima facie done for selfish reasons, for self-preservation only, and therefore for the wrong kind of reason. Moral reasons are essentially not reasons of self-interest but are derived from an intrinsic concern or respect for others as well as oneself: morality is not logically identifiable with self-interest itself.

Furthermore, personally autonomous moral agents, as Frankena has indicated, must, from a logical point of view, be held to be responsible for their assumed moral positions which, it is supposed, they will have chosen free from the interference of others. Moral agents, presumably, cannot forsake this responsibility and remain morally autonomous; they are not able, logically speaking, to subject themselves unconditionally to any other authority, be it another person, faith, ideology, God, or the state, and at the same time retain their freedom, autonomy and moral status. It is contradictory to suggest that it is possible to coerce a person to a moral view, for in so doing the moral status of the victim

is denied. Moral autonomy entails that each individual is responsible for working out his own moral position, for making his own choices, and for accepting responsibility for the effects. Thinking things out for oneself is recognised as an estimable human activity which educationalists, parents, teachers, and those committed to the development of personal moral autonomy in the young are wont to defend. This is not to imply that one individual's moral thinking is necessarily just as good as any other individual's moral thinking; it is simply intended to emphasize that thinking for oneself is preferable to accepting the views of others without question, whether such views are imposed upon one by threat or not, and with the best of intentions.

Philosophers differ in their views regarding the relation that exists between moral judgment and moral action. <sup>36</sup> Those following the Socratic view assume that there is a tight logical connection between the two, that a person who sees what is good cannot help but pursue it, and that moral judgment, therefore, determines moral action, whereas those of the Aristotelian point of view deny such a relation on the grounds that it is not substantiated in practice. Instead the latter suggest that only a contingent relation exists between moral judgment and moral action. Neither view is perfectly satisfactory; the Socratic view leaves no room for weakness of will, whilst the Aristotelian view ignores the prescriptive/obligatory element that is distinguishable in moral thought. As a compromise it is suggested that people normally do what they believe they ought to do unless they want something else more, in which case the sincerity of their beliefs does not always depend upon their acting in accordance with them. In other words, no matter how sincere a person may be in his beliefs he may lack the will to apply them, or, he may simply have other considerations of more import to him uppermost in his mind. Even if it were possible, which we have argued it is not, to force a person to believe in a particular

moral view, there would be no guarantee that he would necessarily choose to act in accordance with it.

If it is not possible to force a person to believe, know, think, understand, then it is not possible to force a person to be morally educated, because it is simply not possible to force anyone to understand the basic concepts of morality, such as fairness, respect, honesty, if the capacity and will to do so is lacking. If, in the learning process, the pupil is not a curious and willing agent but refuses to participate voluntarily, then no educational experience, moral or otherwise, can be judged to take place, because a successful educational experience requires that both participants, pupil and teacher, share a voluntary, co-operative, worth while experience, to their mutual benefit. <sup>37</sup> Being educated entails having a generous cognitive awareness; it also requires having certain attitudes, and being motivated, interested and curious, and being willing to learn. It is not proposed that everyone has to be a moral philosopher before he is deemed to be morally educated but that a capacity and willingness to comprehend and to apply relevant and fundamental moral rules and concepts are the distinguishing marks of a morally educated person.

The potential utility of coercive procedures employed as aids in the process of the moral education and development of individuals is not denied. Coercive measures in teaching are frequently used to establish order, which is necessary before the process of moral education, or any education or training for that matter, can be initiated. Furthermore, we acquire our moral dispositions partly through being made to follow moral rules and values constituting the prevailing moral code and partly through experience gained from enforced association with other individuals in a social context. Children, through habits and customs imposed upon them, learn to respect each other, to act fairly, to keep their promises, and, in so doing, to acquire reference points from which they make their own moral decisions. No one can aspire to

a moral point of view in isolation, because morality does not develop in a vacuum. "For the things we have to learn", says Aristotle, "before we can do them, we learn by doing them e.g. men become builders by building and lyre players by playing the lyre; so too we become just by doing just acts, temperate by doing temperate acts, brave by doing brave acts." <sup>38</sup> And we may learn to be moral by behaving in a moral way.

Coerced overt behaviour may, therefore, be an instrumental factor in our moral development; by being used to emphasize the seriousness of moral rules it might lead to the development of moral attitudes. This is not to suggest, however, that coercion is a necessary condition for being morally educated or for the development of a moral point of view; both the latter can be realised without resort to coercive force of any kind. Coercive influence upon an individual's overt behaviour may or may not be a cause, may or may not constitute a motive, precipitating change in his attitudes, values, beliefs, but it will certainly not in itself, and in this respect it is morally neutral, provide good reason for justifying the contemplation of any one belief from any other, nor will it necessarily guarantee the fulfilment of the coercer's intent.

In sum, there are arguments, some logical, others psychological, that suggest there are limits to the contention that it is possible to coerce a person to be moral either in thought or action, though it is conceded that coercive procedures may be instrumental in facilitating the development of a moral point of view which in turn might but need not necessarily result in moral conduct or behaviour.

Coercion involves a clash of wills in which the will of the coercer prevails over that of the coerced. Whereas, however, it is possible to coerce a person to do or say, or not to do or say, something or other by influencing his intent, it is not possible to coerce the will itself or to force an individual to will to do or say, or not to do or say, anything.

In other words, it is possible to influence another person's will and to force him to act against his will, but it is not possible to force him to will in any predetermined way. It would be contradictory to the logic of the concept of coercion outlined in this thesis to admit to the possibility of being able to coerce another's will.

We speak of people showing strength of will, making an effort of will, or of being weak-willed as opposed to being strong-willed and resolute. Gilbert Ryle explains these terms as follows. "A person is described as behaving resolutely when in the execution of difficult, protracted or disagreeable tasks he tends not to relax his efforts, not to let his attention be diverted, not to grumble and not to think much or often about his fatigue or fears. He does not shrink from or drop things to which he has set his hand. A weak-willed person is one who is easily distracted or disheartened, apt to convince himself that another time will be more suitable or that the reasons for undertaking the task were not after all very strong.....A resolute man may firmly resist temptations to abandon or postpone his task, though he never went through a prefatory ritual process of making up his mind to complete it. But naturally such a man will also be disposed to perform any vows which he has made to others or himself. Correspondingly, the irresolute man will be likely to fail to carry out his often numerous good intentions but his lack of tenacity of purpose will be exhibited also in surrenders and slacknesses in courses of action which were unpreluded by any private or public undertakings to accomplish them.

"Strength of will is a propensity the exercise of which consists in sticking to tasks; that is, in not being deterred or diverted. Weakness of will is having too little of this propensity. The performances in which strength of will is exerted may be performances of almost any sort, intellectual or manual, imaginative or administrative. It is not a single-track disposition or, for that and other reasons, a disposition to execute occult operations of one special kind.

"By an effort of will is meant a particular exercise of tenacity of purpose, occurring when the obstacles are notably great, or the counter-temptations notably strong. Such efforts may, but need not, be accompanied by special processes, often of a ritual character, of nerving or adjuring oneself to do what is required; but these processes are not so much ways in which resoluteness is shown as ways in which fear of irresoluteness manifests itself."<sup>39</sup>

When we speak of a person being strong or weak-willed, resolute or irresolute, we refer to the extent to which he is able to be influenced by say threats, rewards, praise or blame. We do not imply that it is possible to coerce his will, but rather that he may be coerced to do things against his will. In ordinary discourse we sometimes imply that it is possible to train the will, to bring up our children to be strong-willed and independently minded, which really means that we recognise that coercive sanctions and procedures may have an instrumental part to play in the generation of behaviour that we choose to associate with the formation and development of character.

Traditionally it has been popular amongst philosophers of human action to characterise human action in terms of an alleged antecedent, namely the will. J. Austin, the nineteenth century jurist, for example, wrote as follows. "Certain movements of our bodies follow invariably and immediately our wishes and desires for the same movements... These antecedent wishes and these consequent movements are human volitions and acts.....Our desires of these bodily movements which immediately follow our desires for them are the only volitions; or...the only acts of the will."<sup>40</sup>

The idea that human action is consequent on or caused by an act of will or a volition persisted throughout the nineteenth and into the twentieth century, though nowadays it is contested. Even supposing it is taken as a valid assumption, the question whether the will can be

coerced or not is still not resolved. It is of no help to argue that willing is an internal act that one might be coerced into, as one might be coerced into doing any other kind of external act, for even if this were true it would still be necessary to explain the cause of the act of will itself. Thereupon an inevitable chain of events can be envisaged and an infinite regression established in which one act of will is presumably caused by another act of will, and so on indefinitely.

Nowadays, some philosophers argue that willing is not an act, an event, or an occurrence measurable in time and space; it is instead an experience, something which just happens but cannot be brought about.<sup>41</sup> In other words, as G. Ryle suggests, we are not fully conscious of willing.<sup>42</sup> If this is so, then we do not have full control of our own willing; we cannot take lessons in willing; we cannot teach willing, guarantee willing, command willing, make ourselves will, or will to will. It is not possible to pin willing down, to say at what moment a person wills a certain act, or to distinguish the willing of one act from the willing of another. How, for instance, can I distinguish willing to raise my arm from willing to raise my voice? Willing is like hearing; it is equally impossible to distinguish between hearing this or hearing that as it is to distinguish between willing this or willing that, unless one refers to the characteristics, in either case, of the respective objects of hearing and willing. At what point, asks Ryle, does the diver will to dive? Is it when he decides to climb the ladder, or when he walks onto the diving board, or when he jumps?

It is impossible to observe the willing of another. I can observe an act, but I can only infer the volition from which I may assume it has ensued. I can only guess that the action was willed, because human behaviour is only evidence, not proof, of a person's willing. No judge, schoolmaster or parent, says Ryle,<sup>43</sup> ever really knows whether the actions he judges really merit praise or blame. Even confessions,



following this reasoning, are suspect. Willing is not manifested in discrete acts of will. It is not something we do occasionally. It is not a discrete series of deliberate efforts. So long as we are conscious we are 'willing or nilling' something. We cannot say how many acts of will we may have performed in any particular hour. Willing is not something we engage in from time to time. It is a continuous feature of our experience.<sup>44</sup>

Willing is a consciousness concept and is as indeterminate as other consciousness concepts that we have considered and to which it is related such as knowing, understanding, believing, thinking and approving. It is a dispositional term implying the existence of an ability or trait over which the individual has limited control. I might decide to be strong-willed but find it is not within my power to be so. Since, therefore, my willing is not entirely within my control it cannot be commanded by any other. No one can force me to do what I am quite unable to do. It is not possible to force me to will in a specific way, or even to will at all, just as it is not possible to force me to think in a particular way, to understand a particular thing, to believe in something, or to approve or disapprove of something, if I do not have the appropriate ability or inclination.

Confusion ensues if an attempt is made to identify willing with other things such as wishing, wanting, desiring, intending, and if it is claimed that it is possible to coerce a person to wish, want, desire, intend, and therefore to will. Such claims may be rebutted in two ways. First, it may be argued that these notions share with willing the characteristic of being indeterminate inner states of consciousness and are consequently incapable of being commanded either by the individual himself or any other person. Secondly, it may be argued that willing is not identical to any of these notions. Even if it were conceded, for example, that a person could be coerced to do as he wanted, it would

not follow that he would be doing what he wanted to do willingly. Wanting and willing are not synonymous terms. I may want and desire all sorts of things but not have the will to do anything about obtaining them. I may wish to do all sorts of things but have no will to take any positive action. I may have good intentions, say to be pleasant to those I find irritating and unattractive, but never fulfil them through lack of will-power.

An individual's actions might be used to explain his wants on the grounds that he would be foolish to do anything that he did not wish to do. It may be tempting, therefore, to assume that a necessary logical relation exists between wanting and doing, and to conclude that people always want to do all the actions they do. Supposing we assume that wanting and doing are synonymous, and likewise wanting and willing, though in fact this is not the case, is it possible to argue that we can coerce a person to do as he wants and thereby to will on the grounds that anything he is forced to do he must want to do because he chooses to do it? Quite apart from the fact that wanting and willing are not synonymous, the argument fails because it is logically impossible to coerce a person to do as he wants. The coerced is forced to behave as his coercer wants and not as he himself would desire.

If we insist upon explaining all our actions in terms of wants, it is not possible to distinguish between acting freely and acting under constraint. If, for example, a pistol is placed at my head with the threat, 'Money or your life', it is not the case that I automatically want to hand over my worldly possessions though it is perfectly understandable that I may wish to save my life. It is wrong to suppose that every action, even giving money to a robber, can be explained simply in terms of a want statement.<sup>45</sup> It is wrong to suppose that because I may wish to save my life I also wish to part with my possessions. We are sometimes forced to do things which, under different circumstances,

we would wish to do of our own free will. I might, for instance, be normally disposed to give to a needy man were he not threatening to kill me. It is not, however, a serious argument that my will is coerced simply by forcing me to do something which it is assumed I must want to do because I choose to do it. I can choose to do all sorts of things that I may not wish to do, and, I am coerced into doing things against my will and not in accordance with it.

In sum, I may be able to influence a person's willing by forcing him to participate in activities that he might otherwise not have been inclined to consider, but I cannot coerce a person to will, just as I cannot coerce a person to understand, believe, or to think. That is to say, I might incidentally be able to cause a person to will, but I cannot guarantee or predict the outcome of my interference, threats, bribes, or reasoning. The will is determined by factors many of which are not obviously identifiable. It is not possible to predict with certainty what particular factors might influence or cause a person to will one way or another, at any particular time or upon any particular occasion. My will is free in the sense that it cannot be compelled, commanded or coerced. It is not free in the sense that it is entirely inexplicable or uncaused but in the sense that it cannot be predicted or anticipated. No individual has complete control over his own will, so no one can possibly claim to be able to coerce another's will, though it may be possible by coercive means to fashion conditions that might or might not be conducive to an individual's willing in the way one might wish.

Some claims made in relation to the nature and scope of coercion do not accommodate the logic of the concept of coercion itself and for this reason, it is suggested, must be classified as being impossible.

It is not possible, for instance, for an individual to coerce himself, or to be coerced without being aware of it, or to be coerced when his supposed coercer either does not intend to coerce him or is himself unaware of the supposed affect of his behaviour upon him. All such claims are contrary to the conditions already stipulated, in this thesis, as being necessary for coercion to be judged to be possible.<sup>46</sup>

If it is conceded that coercion is dependent upon there being a relation between two agents in which the will of one is imposed upon that of the other, then to suppose that a person can coerce himself must imply that individuals have more than one self, and that one self is capable of imposing its will on that of another. This might be imagined to happen when, for example, an individual forces himself to live up to a standard upon the attainment of which his own estimation of himself, that is to say respect for his better self, ultimately depends.<sup>47</sup>

The assumption that a person may have more than one self discounts the responsibility of analysing the nature of willing and its relation to wanting, desiring, feeling and understanding. It is proposed, therefore, that a person's will is constituted of an amalgam of the interplay and interaction of a variety of influences over which the individual himself does not apparently have full control. What a person wills in the end is the result of the interaction of rival wants and desires with each other and with his rational consciousness. A person can only have one will, be it weak or strong, be he resolute or irresolute, which is the mark of his integrated personhood. A person, that is to say, has but one self which is manifested in his will. If this is allowed, then it is not possible to claim that a person is able to coerce himself. Coercion is not to be confused with the processes that may take place within a person's mind in the course of his willing.

Similarly, it is proposed that it is impossible within the logic of coercion to claim that a person can be coerced without being aware

of it. Not all philosophers, however, share this view. D. Knowles, for example, in a critique of R.F. Nozick's notion of coercion<sup>48</sup> proffers several illustrations and claims that the opposite is the case, that a person may be coerced even though he does not know he is. Two of Knowles' examples will suffice to establish the illogical nature of this claim.

(i) A farmer is told by a veterinary to sell certain animals for slaughter on the grounds that they are believed to be diseased. The farmer subsequently sells at a loss to a dealer who, unknown to the farmer, is in collusion with the vet. There is in fact nothing wrong with the beasts. Knowles concludes that no matter whether the farmer was warned or tricked he was forced to sell his animals and therefore was coerced. In reply, it is submitted that the farmer was not threatened though he was certainly deceived. The veterinary did not demand anything from the farmer who sold his animals on what appeared to him to be reasonable and reliable information. There was no obvious clash of will between the farmer and the veterinary. The farmer was clearly tricked, deceived, or manipulated, but since he did not believe the veterinary had threatened him he was certainly not coerced.

(ii) A person is administered a drug and is then questioned. In this case Knowles, who takes the overall view that Nozick's analysis of coercion is unnecessarily narrow, suggests that the supposed victim is coerced under the influence of the drug to declare the details of his activities. It is immaterial, in Knowles' view, whether the victim is aware or not of the drug having been administered to him. This of course must be disputed if, as we have argued, it is conceded that coercion depends upon the victim's knowing that he is being threatened or physically forced to do or not to do something which is to his detriment and contrary to his will. If on the contrary the victim is not conscious of any threat having been made or physical force having been used against

him, then there is no clash of wills and the claim that coercion is present is unsustainable. In other words, only if the victim is fully aware of the drug being administered forcibly against his will or under threat, say with the words 'Tell me or I shall force you to with this drug', is he coerced; otherwise, he may be tricked, manipulated or deceived, but is not coerced.

Finally, it is submitted that it is not possible within the logic of coercion for any person to coerce another unwittingly, although it is and will always be the case that some people will feel influenced or imposed upon at times by the unintentional actions of others. Teachers, when answering questions, giving information or issuing warnings, are always likely to exert pressure unintentionally on sensitive pupils who may consequently feel threatened. People will from time to time imagine they are coerced or threatened when in fact their antagonist has no such intent. If, however, there is no evident clash of wills, if neither party intends to threaten the other, if neither party is aware of the other's supposed fears, then the occurrence of coercion cannot be substantiated. Following this reasoning, it is not possible to argue successfully that an individual can coerce himself, that a person can be coerced without being aware of it, or that a person can coerce another without being aware that he is so doing.

All the claims made hitherto with respect to proposed limits to the use of coercion have been seemingly claims of an 'a priori' kind, in so far as they are not verifiable empirically one way or another. That is to say, they are not obviously factual, 'a posteriori', empirical claims based upon general laws deduced from the observation of human behaviour as in the case, for example, of the simple deduction that if I do not eat I shall die. Instead, they are claims relating either to the logic of coercion itself or to presuppositions about the inner state of man's consciousness.

It may be objected that these claims are not in fact of an exclusively 'a priori' nature, that they are inevitably of a mixed species, that they are ultimately dependent upon interpretations given to such notions as understanding, loving, being moral, willing, threatening, none of which can be interpreted in a vacuum but which must be related to substantive circumstances, the world of experience and the observation of human behaviour. They are therefore, it is supposed, claims based upon presuppositions and observations of both an 'a priori' and 'a posteriori' kind. In so far as this is the case, the objection must be conceded.

It has been argued that there are certain things coercion cannot make people do because individuals themselves do not have the required control or autonomy to choose at will to do them. A distinction, therefore, has been made between coercing a person to do x and coercing a person to behave in ways that might, but might not, facilitate his being able to do, willing to do, x. It may be possible to induce a person by coercive means, and by other means such as bribes, to behave in ways that might, or might not, trigger off or precipitate such things as understanding, belief, emotional feeling, moral attitudes, willing, provided the individual concerned has the basic capacity and inclination. An enforced marriage, for instance, might eventually lead to a loving relationship, but need not necessarily do so. Forcing a student to study might or might not increase his understanding. A strict upbringing will not necessarily guarantee a strong-willed adult. Enforced behaviour might just as easily be counter-productive and even prohibitive as it is likely to be conducive to a desired result.

Threats may constitute a motive, a reason, or a cause of action but there is no guarantee that the ensuing behaviour will necessarily represent what the coercer intended. A person's behaviour under pressure is clearly not always a true reflection of his true intent and may simply be meant to deceive. In fact, it may be motivated at times by reasons

quite different from those ascribed to it by others. A man may be forced to marry in order to avoid his father disinheriting him, but come to love his wife not through, it is supposed, the enforced relationship but for her own personal qualities. A person may appear to behave, as all children know, in the way desired by his coercer but may in fact be doing so for a variety of quite different and unrelated reasons. Human behaviour is so complex that it is not possible to be certain that coercion has really been the cause of the ensuing behaviour, even if the latter does tally with that intended.

It has been noted that in some cases, although people may appear to have been caused to behave in particular ways by the use of force, the use of force itself negates the value of the ensuing behaviour. It is not logically possible, for instance, to force a person to be moral, or tolerant, or to love. A person who apparently exercises tolerance, but does so under pressure and against his will, can hardly be deemed to be acting morally. His act of tolerance may be an act of pretence or prudence but not necessarily a true moral act. Certain kinds of behaviour lose their value if enforced on pain of penalty. An enforced, apparent belief is not a true belief. An enforced, apparent moral act is not a true moral act. Enforced behaviour in these cases does not represent a genuine example of the kind it is intended to be. A coerced person may act in a particular way but if the act in question does not ensue from the individual's own free will, if it is enforced under threat, it will not be a true act of its type. People can be induced to do and to pretend to do all sorts of things, and may do all sorts of things for all sorts of reasons. It is conceded that coercion might be usefully employed as a possible means of facilitating the development of an individual's inner consciousness, but its effect, it is submitted, is limited, unpredictable, and may be counter-productive.



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CHAPTER 6

## Limits to Coercion: J.S. Mill

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In his essay, 'on Liberty', Mill discusses limits to the use of coercion or, more precisely, limits to the coercive power that state and society might legitimately exercise over individuals, and consequentially individuals over each other. Mill is not concerned, as we have been in the previous chapter, with what is, or is not, logically or empirically possible, but with what ought or ought not to be, with what coercion should or should not be made to do.

In Mill's day, the struggle for liberty was traditionally thought to be first and foremost a struggle against the power of tyrannical governments and despotic rulers, whereas Mill argued that in democratic societies it was more likely to be the tyranny of the majority, in the form of state organisations and public opinion, that would threaten the liberty of individuals in political and social life. Mill sought, therefore, to defend liberty and to establish reasons justifying the limitation of intervention by the state or society in individuals' affairs. Since there was an apparent lack in contemporary thought of any principle or principles recognised as defining the proper limits of such intervention, Mill formulated what he claimed was a very simple principle, that "the sole end for which mankind is warranted individually or collectively in interfering with the liberty of action of any of their members is self-protection"<sup>1</sup>.

This principle, commonly referred to as Mill's liberty principle, is subdivided by Mill into two maxims, (i) "...the individual is not accountable to society for his actions in so far as these concern the interests of no person but himself", and (ii) "...for such actions as are<sup>2</sup> prejudicial to the interests of others the individual is accountable". Much of the ensuing discourse concerning Mill's liberty principle has inevitably focused around the notion of self-protection because Mill wrote rather indifferently at different times of "self-protection", "prevention of harm to others", "the security of others", and of "action

damaging and prejudicial to the interests of others", leaving some confusion as to whether these expressions were meant to convey the same meaning.

Two qualifications regarding Mill's liberty principle must be stated. First, it was Mill's intent that it should apply only to mature adults sound in mind and not to children, the senile, the incapable, or to backward, immature, primitive societies which might be considered to be as it were in their nonage or infancy. Secondly, Mill did not consider all intervention in the affairs of others to be coercive. Sound argument, warnings, guidance, advice, and the use of similar non-coercive but persuasive rational influences, such as remonstrating and entreating, he regarded as perfectly legitimate means of influencing people. Such interferences he believed would, as in the case of coercion, require justification but not to the same degree. Mill did not suggest that individuals are only free when they are absolutely free from the interference of others, because he clearly recognised that some interference is inevitable, is acceptable, and might even be encouraged.

Mill wished to establish that the state or society is never justified in interfering with self-regarding conduct, which is of concern only to the individual himself, but may be justified in interfering with what commentators on Mill have called 'other-regarding' conduct that affects people other than the individual himself. Of course, if in the latter case the harm caused by intervention turned out to be greater than the harm which it was intended to prevent, intervention would not, in Mill's view, be justified. Mill did not claim to defend his liberty principle on grounds of abstract right but on grounds of utility. "I regard utility", he wrote, "as the ultimate appeal on all ethical questions; but it must be utility in the largest sense grounded on the permanent interests of man as a progressive human being." Mill wished to avoid the danger of basing moral judgments on feeling, prejudice,

or intuition rather than on what he considered to be authentic utilitarian grounds. Consequently, his views are identifiable with those of an ethical naturalist rather than with those of an ethical rationalist. His stance as a self-declared utilitarian, however, must be qualified because he is committed to additional basic moral principles other than the principle of utility itself.

"Utility in the largest sense" means for Mill the free development of individuality, free choice, and their associated pleasures. In the long run, according to Mill, the promotion of liberty and individuality leads to the greater satisfaction of desires and is, therefore, preferable to the imposition of conformity by coercive means. Traditionally Mill is regarded as one of if not the most distinguished of the principal opponents of coercion. He sought to discover reasons, rules, and principles to limit its use. These are in evidence throughout his writings and are prominently manifested in his two essays, 'On Liberty' and 'Utilitarianism'. Mill raised many issues which are as relevant today as they were in his time.

In 'On Liberty' Mill asks first of all why coercion needs to be justified; then, he endeavours to show that liberty is both intrinsically of value in itself and extrinsically of value as a factor contributing to his own idea of a person. He makes two assumptions which are not unrelated. First, he suggests that the person who initially decides to raise the issue of justification in any context must always bear the burden of establishing the need to do so. Secondly, he assumes that restraint, compulsion, and interference with another's liberty must per se always be justified and that the onus of justification must always be with he who chooses to interfere with another's freedom. Mill presumes in favour of liberty or, more particularly, in favour of the principle

of negative freedom. This is apparent from the various statements he makes: "...all restraint, qua restraint, is an evil",<sup>4</sup> "...leaving people to themselves is always better, caeteris paribus, than controlling them",<sup>5</sup> and, "To be prevented from doing what one is inclined to do....always tends, pro tanto, to starve the development of some portion of the bodily or mental faculties".<sup>6</sup>

It is right that Mill should assume responsibility for establishing the need for justification because from a moral point of view the onus of proof must rest with the individual who chooses to raise the question of justification in the first place. If, for instance, I am asked by another to justify my behaviour, I may quite legitimately respond by enquiring 'Why am I required to justify myself to you in this instance?' The person who initially raises the issue of justification must surely be obliged to indicate why he has done so. Mill then goes on to argue that coercion must be justified because "all restraint, qua restraint, is wrong", and that the burden of justifying coercive interference in the lives of other people must rest with those who advocate and practise such behaviour. This too must be conceded and must logically follow if restraint is considered to be wrong; otherwise, we are obliged to deny that evil actions require to be justified, which entails our denying what is commonly assumed to be an analytical truth and a basic moral fact. It would also entail denying any understanding of the meaning of the notions of evil and justification. Mill argues, therefore, that good reasons must be given for any attempt to thwart another person's will or to interfere forcibly with his person, but he excludes interference in the form of warnings, advice, education, exhortations, and such like,<sup>7</sup> which he believed were morally legitimate means of influencing people.

It may be objected that the onus of justification might not always lie with a person who positively interferes with another's freedom but instead with a person who refrains from interfering. When A, for example,



is about to commit a serious crime against B's person, the onus of justification may rest not only on A but also on C who may be judged to be in a position to stop A but for some reason decides not to do so. C will certainly be required to justify his behaviour if his refusal to interfere is universally regarded as a dereliction of duty. In other words, as Mill indicates, non-interference as well as interference, omissions as well as actions, may in particular circumstances require to be justified. Non-interference in itself, however, is not sufficient to require justification in every case; the particular facts of each case, as Mill suggests, must be taken into account.

In 'On Liberty', in a discussion concerning possible legitimate areas for state intervention, Mill implies that the statement, "leaving people to themselves is always better, *caeteris paribus*, than controlling them", is just another way of saying that "all restraint, *qua* restraint, is an evil". Mill is discussing limits to 'Free Trade' and particularly the degree of government control that is admissible in order to prevent fraud by adulteration and to ensure enforcement by employers of necessary sanitary precautions and protective measures for workers employed in dangerous occupations. These issues, Mill suggests, constitute legitimate grounds for social intervention: "Such questions involve considerations of liberty, only in so far as leaving people to themselves is always better, *caeteris paribus*, than controlling them: but that they may be legitimately controlled for these ends is in principle undeniable." What Mill is really saying is that because restraint is an evil good reasons must be established to justify any kind of interference. Clearly the principal question at issue is whether there is sufficient evidence to show that leaving people to themselves is always, all things being equal, better than exerting control over them. It is, presumably, insufficient to simply observe human nature and to make a simple empirical deduction, without appropriate moral arguments, that people as a rule prefer to have

their privacy respected and not to be subjected to unsolicited control or interference.

Mill offers a defence of liberty based upon a fundamental belief in and respect for human worth and individual self-realisation. He complains that the prevailing thought of his day had failed to recognise the intrinsic worth of developing and exercising individual spontaneity.<sup>9</sup> In chapter three of 'On Liberty' he objects to the blind submission of individuals to prevailing customs on the grounds that they are not robots or machines but idiosyncratic selves requiring, if their potentialities are to be fully realised, not one, uniform, identical pattern of development but a variety of patterns unique to each individual self. In speaking of the distinctive endowment of the human being Mill recognises not just respect for the generic human self, that is what human beings value in themselves as human beings, but respect for the idiosyncratic self which distinguishes one human being from another.<sup>10</sup> His argument in favour of freedom of action is apparently based upon the assumption that the principle of respect for persons ensures the free development of individuals' potentialities, and that this in turn is conducive to the development of an imagined happy and successful society in which individuals share a common unity in their variety. The main theme of 'On Liberty' might be said to be that the principle of non-interference and the principle of respect for persons presuppose one another.

Mill's notion of individualism includes the presumption that choosing is of value in itself for to limit any individual's choice by coercive means is to deny his status as an autonomous human being. In this respect a Kantian perspective is evident in Mill's thinking. In Kant's view the autonomy of the will, the capacity of the individual to create, legislate and follow rules governing his own and others' behaviour, constitutes the essence of personality; and, it is this capacity for reasoning and willing that gives human personality, according to Kant, its intrinsic value.

Mill appears to have shared these views, but he would have conceived the notion of rational will in a broader sense than Kant envisaged, and not as excluding human feeling and desire.<sup>11</sup>

The ability to choose for oneself, free from the intervention of others, is, in Mill's view, a good that is independent of the wisdom of what is chosen: "If a person possesses any tolerable amount of common sense and experience, his own mode of laying out his existence is the best, not because it is the best in itself, but because it is his own mode."<sup>12</sup> On another occasion he writes: "...it is the privilege and proper condition of a human being, arrived at the maturity of his faculties, to use and to interpret experience in his own way."<sup>13</sup> It is Mill's belief that the human faculties of perception, judgment, discriminative feeling, mental activity and moral preference, that make up the distinctive endowment of the human being, are principally exercised in making choices free from the interference of other people.

It is important to Mill not only what men do but what manner of men they are that do it. Men who are free and make choices develop character, Mill says, because their desires and feelings are then the products of their own conscious choices rather than the passively generated products of other external factors. Coercive pressure exercised wisely and in moderation would probably induce weak hearts to face up to their responsibilities and to be more decisive, but if used to excess it would more probably inhibit the development of the sort of ideal person that Mill had in mind, a self-reliant, rational, tolerant individual not without sympathy for other people and other persons' views. Mill's preoccupation with self-development and moral progress is a characteristic of his philosophy to which all else seems to be subordinate. It was important to Mill not only what kind of beliefs men held but how they came to hold them and what manner of men they were. Mill did not go so far, therefore, as to claim that all freely chosen acts, qua free,

are good and valuable in the sense that their value, even if they are immoral, rests entirely in the fact that they are freely chosen and are not the result of any other person's coercive influence.<sup>14</sup>

Freedom of choice is not considered by Mill to be a sufficient condition for the realisation of his notion of an ideal person. The exercise of a degree of freedom of choice, however, he believes to be absolutely necessary, if not on all occasions. He is willing to justify the use of coercion in particular circumstances in order, for example, to prevent people having accidents, doing wrong and making mistakes, or making wrong choices through being ignorant and inexperienced. He allows the use of coercion to prevent a person selling himself into slavery, because once a slave he is presumed to be deprived of the opportunity of exercising any further free choices and thereby developing as a person. Following this reasoning, coercion might be justified to prevent people committing themselves unconditionally, absolutely and slavishly, to any '-ism', religion, or any dubious ideology, that might be judged to be fatal to their successful self-development and continued well-being. Restrictions upon freedom of choice are justified in Mill's view in order to preserve the opportunity to be able to continue to make free choices in the future.

There is a non-contingent and a contingent aspect to Mill's reasoning in 'On Liberty'. Mill believes in the intrinsic value of being free to choose and in the intrinsic value of the worthy self-fulfilment of a rational, intellectual and emotionally mature self. In this respect he sees liberty in an optimistic and positive sense and as being intrinsically good, provided, that is to say, the goods that result from it include true rational belief, individuality, self-fulfilment and human progress. Liberty is seen to be, therefore, both a condition of and also a part of his professed notion of individuality.

The contingent aspect of Mill's reasoning is more readily illustrated

in relation to freedom in its negative sense. For Mill the principle of non-intervention, apart from the fact that it allows individuals to make their own free choices, has no intrinsic value. It must be admitted there seems to be no apparent value in leaving a blind man free to walk under a bus or a young child to drown in a paddling pool. The value of negative freedom for Mill lies in terms of the goods it may possibly bring and its good consequences. He defends freedom of expression and freedom of action, for example, as essential conditions for the emergence of truth and the elimination of myths and superstitions. The alternatives, intolerance, authoritarianism and censorship, he argues, presume an unjustified claim to infallibility; they stifle freedom of thought and expression and deprive people of true knowledge.

Mill's sociological perspective is clearly organised around the basic assumption that the human race is progressive, that freedom from intervention allows those traits of intellect and character to develop which constitute the 'Good' for all human beings and which ensure the future development of society. He argues that social benefits accrue to those who grant freedom as well as to those who are allowed to exercise it. Everyone is presumed to benefit from the development of individualism and the absence of coercive influence. Mill has been accused of advocating freedom solely for the benefit of a privileged, intellectual and cultural elite. He would argue in reply, however, that he desired freedom for all whilst accepting that in the real world the gifted and able would always and inevitably emerge as the pace-makers of standards and values. Mill did not advocate that the ordinary man should be forced to accept the unanimous opinions of cultured minds. He certainly preferred the man of character and intellect to the man who imitatively followed custom, but, provided the latter did no harm to others, he did not hold the view that such a man had no right to live as he liked.

The 'Good' for Mill is not enjoyment or passive contentment; it is

self-realisation which we may call happiness if we are prepared to interpret happiness in the Greek sense as meaning "the exercise of vital powers along lines of excellence in a life affording scope"<sup>19</sup>. Mill argues that social freedom and personal autonomy are not just the means to happiness but are also the constituents of happiness and valued for their own sake. Actions are right, says Mill, which tend to promote happiness, and are wrong in so far as they tend to the opposite. Consequently, Mill's notion of utility differs from that of the classical Benthamite school of utilitarians which sees happiness in simplistic hedonistic terms as a psychological or mental state composed of an aggregate balance of pleasure over pain.

Although Mill argues that the only good thing is pleasure, he distinguishes between pleasures in a qualitative as well as in a quantitative sense. He is, therefore, able to say that one activity is better than another irrespective of the amount of pleasure it may produce. It also means that he assumes, contrary to the Benthamite position, that something other than pleasure is good in itself.<sup>20</sup> Whereas the classical utilitarian has to admit there may be cases when people may be happier with less rather than more freedom, Mill emphasizes the intrinsic value of being able to choose for oneself which constitutes a part of, as well as an enabling condition for, individual self-realisation and happiness. Happiness, for Mill, is not something that can be obtained through any means; it is attainable only through the process of achieving self-realisation<sup>21</sup> and being able to make one's own free choices.

"Utility in the largest sense", in Mill's language, refers to the anticipated development of particular kinds of human beings with particular kinds of beliefs and values. Mill's utilitarianism is parasitic upon his particular notions of individual and social progress. He found the classical utilitarian calculus of felicity to be inadequate and drew upon additional basic moral principles, such as justice and respect for

persons to underpin his own special notion of utility. Whereas the classical utilitarian admits any means to happiness, Mill is as particular about the means as he is about the kind of happiness that ensues. Whereas the classical utilitarian is obliged to consider coercion as a means to happiness if its effect in terms of pleasure outweighs the harm it causes, Mill regards coercion as *prima facie* morally unacceptable unless good reasons can be found to justify its use.

Having apportioned the onus of justification, and having established the need for justification, Mill isolates reasons for intervening in the affairs of others and for infringing their freedom in order to discover, by a process of elimination, occasions when the use of coercion is not justified, which is really his main concern. The use of coercion, says Mill, is justified for a variety of reasons: "to prevent harm to others", "for self-protection", "to benefit others", "because it is necessary to the interests of society", "because it is his (coercer's) duty to do so". Reasons given by Mill as not justifying the use of coercion refer specifically to the coercee and include: "for his (coercee's) own good", "because it would be better for him", "because it will make him happier", "because in the opinion of others to do so would be wise or even right". In sum, whilst the welfare of others and the coercer might constitute a good reason for the use of coercion, the welfare of the coercee will not.

Mill's professed "very simple principle", that the only purpose for which power can be rightfully exercised over any member of a civilised community against his will is to prevent harm to others, is not as simple as Mill suggests. Furthermore, the concomitant distinction between self-regarding conduct, which, Mill argues, does not warrant intervention because it does not harm or concern others, and conduct that is said to harm others, which is therefore their concern, must be qualified.

It is, it is presumed, universally agreed that people may be coerced

to prevent their harming others, though we might wish to dispute the meaning and nature of harm or hurt in relation to different and particular circumstances. Mill does not seek to resolve this problem by balancing the pain or satisfaction ensuing to the coercee through being coerced against the pain or satisfaction caused by the coercee's actions towards others, as an adherent of classical utilitarianism might be expected to do; instead, he appeals to duty, and fashions his arguments around notions of consideration, rights and interests, justice and distribution, as the following extract from 'On Liberty' indicates.

"Though society is not founded on a contract, and though no good purpose is answered by inventing a contract in order to deduce social obligations from it, everyone who receives the protection of society owes a return for the benefit, and the fact of living in society renders it indispensable that each should be bound to observe a certain line of conduct towards the rest. This conduct consists, first, in not injuring the interests of one another; or rather certain interests, which, either by express legal provision or by tacit understanding, ought to be considered as rights; and secondly, in each person's bearing his share (to be fixed on some equitable principle) of the labours and sacrifices incurred for defending the society or its members from injury and molestation. These conditions society is justified in enforcing, at all costs to those who endeavour to withhold fulfilment. Nor is this all that society may do. The acts of an individual may be hurtful to others, or wanting in due consideration for their welfare, without going to the length of violating any of their constituted rights. The offender may then be justly punished by opinion, though not by law. As soon as any part of a person's conduct affects prejudicially the interests of others, society has jurisdiction over it, and the question, whether the general welfare will or will not be promoted by interfering with it, becomes open to discussion. But there is no room for entertaining any such question when a person's conduct



affects the interests of no persons besides himself, or needs not affect them unless they like (all the persons concerned being of full age, and the ordinary amount of understanding). In all such cases, there should be perfect freedom, legal and social, to do the action and stand the consequences."<sup>22</sup>

When a person's conduct, no matter how eccentric, fails to violate any specific social or public duty, says Mill, it is self-regarding, and any consequential inconvenience or annoyance simply represents the price the public has to pay for the maintenance of individual liberty. When, however, a person's conduct violates "a distinct and assignable obligation", it ceases to be, in Mill's view, self-regarding, and may be justifiably prevented or punished; "No person ought to be punished simply for being drunk; but a soldier or policeman should be punished for being drunk on duty."<sup>23</sup> Likewise, if a man, through weakness of character, fails to organise the payment of his debts or fails to support the family he has undertaken to rear, he should be punished, not for his personal extravagance but for the breach of his duties to his family and his creditors.

Mill distinguishes between duties and self-regarding faults or vices. He implies that not all vices, nor all virtues for that matter, need necessarily incur a moral obligation. A vice, defect or undesirable character trait, or an undesirable habit like smoking or chewing tobacco, might, say on empirical grounds, be judged to be injurious to health, but it need not constitute a moral vice. M. G. Singer in an article entitled 'Duties to Oneself' illustrates this distinction as follows: "In saying that a vice is an undesirable trait, or habit, we must distinguish the interests with respect to which it is undesirable, the person or groups of persons for whom it is undesirable. If it is harmful to the person who has it, then it is undesirable with respect to his interests, and thus it is undesirable from the point of view of prudence. It is, consequently, a self-regarding or prudential vice. On the other

hand if it is harmful to another or to society, then it is undesirable with respect to their interests and is thus morally undesirable. It is consequently a moral vice." <sup>24</sup>

A distinction is drawn by Mill between morality and law on the one hand and prudence and aesthetics on the other; it is only when infringements occur in the context of the former that intervention is justified in the form of sanctions and punishment. <sup>25</sup> Self-regarding conduct does not belong to the area of morality or law and therefore does not warrant sanctions. "Self-regarding faults", Mill writes, "..are not properly immoralities, and to whatever pitch they may be carried do not constitute wickedness. They may be proof of any amount of folly, or want of personal dignity and self-respect; but they are only a subject of moral reprobation when they involve a breach of duty to others, for whose sake the individual is bound to have care for himself." <sup>26</sup> It is the cost to society that determines whether sanctions are justifiable, cost measured in terms of the harm experienced by others. Self-regarding conduct that does not harm others is not subject to punishment or sanctions, but Mill acknowledges the legitimate use of approval and disapproval and other forms of persuasive intervention such as expostulation, exhortation and entreaty. Compulsion, <sup>27</sup> however, in any form is excluded.

If the notion of duty is related solely to the interests of others, it follows, according to Mill's reasoning, that duties to oneself are not proper duties at all and are not therefore enforceable. An individual, says Mill, is under no moral obligation to others with regard to the nature of his own respect for self or for his own self-development; for neither of these is anyone accountable to his fellow creatures, because it is not for the good of mankind that any individual should be held accountable in these respects. <sup>28</sup> Moral and legal rules are backed by sanctions which make life in society possible; they are grounded in law or organised social disapproval as categorical imperatives. Neglect of

these kinds of rules would make life impossible. Liars are disapproved of because widespread lying would make life extremely difficult. On the other hand prudential rules, Mill supposes, are merely hypothetical imperatives grounded in nothing but the agent's personal interests. In this way Mill distinguishes between acts that are really wrong, which infringe a social duty, and those merely foolish or unaesthetic, which concern only the individual himself.

Objections have been raised to the distinction Mill makes between self-regarding and other-regarding actions; even Mill did not believe that an absolute distinction existed between them. "I fully admit", Mill writes, "that the mischief which a person does to himself may seriously affect, both through their sympathies and their interests, those nearly connected with him and in a minor degree society at large." Mill refers to personal defects of character that might affect the sensibilities of others and observes that no individual exists as a completely isolated being. He insists, however, that it is only when such behavioural defects violate a distinct or distinct assignable obligations owed to another that they cease to be exclusively self-regarding. Critics of Mill point out that it is only the most trivial of actions, such as blowing one's nose or cleaning one's teeth, that can be considered as having no significant effect on others and that even these might offend hypersensitive onlookers. Mill's view is that the effects of such acts do not normally constitute good enough reasons for intervention and are not sufficient to take them out of the self-regarding class, because they simply instance differences in taste and personal preference rather than the infringement of a social obligation or duty. Mill concedes that self-regarding actions may affect others adversely but insists that the effects must be of a particular kind in order to warrant imposing upon another person's will.

There is some inconsistency in Mill's reasoning. If duty is, as Mill suggests, to be determined by social consensus and prevailing standards and values, then his liberty principle becomes relativistic

and subject to the will of the majority, which is contrary to his declared intent of limiting the influence of the majority and of protecting individuals from the tyranny of values determined in this way. To<sup>31</sup> obviate this difficulty it has been suggested that by self-regarding actions Mill really means actions that do not violate what ought to be the interests of others, that is to say interests determined not by the consensus of contemporary opinion but by the principle of utility in its "largest sense" to which he subscribed.<sup>32</sup> In this case Mill's liberty principle may be regarded as being not an absolute principle but a secondary principle, like keeping one's promises, providing rule of thumb and day to day guidance whilst at the same time being ultimately justified by the principle of utility. Following this reasoning, the observance of the liberty principle, it is supposed, will, in the majority of cases and as a general rule, maximize happiness though there may be some times when it may not, and Mill is represented as an adherent of rule-utilitarianism.

It was impossible for Mill to embrace unconditionally classical utilitarianism and at the same time to maintain the distinction he made between self-regarding and other-regarding conduct. As a classical utilitarian he would not have been able to exclude from his calculation of the greatest good for the greatest number any effects at all of self-regarding actions. All felt pleasures, desires, pains and frustrations, of whatever kind and of all individuals, must collectively be included in the felicific calculation and consequently make possible the justification of behaviour of the most immoral and unjust kind. Supposing we assume, for example, that in Hitler's Germany all the Nazis, who outnumbered the Jews, wanted all Jews to be exterminated, then the avoidance of death by one solitary innocent Jew would be sufficient to frustrate the will and harm the intent of the Nazi majority. The more fanatical the Nazis are imagined to be, the more they will feel harmed and justified in sending the innocent Jew to his death. In accordance with the logic of

the felicific calculus any fanatical group, should their sensibilities be harmed by the innocent behaviour of a supposed offending minority, might feel justified in imposing its will upon its supposed antagonists.

All pleasures, including pleasures of malevolence, must be included in the felicific calculation. For this reason, Mill did not find utilitarianism in its traditional form to be capable of providing an adequate moral basis for his defence of freedom. Pleasures of malevolence, that is to say pleasures derived from pain caused to others, if shared by a majority may lead to tyranny; if it is pleasing to the majority to see Jews punished, then, in accord with the felicific calculus, it follows that legislation to this end is justified. In other words, if the pleasures derived from feelings of hatred and revenge happen to outweigh the anticipated pain likely to be caused to those coerced, then those pleasures may be legitimately enjoyed and sustained. Clearly, a strict interpretation of utilitarianism along these lines fails to provide an adequate means of distinguishing between right and wrong. Immoral acts, such as deliberately surrendering one hostage's life to save the lives of several others or sacrificing the life of one patient in order to use his organs to preserve several other lives, may, following this kind of reasoning, be judged to be expedient in terms of enhancing the greatest good of the greatest number. Mill's distinction, on the other hand, between self-regarding and other-regarding conduct is dependent upon a qualitative rather than a crude quantitative interpretation of the principle of utility. Consequently, his liberty principle is only applicable to societies that have already reached a qualitative stage of moral development.

Mill's notion of moral wrongness is not based upon and is quite independent of any simple utilitarian calculation. However, once he has established upon moral grounds the prima facie right to use coercion, he resorts to classical utilitarian arguments to justify its execution

on grounds of expediency, whereupon such arguments become overriding.

"If anyone", says Mill, "does an act hurtful to others, there is a prima facie case for punishing him by law, or, where legal penalties are not safely applicable, by general disapprobation." He then continues: "There are often good reasons for not holding him to the responsibility; but these reasons must arise from the special expediencies of the case: either because it is a kind of case in which he is likely on the whole to act better, when left to his own discretion, than when controlled in any way in which society have it in their power to control him; or because the attempt to exercise control would produce other evils, greater than those which it would prevent."<sup>33</sup> Neither utility in its classical sense nor Mill's principle of obligation is individually sufficient to justify the use of coercion, although they are complementary to one another. Inexpedient acts are not necessarily morally wrong, nor are expedient acts necessarily morally right, and Mill is not willing to go so far as to admit a morally wrong act on grounds of expediency alone.<sup>34</sup>

Mill states a preference for one act rather than another on the grounds that it promotes greater utility, maximizes happiness, and is in this respect expedient. He considers an act inexpedient if it fails to maximize utility, but he does not confuse inexpedient acts with wrong acts. Initially Mill decides upon moral grounds whether coercion is appropriate, then he decides whether it is expedient to put it into practice. He writes: "In many cases, an individual, in pursuing a legitimate object, necessarily and therefore legitimately causes pain or loss to others, or intercepts a good which they had a reasonable hope of obtaining.....Whoever succeeds in an overcrowded profession, or in a competitive examination; whoever is preferred to another in any contest for an object which both desire, reaps benefit from the loss of others, from their wasted exertion and their disappointment. But it is, by common admission, better for the general interest of mankind, that persons should pursue their objects

undeterred by this sort of consequences. In other words, society admits no right, either legal or moral, in the disappointed competitors to immunity from this kind of suffering; and feels called upon to interfere, only when means of success have been employed which it is contrary to the general interest to permit - namely, fraud or treachery, and force."<sup>35</sup> Normal competition is morally acceptable, in Mill's view, though it may cause pain to some, but trickery, fraud, and treachery are never morally acceptable even though at times they may be judged to be expedient. It is the moral status of the behaviour in question which determines for Mill whether coercive interference is justified, not a simple calculation of consequences in terms of pleasure and pain.

The distinction that Mill draws between self-regarding and other-regarding conduct is at variance with assumptions that philosophers usually make with regard to the nature of and the relation between what may be called the public and private domains of morality. Private morality, it is normally assumed, is based, like all morality, on the Kantian notion of respect for persons, but more particularly upon the narrower notion of the individual's respect for his own particular person as a human being. Private morality is, in other words, "that aspect of morality which is concerned with a person's duties to behave as a human being regardless of the utilities of acting in such a way".<sup>36</sup> A person might be expected, in normal circumstances, to show respect for the distinctive human trait of rationality, and accordingly to act prudently and rationally, and thereby morally, taking prudence as a moral virtue.

As a general rule, in most societies, as Mill readily admits, individual members are not usually indifferent to the kind of people their fellow citizens may become. They do not necessarily draw such a sharp distinction between public and private life, as Mill does, nor do they always regard duty as explicable only in terms of social

obligations owed to others. It is debatable whether duties have to be regarded as being essentially social and therefore enforceable as Mill suggests. It is debatable whether duties need to give rise in all cases to reciprocal rights. It is possible, for example, that I may feel I have a duty to give to the needy without anyone necessarily having the right, legal or moral, to enforce me to do so. Also, I may feel that I have a duty to respect my own person, that is to say a duty concerning myself rather than to myself, which is not necessarily enforceable by any other person. And sometimes these duties concerning oneself may conflict with and even override duties that one may feel towards other people. Such would be the facts in the case of the only daughter who feels she has to decide in favour of her own career rather than the possibility of having to devote her whole life to looking after an aged parent.<sup>37</sup> In sum, we may have duties concerning ourselves which we may feel must override duties and feelings of obligation to others, and vice versa, and we may have duties both to others and concerning ourselves that are not enforceable. Mill's distinction between self-regarding and other-regarding conduct, which is based upon a narrow conception of the notion of duty, seems to neglect these ways in which, it is suggested, the term duty might be quite legitimately and properly understood.

Mill argues that no self-regarding fault can properly be called immoral, which implies, of course, that no self-regarding virtue can properly be called moral, such as prudence for example, and that a person's private conduct cannot be subject to moral praise or blame. It is not Mill's intent, however, that such conduct should pass unheeded. In the fourth chapter of 'On Liberty' Mill suggests that self-regarding faults, such as rashness, obstinacy, self-conceit, the pursuit of animal pleasures at the expense of those of feeling and intellect, though only of concern to the individual himself, and not seriously or directly affecting others, may nevertheless be judged. A person, for instance,



might be called a fool, or he might be told that he is not up to scratch or at fault, or he might be ignored. "In these various modes", says Mill, "a person may suffer very severe penalties at the hands of others for faults which directly concern only himself".<sup>38</sup> But these penalties, says Mill, are "natural" penalties or "the spontaneous consequences of the faults themselves" which do not warrant punishment or the enforced sanctions of organised coercion expressed through the agencies of law, government, or society. What are called "duties to ourselves", says Mill, are not socially obligatory unless circumstances render them at the same time duties to others.

Mill's argument in 'On Liberty' is initially anarchistic. He assumes that individuals are perfectly able on their own to achieve self-fulfilment, to determine right and wrong, and to achieve self-realisation within an ideal, free and progressive society. He is not, however, fully confident in the ability of human beings to follow what he believes to be their true destiny and introduces the harm principle to isolate the sort of behaviour that regrettably requires to be monitored with the aid of coercive sanctions and punishment. Mill argues that only harm to others is sufficient to warrant coercive intervention; it is necessary therefore to establish what harm really is and what Mill understands by a breach of duty and the observance of social obligations.

Nowhere in 'On Liberty' does Mill attempt to defend or to justify his harm principle; he simply makes reference to it, uses it, and offers various illustrations. He specifically refers to actions that directly affect others, which he claims are harmful, and distinguishes them from actions that affect others only indirectly, which he argues are not harmful. The effects of the former are considered to be contingent and the effects of the latter remote. In Mill's view, self-regarding actions affect others only indirectly and therefore do not warrant coercive

intervention, because they are not considered to constitute a sufficient degree of harm. Mill's harm principle is presented in a variety of ways and is deserving of attention if only because the terms he uses, namely rights and interests, to explain the nature of harm are not themselves without ambiguity.

Mill suggests that it is the infringement of assignable rights and interests that constitutes the kind of harm that is sufficient to justify a prima facie case for coercive intervention. It is only when a person violates a distinct and assignable obligation owed to another, says Mill, that the case is taken out of the self-regarding class and becomes subject to moral disapprobation.<sup>39</sup> Mill is loath to subscribe, out of respect for individual liberty, to a wide concept of harm which might entail seeing interests in terms of any felt desire or frustration; for then he would have to concede that any political or religious fanatic, or any eccentric for that matter, whose interests, however outrageous or trivial, happen to be denied, is thereby harmed and deserving of protection by the state and society.

The concept of right and the concept of interest are related, but they are not synonymous. A right is not necessarily entailed by an interest; it is perfectly possible for a person to have an interest in something without necessarily having a right to it. Mill does not say specifically that he considers rights and interests to be identical, but he seems to assume that a relation of sorts does exist between them. He does not specify how he is using the term interest, but there is nothing to suggest that he is using the term in any particularly unique or special way.<sup>40</sup> In normal parlance, 'having an interest' suggests that a person has some sort of claim, proprietary right, title, or share in something, which is recognised as valid and valuable or at least worthy of consideration and protection. Not all interests, however, are legal, nor are they necessarily related to rights or claims in either a legal or moral sense.

We say things are of interest to people and that people are interested in things. People are said to have interests in the sense of being interested in something or other, which interests may be of a variety of kinds, aesthetic, technical, academic, leisure, long term, short term, and so on. People are sometimes said to have vested interests in their interests in so far as they may have devoted a considerable portion of their personal resources to them. In no sense, however, are interests such as these necessarily related to the notion of a proprietary right or claim against another person. The term interests may imply tastes, attitudes, wants, desires, whims, fancies, or arbitrary wishes.

Mill's notion of interest is seemingly grounded in the assumption that there are certain goods that may be conceived as interests in a proprietary sense giving rise to claims of a legal and/or moral kind. Such goods include institutionalised rules, such as rules of possession, rules of freedom of thought and action, and the consequential rights and duties. These goods, according to Mill, are essential for the well-being of individuals and the stability of society and for these reasons are worthy of protection. This notion of the infringement of rules, rules of property, rules regulating the distribution of power and influence in society, rules of contract, fair trading and just competition, all of which are considered to be necessary for the survival of a good and progressive society, is central to Mill's concept of harm. The idea of interest, for Mill, includes all that society thinks is good for its individual members and for society as a whole. The basic interest is of course liberty, from which other interests are derived and which itself, like all other interests, must be protected.

To conceive the notion of interest in terms of a claim or right, whether legal and/or moral, and harm as an invasion of such an interest has the advantage of enabling the appraisal of different kinds of harms to be made by distinguishing different kinds of interests. In other

words, whilst some interests might be considered important enough to merit various degrees of social or state intervention other 'interests' might be considered so trivial as to warrant neither. The latter, giving rise to no proprietary claim whatsoever, are regarded by Mill as constituting no kind of harm at all. Mill discusses the sort of behaviour that he considers to be particularly injurious and harmful to others and makes reference to serious moral vices, and dispositions tending towards the same, and more especially to malice, ill-nature, envy, dissimulation, insincerity, and "pride which derives gratification from the abasement of  
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 others."

The notion of interest is clearly related in Mill's thought to the notion of obligation and the concept of duty. Mill admits of no specific contract in society, but he does recognise that when anyone receives protection from society he morally owes some return for the benefit. He suggests, for instance, that society is justified in enforcing three main obligations, namely, obedience to accepted rules of conduct, an undertaking not to injure each others' interests, and an obligation to share the burden of protecting and defending society. Hurt or harm to other peoples' interests may, he explains, be caused by omissions which, presumably, may be conceived either as a case of overt physical inaction or more positively as a mental act or decision not to take physical action.  
<sup>43</sup>  
 Omissions, says Mill, may constitute a dereliction of duty. He argues that there are certain positive acts for the benefit of others' interests which individuals may rightfully be compelled to perform, such as giving evidence in court, defending one's country, saving another person's life, and interposing to protect the defenceless against ill usage. This does not imply that Mill is advocating that people should be coerced to act for the positive, gratuitous benefit of others indiscriminately, but that he is advocating the prevention of anticipated harm by the justified use of coercion. Under positive acts for the benefit of others Mill

includes acts of co-operation and also 'good Samaritan acts' which are clearly meant to prevent or to limit harm rather than to positively promote additional benefits.<sup>44</sup> In other words, following Mill's reasoning, I may be required to come to the aid of another to prevent further harm accruing to him on the grounds that he will surely suffer should I fail to help him when I can, even though I am not responsible in any way for his original predicament. This would be the case, for example, were I accidentally to stumble upon a swimmer in difficulty who might drown without my immediate assistance being given.

Mill is vague with regard to the extent to which the duty to prevent harm should be pursued. He appears to want to limit the implications that the harm principle might have in this respect. He writes: "A person may cause evil to others not only by his actions but by his inaction, and in either case he is justly accountable to them for the injury. The latter case, it is true, requires a much more cautious exercise of compulsion than the former. To make anyone answerable for doing evil to others is the rule; to make him answerable for not preventing evil is,<sup>45</sup> comparatively speaking, the exception." Mill hesitates to conflate<sup>46</sup> failing to prevent harm into causing harm as a general principle. Logically, he may have extended the application of the harm principle to include a variety of compulsory collective actions including, for example, the enforced payment of taxes to provide social benefits or goods without which members of society might be judged to be deprived. Inadequate medical or educational facilities, the lack of provision for basic needs such as food and shelter, denial of the fundamental necessities of a civilised life, may all, it is suggested, be quite legitimately regarded as harmful to the interests of those deprived in these ways and may be considered to constitute sufficient grounds for the organisation of collective measures for their prevention supported, if necessary, by the use of coercive sanctions.<sup>47</sup>

Mill was apparently conscious of the difference between claiming

that people have the right to stop others harming them and claiming the right to punish all omissions of conduct. He was also presumably aware of the distinction between conduct that is claimed to be right and conduct that is obligatory because others are deemed to have a right against a person that is enforceable.<sup>48</sup> It is presumably right to give to the needy and, all things considered, it is presumably right to try to rescue a drowning man, but it is debatable whether the needy have a right to expect charity or whether a drowning man has the right to expect others to risk their lives and to act beyond the course of duty, say as saints or heroes or even fools, in attempting to save him. Mill can be accused of confusing conduct that is right with conduct that is obligatory when he argues that a man may be punished for not saving another man's life or for not defending his country, leaving aside a man's right to be a conscientious objector. Mill may have been conscious of some ambiguity in his argument which might explain why he refrains from stipulating absolutely that society has the right to punish all omissions of conduct whatsoever. To have taken such a view would, of course, have jeopardized his declared commitment to freedom and individual liberty. It is not surprising, therefore, that he hesitates to claim that, as a general rule, a person is answerable for not preventing evil. On the contrary, Mill insists that in normal circumstances intent and knowledge are essential before punishment may be justified and that a person must be aware of his wrongdoing or of the effects of his inaction on others. This is in keeping with Mill's moral stance and his liberty principle which are both opposed to the harm principle being interpreted as a rule of strict liability.

Certain adverse but indirect effects upon other people, such as offence to their beliefs, prejudices, tastes and preferences, causing feelings of repugnance, outrage or disgust, are in Mill's view trivial, and do not in themselves constitute sufficient evidence of harm as to

warrant coercive intervention to prevent them. They do not, according to Mill, amount to harm in terms of the invasion of any publicly recognised claim or right. Conduct giving rise to such effects Mill classifies as self-regarding and as not directly affecting in any proprietary sense the interests of others because it does not obviously breach any recognised assignable obligation. Mill writes: "There are many who consider as an injury to themselves any conduct which they have a distaste for, and resent it as an outrage to their feelings; as a religious bigot, when charged with disregarding the religious feelings of others, has been known to retort that they disregard his feelings, by persisting in their abominable worship or creed. But there is no parity between the feeling of a person for his own opinion, and the feeling of another who is offended at his holding it; no more than between the desire of a thief to take a purse, and the desire of the right owner to keep it. And a person's taste is as much his own peculiar concern as his opinion or his purse."<sup>49</sup>

Mill suggests that we might find it unjust if, being in a minority, the majority disapproved of our beliefs and arbitrarily prohibited them. Likewise, he suggests that, were we in a majority, we would have no grounds for prohibiting other people's conduct merely because it offended us, or caused us displeasure. Mill prefers to rely upon knowledge, understanding and education as determinants of moral judgment rather than instinct, intuition, emotion, superstition and gut reactions.<sup>50</sup> Assuming this is Mill's position, as some philosophers suggest, the effects may at first seem to be disturbing. It is implied, for instance, that no intervention by the state or society, using coercive measures, is justified on the grounds of distress being caused to oneself or offence to one's moral values on the following occasions: the desecration of the Sabbath by Sunday revellers, the use of property in one's neighbourhood by known homosexuals and prostitutes, distasteful behaviour by anti-Jewish

fanatics holding a rally before a memorial to Jewish war dead, an insensitive and provocative demonstration or march deliberately organised to denigrate and antagonise some minority immigrant group.

It is not just a matter of individual liberty but the role of feeling in the constitution of moral judgments that is in question, whether in fact the state or society is ever justified in intervening to protect an individual's values or feelings. Some philosophers stress the significance of feeling, experience and intuition in the formation and expression of a person's moral sense. Dame Mary Warnock, for example, argues that during the course of pregnancy it is of paramount importance that the personal feelings of the prospective mother should at all times be heeded and respected, and that she should always be consulted before any decision is taken to interfere with the foetus growing within her body. It is not sufficient, Warnock argues, to simply rely upon a computative, utilitarian calculation and to conclude that such interference is justified on the grounds that future benefits may outweigh the disadvantages, that such a move would be better for the woman's health, her future life, or for medical research in general and for future generations. In other words there are occasions when a person's feelings may have to be respected and if necessary protected by society or the state.

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The notion of morality related harm, that is to say harm caused by offence to a person's moral sense or feelings, is illustrative of the difficulties involved in determining the nature and degree of harm required to justify the use of coercion on the grounds of the infringement of people's interests. Mill is aware that the reactions of individuals vary and that observers in turn will differ in their estimation of the reactions they observe and whether they are reasonable and justify the use of coercive measures. Mill's opinion is that the liberty of individuals should not be limited by the likings and dislikings of others and that a person's distaste or displeasure should not constitute

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harm sufficient to warrant intervention. This of course is in accord with Mill's fundamental suspicion of the irrational nature of certain human feelings, prejudices, opinions, intuitions and preferences, especially if they should lead to certain people imposing their views in an authoritarian way upon others. This could happen, says Mill, if Muslims, offended by the eating of pork, prevented the eating of pork by everyone else, or if a Roman Catholic majority prohibited all other forms of worship that they disliked, or if a Calvinist majority banned all

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amusements that they considered frivolous. The offence caused by the activities instanced in these three cases does not, in Mill's view, justify interference by those who claim to be offended to prohibit them; on the contrary, Mill thinks the maintenance of freedom of action, thought and expression in these three particular cases to be far more important. These three examples suggest that Mill regards morality dependent harm as irrelevant within the context of his concept of the harm principle.

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Of course, aesthetically, in the exercise of good manners, we customarily respect the idiosyncratic likings, dislikings and tastes of other people. We politely ask people whether they mind if we smoke, turn the television on, play the drums, and so on, because we are presumably conscious of the distress or offence our actions might possibly cause them. In this respect we take account of their feelings, sometimes but not all the time, but from an exclusively aesthetic point of view.

There are several occasions when Mill appears to make a move towards recognition of the notion of morality dependent harm and to recognise offended feelings as justifying a course of action against others in order to eradicate their cause. He suggests that speech that is offensive to people's feelings should be open to social and moral censure, though not open to legal interference. He admits to the

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possibility of intervention when a man "fails in the consideration generally due to the interests and feelings of others..." He rejects

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the notion that individuals have the right to pursue courses of action  
 regardless of their effects. <sup>60</sup> On the weight of evidence in 'On Liberty',  
 however, as T. Honderich suggests, <sup>61</sup> Mill never seems to actually question  
 specifically whether morality dependent harm as such should be ignored  
 in all cases whatever the effects. We must therefore conclude that  
 morality dependent harm is not one of Mill's basic beliefs.

Mill's estimation of the status of feeling as a basis of moral  
 judgment and as a factor establishing the presence of harm is based  
 upon a qualitative judgment of the nature of the feelings concerned.  
 Some feelings, those of an intellectual, rational and socially recognised  
 kind, he is prepared to consider, others of a basic, 'felt', personal  
 and instinctive nature he rejects. He recognises that feelings of the  
 former kind may be adversely affected by the actions of others and that  
 this should be noted out of respect for the person as an individual and  
 a human being. Feelings of revulsion, anger, outrage, and feelings  
 arising from offence caused to a person's aesthetic sensibilities, on  
 the grounds of their being in all probability of a trivial, personal and  
 subjective nature, Mill suggests, are preferably better just lived with  
 or even ignored. In terms of expediency alone Mill argues that in the  
 majority of cases, when such feelings are aroused, the cost of eradicating  
 the cause is frequently greater than the cost of bearing the inconvenience  
 caused by the offence itself. <sup>62</sup>

Mill allows one exception to this rule. If the conduct that is  
 claimed to give rise to such feelings of disgust or rage is judged also  
 to be a breach of a public duty, say a breach of the peace, as well as  
 an offence to people's aesthetic sensibilities, then in Mill's view it  
 is an offence amounting to a public nuisance, such as indecent behaviour  
 in a public place, and the state is justified in intervening to prevent  
 its occurring. Mill unfortunately does not choose to elaborate on this  
 issue; he dismisses the question of public nuisances in one small passage:

"Again, there are many acts which, being directly injurious only to the agents themselves, ought not to be legally interdicted, but which, if done publicly, are a violation of good manners, and coming thus within the category of offences against others, may rightly be prohibited. Of this kind are offences against decency; on which it is unnecessary to dwell, the rather as they are only connected indirectly with our subject, the objection to publicity being equally strong in the case of many actions not in themselves condemnable, nor supposed to be so."<sup>63</sup>

Mill does not base his case for the limitation of state intervention in the affairs of men upon one absolute principle such as the right of all individuals to be free from state interference, nor on a simple quantitative utilitarian calculation. He appeals to several fundamental moral principles such as justice and respect for persons, as well as a qualitative assessment of what he regards as a good life within a good society. He excludes certain feelings as being relevant and as providing sufficient reason to justify the state being obliged to intervene to restrain the conduct of those who give rise to them. When, however, a public duty is broken Mill argues that a good and relevant reason exists for the state to enforce it, if necessary by coercive means. In Mill's view society will always be expected to have to put up with some disrespectful, impolite, offensive behaviour, even in public places, so long as the cost of exercising such forbearance is less than the cost of intervening. Mill rules out banning the sale of pornographic literature on the sole grounds that it offends people's sensibilities; but, if its continued publication is likely to lead to the moral degeneration of society or increased sexual licence, then he would consider state intervention to prohibit publication to be justified for these additional reasons. So far as Mill is concerned moral issues are clearly matters of fact rather than matters of taste, and should be determined by reason rather than passion.

Philosophers dispute the basis of moral judgment. Some argue that morality is based on reason and some that it is based upon a supernatural force, such as the will of God, whilst others stress the role of intuition and feeling and, like Hume, claim that morality is "more properly felt than judged of". In Hume's view our moral sense arises from impressions formed in the mind; that is to say, we sense a certain satisfaction, some pleasure, from the contemplation of a character which we perceive is virtuous. We feel that the object of our attention is virtuous and are aware that feelings can only be felt and not deduced from any other source. Morality, in other words, is caught rather than taught, and is intuitively expressed in a person's feelings. <sup>64</sup> But Mill sees interests in terms of rights, not feelings, and is not committed to an analysis of feeling as a basis of moral judgment. Mill sees moral judgments as statements of fact with objectivity grounded in the consensus of reasonably intelligent human beings. Only in so far as an individual's feelings or beliefs accord with this consensus are they recognised by Mill as having any moral status, as being capable of being harmed, and as being worthy of protection.

Mill distinguishes interests which are important, the infringement of which breaks a moral or legal rule and which are deserving of protection, from other interests of a more trivial kind which may warrant disapproval but which it is often better to ignore. He does not regard all interests as identical to rights, but by linking the concept of interest with the concept of right he gives the notion of interest a proprietary meaning that suggests a sort of claim or entitlement. In 'Utilitarianism' he writes: "When we call anything a person's right, we mean that he has a valid claim on society to protect him in the possession of it, either by the force of law, or by that of education and opinion." <sup>65</sup> And he continues: "To have a right, then, is, I conceive, to have something which society ought to defend me in the possession of." Rights and interests are not

synonymous, and Mill does not regard them as such. He refers to the notion of rights to illustrate the kinds of interests he has in mind. In 'On Liberty' it is principally legal interests worthy of protection by law rather than by opinion that he is concerned with. He recognises that there are other kinds of 'interests' that do not require legal protection, and he does not exclude the possibility of these 'interests' being related to 'rights' but not rights of a legally constituted kind. Mill's notion of interest in the context of the harm principle is essentially narrow in scope, but it is keeping with his notion of morality and social obligation.

Whereas Mill qualifies the limits which he proposes should be imposed upon the use of coercion by the state and society to prevent harm caused by other-regarding conduct, his proposed prohibition of the coercion of another person for that person's own good is absolute. Mill rejects paternalism in the case of mature adults in full control of their faculties. Self-protection, in Mill's view, is never a sufficient or good enough reason to justify coercing any person, even if it is claimed to be for his own good: "His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right."<sup>66</sup>

Mill's firm stance on this issue is contrary to the usual, qualified<sup>67</sup> admonitions he offers on other moral issues, and is out of keeping with what might be expected of him as an empirically minded utilitarian. In discussing a prohibition against lying in 'Utilitarianism', for example, Mill is tentative and aware of exceptions to the rule: "Yet that even this rule, sacred as it is, admits of possible exceptions, is acknowledged by all moralists; the chief of which is when the withholding of some

fact (as of information from a malefactor, or of bad news from a person dangerously ill) would save an individual...from great and unmerited evil.."<sup>68</sup>

And a similar approach is evident in his discussion of justice: "...it is confessedly unjust to break faith with any one: to violate an engagement, either express or implied, or disappoint expectations raised by our own conduct, at least if we have raised those expectations knowingly and voluntarily. Like the other obligations of justice already spoken of, this one is not regarded as absolute, but as capable of being overruled by a stronger obligation of justice on the other side..."<sup>69</sup>

Mill's case against paternalism is clear enough. Since the conduct in question is of the self-regarding kind it is not possible to appeal to the protection of the interests of others as a reason for intervention, so reasons must be sought in the anticipated enhancement of the victim's own interests, his own good, his happiness and welfare. Mill's conclusion is that it is not possible to improve a person's interests by compulsion, force, or by coercing him, to attempt to do so precipitates evils greater than the good intended. Mill argues that normally a person knows his own interests best, and stresses the unique status of the individual as judge of his own interests and welfare: "If a person possesses any tolerable amount of commonsense and experience, his own mode of laying out his existence is best...because it is his own mode."<sup>70</sup>

An authodox utilitarian can only argue against paternalism on the grounds that it does not maximize the good, and may be refuted if empirical evidence is found to prove the opposite, in which case no moral objection to paternalism can be sustained. Mill avoids this dilemma by resorting to transcendental arguments, based on the assumed intrinsic value of a rationally developed personhood, which present his liberty principle as a basic moral rule. Mill endeavours to show that his liberty principle is essential if moral discourse is to exist at all, because moral discussion is based upon the assumption that rational,

autonomous beings seek to determine and to regulate their actions and relationships free from violence, force and threats. Mill assumes that as a rule people are best left alone and must be left alone if they are to be allowed to make their own mistakes and to learn from them.

It may be objected that the pursuit of indiscriminate individualism could be counter-productive and that a degree of paternalistic intervention might even help rather than hinder the development of the kind of person and the kind of society that Mill has in mind. To this Mill retorts that if a person puts such a high value on what he does, then the risk of grave harm or even death is worth taking: "Nevertheless, when there is not a certainty, but only a danger of mischief, no one but the person himself can judge of the sufficiency of the motive which may prompt him to incur the risk: in this case...he ought, I conceive, to be only warned of the danger; not forcibly prevented from exposing himself to it."<sup>71</sup>

In the case of the sale of poisons, for example, Mill advises that regulations are in order to record the sale in order to discourage their abuse, and he suggests that the public should be warned of the dangers involved, but he does not think that the state should deprive citizens of access to them.

It might be objected that there is some inconsistency in Mill's reasoning. Whilst he is opposed to the elimination of the individual's choice by a contract of slavery, he is apparently willing to allow a person to risk his life to a point where there is no choice left to him, if, for instance, he should succeed in poisoning himself or in becoming fatally addicted to drugs. In both these cases the individual forfeits his autonomy and freedom of choice, as indeed he does in entering a contract of slavery. In cases such as these we might wish to argue for the justified use of paternalistic intervention in the affairs of others in their own interests. It is one thing to allow people to fly, climb mountains and take part in hazardous sports so long as they are fully

aware of the possible consequences and dangers, but it is something else to allow free access to narcotics, because once addicted an individual is not free to exercise responsible choice and death may swiftly follow. It was, of course, Mill's concern to limit the coercive imposition of one person's values upon another. It is true that when we disapprove of another person's activity, or find we cannot appreciate it, we tend to think the individual in question is deriving little or no benefit from it, and therefore feel justified in imposing our values upon him for his own good. It is this very thing, of course, that Mill specifically wishes to avoid.

Some commentators share the view that Mill acknowledges a weaker form of paternalism in situations in which individuals are unable to exercise free responsible judgment for one reason or another, say through ignorance, inexperience, immaturity or lack of years, health, senility or some other incapacity, or through undue influence being exerted upon them. That is to say, it is suggested that Mill recognises certain excusing conditions as justifying the intrusion of paternalism for the individual's own good, the assumption being that were such people in their right senses they would readily approve of such sympathetic and benevolently intended interference in their affairs. Mill, in fact, does not insist upon the certainty of subsequent consent as a necessary pre-condition for paternalistic intervention in these circumstances. <sup>72</sup> Mill argues, for example, that a person may be prevented, in his own interests, from crossing a dangerous bridge which he does not know is dangerous, on the grounds that were he in his right senses he would in all probability not wish to risk his life and, it is assumed, would appreciate being prevented from doing so. But if on the other hand the person is warned of the dangerous state of the bridge, and is therefore no longer ignorant, yet still insists on crossing it, say for a dare or for the thrill of taking the risk or as a personal challenge, then Mill argues that he should be left free to do so, for to interfere with his intent when he is fully aware of all the circumstances



would be wrong, there being no longer any excusing conditions justifying intervention.

In all cases of weak paternalism the test for Mill is to determine whether the choice being made is the person's own choice; it is not to assess the wisdom or worthiness of the individual's choice according to the predelections of others. Mill concedes that the state has the right to prevent self-regarding conduct in the interests of the person concerned when such conduct is substantially non-voluntary, or when temporary intervention is necessary to establish whether such conduct is voluntary or not. <sup>73</sup> There may be grounds, for example, for restraining for his own good a patient who in ignorance attempts to obtain drugs, which his doctor following sound medical practice refuses to supply to him, lest they do him serious harm. Similarly, a person contemplating suicide might following Mill's reasoning, be restrained on the grounds that no one in full control of his faculties would in the circumstances contemplate doing such an act.

It may be objected that a person of good sense might quite rationally decide to terminate his life for what appear to be good reasons, say to avoid abnormal and unavoidable pain and suffering arising from some terminable condition which is destined eventually to destroy the quality of his life. Likewise, in similar circumstances, a person might wish to make an agreement with his doctor that his life be terminated. It is also conceivable that a person might feel that he has good reasons for refusing to wear a car seat belt for fear of being trapped should his car suddenly catch fire or plunge into water. Mill might have found it difficult to condone the enforced wearing of seat belts had the problem arisen in his time. Presumably a warning concerning the dangers of not wearing them would have been sufficient. However, he would, no doubt, have supported the compulsory wearing of seat belts were it proved to his satisfaction that to do otherwise would be harmful to society, say in

terms of the cost in lives and hospital treatment for example. In such a case the refusal to conform to the compulsory wearing of seat belts would have been deemed by Mill to be an infringement of a public duty, and therefore other-regarding, affecting the interests of society and other individuals.

Mill's objection to paternalism is subject to two main exceptions, namely, his refusal to recognise contracts of servitude and his argument that the state should make adequate provision for the education of its citizens. He writes: "The principle of freedom cannot require that he (any individual) should be free not to be free. It is not freedom to be allowed to alienate his freedom."<sup>74</sup> Mill's objection to contracts of servitude might appear to be out of context in so far as he is obviously not adverse to people giving up part of their freedom for desirable benefits in the course of making normal contractual arrangements, say to obtain additional material comforts or a higher income. He argues, for example, against intervention to prevent polygamy amongst Mormons on the grounds that the marriage arrangement is voluntary and some women may prefer to be one of several wives to not being a wife at all.<sup>75</sup> But a contract of servitude, says Mill, is different; it is irrevocable. The freedom that is relinquished is permanent and complete, and the contract excludes any possibility of the individual concerned ever exercising his freedom again. It is different from the ordinary run of contracts which normally allow parties the facility in the future of withdrawing under agreed conditions, as presumably the participants in a polygamous marriage contract would be able to do, if they so wished.

It has been suggested that Mill might have invoked the doctrine of multiple selves which assumes that individuals have different identities, that is to say they may be conceived as being different people or persons at different periods of time in their lives.<sup>76</sup> Assuming that this is plausible, then the self that enters the contract of servitude may be imagined as possibly affecting detrimentally the interests of a later

self which might not wish to be so enslaved, but on the contrary prefer to be free. <sup>77</sup> This is of course a singularly impractical and unrealistic theory. Were it universally adopted, it would be impossible to maintain or to guarantee any contract whatsoever, because it would be impossible to rely upon the parties to any contract maintaining their commitments for any length of time.

Since a person who enters a contract of servitude in full control of his faculties and free from the interference of others must do so voluntarily, Mill's objection to freely negotiated contracts of servitude is, in this respect, contrary to his declared belief that the individual always knows best how to pursue his own interests. However, it is, on the other hand, also in accord with another of his beliefs, namely that it is necessary to preserve at all costs the liberty of the individual to make free and responsible future choices. Mill obviously prefers a society of free, autonomous individuals to a society of slaves. It would be illogical, Mill would argue, for him to condone a contract that is intended to deprive a person of the very individuality and autonomy which he wishes to preserve.

Mill admits that coercion may be legitimately exercised in order to ensure that every person obtains a proper education: "Education is one of those things which it is admissible in principle that a government should provide for the people. The case is one to which the reasons of the non-interference principle do not necessarily extend." <sup>78</sup> It is Mill's view that the state should insist that children are educated but that it should not itself provide the schools or the curriculum: "A general State education is a mere contrivance for moulding people to be exactly like one another: and as the mould in which it casts them is that which pleases the predominant power in the government, whether this be a monarch, a priesthood, an aristocracy, or the majority of the existing generation; in proportion as it is efficient and successful, it establishes a despotism

over the mind, leading by natural tendency to one over the body." Mill advocates compulsion in education but not centralization. He leaves open such questions as to who should control the curriculum or whether censorship should be applied but insists that with respect to the education of children the opinions of parents may at times be legitimately overruled. He adopts a positive concept of liberty and assumes that the state knows what is best and is therefore empowered to liberate children from the control of inadequate parents. Mill temporarily lays aside the notion that people, in this case parents in relation to their children, are as a rule the best judges of their own interests.

Mill's concession to paternalism, in the case of the education of children, may be explained in two ways. Firstly, one might suppose that the failure to provide a proper education for one's children is an omission of a duty which is harmful to the child, to other individuals, and to society as a whole, and for these reasons, according to Mill's thinking, must warrant state intervention. Secondly, one might argue that Mill saw education not as a means of inculcating doctrines and dogma but rather as a process of training individuals to think for themselves and of enabling them by their own endeavours to choose what is right. Apparently it was Mill's view, in accord with his commitment to free expression and free discussion, that should his principles not stand up to enquiry then they should be discarded. Whilst some commentators are inclined to accuse Mill of assuming the role of a benevolent, intellectual, Victorian paternalist, others prefer to argue that his justification for intervening in the education of children and in respect of contracts of servitude is grounded in his fundamental belief in freedom and in the development of the individual's potentiality to think and to choose for himself.

Mill's concession to paternalism, in respect of the education of children, clearly does not extend to the view attributed to Fichte, and later adopted by Communists and Roman Catholics, namely that it is the task of

the state to destroy the individual child's free will on the dubious premise that it is a nonsense to speak of desiring freedom to choose what is wrong. Following this reasoning, all children ought to be forced to develop an inner compulsion to automatically choose what is  
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 right.

Mill's discussion of limits to the legitimate use of coercion constitutes a normative view of occasions when coercion may or may not be used. In Mill's view coercion is primarily an ethical category. It is not a morally neutral concept. It is undesirable because it interferes with another person's freedom. In Mill's view the use of coercion can only be justified by good and relevant reasons. Meta-ethical issues may be raised regarding the nature of 'good' and the meaning of 'relevance' debated. It is questionable, however, whether the moral philosopher will ever be capable of providing a definitive and categorical solution to the problem of the justified use of coercion and whether in fact there will ever be one simple moral theory capable of fulfilling this supposed need.

Mill was unable to derive a satisfactory justification for the use of coercion from the classical utilitarian tradition which he inherited. Utilitarianism, being a monistic, teleological theory, is unable to provide an adequate basis for a sound moral theory. Mill's moral stance against coercion is inevitably both deontological, concerned with obligations, and utilitarian or consequentialist, concerned with ends. In other words, Mill's position is illustrative of the fact that any genuine theory of morality must take note of both perspectives and must refer to obligations and duties as well as values and ends. It is not sufficient just to establish ends and values, because it is necessary that we feel obliged to pursue them. Likewise, it is a nonsense to express a feeling of obligation without specifying the ends we feel obliged to strive for.

Promise-keeping is only of value so long as there exists a sense of duty to pursue such an end. As a rule values commit us to the view that we ought to aspire to them, and normally we do not feel we ought to do things unless we consider them to be worth while.

Even Kant's theory of obligation is not purely deontological. When Kant considers particular duties he appeals to other things as well. He assumes that the outcomes or consequences are for the general good. He regards rationality as the supreme value and to be the basis of morality itself. He does not assume that it is self-evident that a promise must be kept, rather he shows that false-promising is irrational and likely to have unthinkable consequences if projected upon a universal scale. Promise-keeping, so far as Kant is concerned, is reasonable and of value because it has desirable consequences.

Philosophers sometimes emphasize either a deontological or consequentialist perspective but usually recognise that both perspectives are essential to an acceptable moral theory. Neither Kant, whose main concern was the nature of duty, nor Mill, who was primarily concerned with the greatest good, was able to ignore the main concern of the other. Kant did not ignore consequences, nor did Mill ignore the notion of duty. Since it is not possible to have a satisfactory moral theory based upon one or the other perspective, it is not surprising that Mill felt obliged to incorporate both into his reasoning.

Mill was preoccupied with the need to limit the exercise of coercion with the result that he gives a less than adequate account of occasions when the use of coercion might possibly be justified. Several issues are raised by Mill which he chooses not to develop, for example: the extent of the state's responsibility to protect individuals' feelings, moral views and sentiments, the need to protect the shared moral consciousness of society without which society might not survive, the need to protect people from harming themselves, the need to force people to contribute

towards the general welfare for the benefit of all, the need to delineate more precisely the extent to which the state and society ought to intervene to prevent harm to others. In the latter case, for example, all the illustrations given by Mill are confined to cases in which the cost to the coercee is assumed to be slight compared to the grave harm, say loss of life, which it is anticipated will accrue to others and which the use of coercion is intended to prevent. Mill does not refer to any cases in which the weight of harm is reversed, to the disadvantage of the coercee.

Mill's arguments against coercion are, nevertheless, as relevant today as they have ever been in view of the progressive depersonalisation of society resulting from the adoption of bureaucratic, technological and managerial perspectives in all walks of life and the current propensity to elevate means, such as efficiency and cost-effectiveness, to the status of ultimate ends. The position that Mill assumes is most approximate nowadays to those who advocate theories of the minimal state. Mill has, for instance, very little to say about needs apart from his reference to education in which he is obliged to admit that the state ought to intervene to ensure proper educational provision for every child. This Mill had to do, for otherwise some members of society would have been prevented from achieving the self-fulfilment which was the focal point of his own particular theory of utility.

Two matters require further clarification if a justification of coercion is to be substantiated, namely, the theoretical basis upon which coercion may be justified, if at all, and an evaluation of practical instances in everyday life that might justify its use. It is to these issues that we may now turn.

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CHAPTER 7

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Coercion, it is proposed, can not be regarded as a morally neutral concept because it infringes the principle of liberty which is one of a number of basic moral principles, there being no one universally recognised and overriding moral principle to which all other principles may be reduced and upon which all philosophers are able to agree. At no level of ethical reasoning is there a semblance of universal agreement amongst philosophers. The possibility of disagreement exists at all levels of ethical reasoning, which is not surprising if it is conceded that every individual's thinking reflects the views he takes of human nature, of the human condition, and of human reasoning, and that such views are not entirely value free but are pre-determined in some measure by the individual's character, the kind of person he is, and the kind of experiences he has had. Philosophers no less than any other men are influenced by the times in which they live, just as their views are undoubtedly influenced by the kind of men they are.

Three levels of ethical reasoning can be distinguished. "We enter morality", says J. McCloskey, "when we make or accept moral judgments. We move from simply holding a morality, having moral beliefs, and making moral judgments, by developing a normative ethic, when we reflect about our moral beliefs and seek their justification and explanation. This usually leads to the formulation of a general theory, e.g. hedonism, utilitarianism, which gives order and coherence to our moral judgments, and by reference to which we seek to justify them. We enter the sphere of meta-ethics when we reflect about what we are doing when we make a moral judgment, for instance, whether we are reporting on the nature of certain moral facts, or simply expressing our feelings, or reporting what we believe to be willed by God etc." Since there is no apparent possibility of formulating an entirely value free, neutral and universally recognised ethical theory at any level of ethical reasoning, then philosophers must

be especially vigilant lest their judgments are misinterpreted or misrepresented as fact, 'is' being substituted in effect for 'what ought to be'.<sup>2</sup>

The justification of coercion, it is proposed to argue, must ultimately be dependent upon the relation between and the interpretation given to particular basic moral principles that are recognised by a number of like minded morally knowledgeable people and are therefore representative of some degree of consensus and objectivity. When these principles and the variety of sub-principles and values that may be derived from them are applied to particular circumstances and are given content and substance by different people, the possibility of moral disagreement occurring increases. This must be so for general principles and the values derived from them may, it is supposed, be interpreted and weighted in different ways by different people, and in different ways by even the same people, when applied to apparently similar circumstances. Nevertheless, a sufficient consensus exists, it is suggested, to support the view that coercion might be used, though not without qualification, in three respects, namely, when it is used to ensure the welfare of others or is for the benefit of others, secondly when it is intended to protect, preserve and maintain the assumed shared moral values of society, and thirdly, when it is used for the particular benefit of the coerced himself.

Firstly, however, we will establish the status of coercion as an ethical category, and we will indicate grounds upon which both the status and use of coercion may be justified. Finally, two notions of morality, public and private, will be distinguished and discussed in relation to the limits to which the justified use of coercion might proceed.

Philosophers discuss whether coercion is an ethical category or whether it is an ethically neutral and purely descriptive concept, and those who deny that it is an ethical category do not always do so for the

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same reasons. To call an act coercive is not equivalent to calling it wrong because a coercive act may be deemed to be fit and proper in particular circumstances. The justification of the moral status of coercion, therefore, must be distinguished from justifying its use. We can and do say that coercion is wrong in a similar way as we say stealing is wrong, implying in the latter case that it is wrong, say unjust, to infringe another person's right to possession and in the former case that it is wrong to infringe an individual's freedom. Just as a person, it is supposed, is presumed to have rightful possession of his own property, so every individual is presumed to have the right to be free from the interference of others. In normal parlance we do not as a rule regard coercion as a morally neutral concept in the same way as, for instance, we regard walking, speaking, fishing, drawing, jogging or swimming. Coercing, like stealing or promise-breaking, is generally considered to be undesirable because it indicates a lack of respect for the victim or coercee, though there may be occasions when like stealing or promise-breaking it might with justification be used. If we concede that coercion, qua coercion, is intrinsically undesirable, then its use will need to be justified extrinsically in terms of intent and consequences in each particular instance.

Some philosophers take the view that fundamental moral principles are essential and necessary if moral discourse is to take place at all. Accordingly, the existence of ultimate moral principles, it is claimed, can be shown to be objectively true if it can be established that the form of discourse of which they are an example is impossible without presupposing their existence. Moral discourse, the recognition of a moral point of view and of a moral way of life, must all depend upon the recognition of a basic moral principle of liberty, for the existence and continuation of a moral way of life must surely presuppose a society of free, independent and autonomous participants rather than a society of

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slaves or robots. Similarly, other basic moral principles, such as benevolence and impartiality, may be identified which, given substance and applied to particular circumstances, will rival and contest the claims of liberty and of each other.<sup>5</sup>

These basic moral principles are not sufficient in the sense that they will not enable us to resolve all our moral problems, but they are certainly necessary in the sense that they are responsible for us having any moral problems in the first place. From these basic principles we derive subsidiary principles and values of varying degrees of generality and specificity which inevitably generates the possibility of discovering further moral problems and further moral disagreement; for the interpretation of even basic principles like benevolence, impartiality and freedom in relation to circumstances will vary in different contexts in different societies, though the principles themselves, it is presumed, will be universally recognised by all rational moral beings. In other words, an act might be recognised as just, or free, or benevolent, in one society but not in another. Both societies may recognise the principles of justice, benevolence and freedom, but it is possible they may interpret them in different ways.

If the principle of liberty implies minimally that no one should impose upon another rational being conditions inhibiting his own chosen courses of action, then coercion must be considered to be undesirable and not a good to be valued. Of course coercion might seem to be desirable were it the case that all human wishes and desires were judged to be intrinsically wicked, in which case the impairment of a (wicked) person's autonomy by coercive means might be seen to be worth while. This argument, however, is clearly self-defeating, for if everybody's wishes were to be regarded as wicked then those of the coercer would have to be included in the same category. In all cases of coercion some loss of freedom inevitably ensues; it is for this reason, it is suggested, that

coercion cannot be regarded as a morally neutral concept.

It is a fact, based upon plain observation, that we do not withhold the application of the term coercion when a law officer, in the course of his lawful duties, forces a thief to desist from his criminal activities any more than we do when the robber unfairly and unlawfully forces his victim to surrender his valuable possessions. We do not, however, deduce from this fact that coercion is morally neutral, because the moral status of the notion of coercion, as opposed to the moral use of coercion, is not established by the uses to which coercion is put but on the principle that it denies the individual his freedom, which is a good that is valued for all sorts of reasons: because people as a rule are not happy if their desires and interests are restricted, because as Mill suggests it is useful to society, because we believe that individuals ought rationally to be allowed to do what they have good reasons for doing. The use of coercion, on the other hand, is justified by the intent of the coercer and the consequences of the coercive act. It is because coercion qua coercion is wrong that its use must be justified either by invoking a positive concept of freedom or by invoking another fundamental moral principle in order to override the infringement of the principle of liberty.

Philosophers differ in their accounts of the grounds upon which the use of coercion might be justified. Mill argues that coercion is justified in order to prevent the infringement of the rights and interests of others and sometimes to promote the good of others but never to promote the good of the person coerced.<sup>6</sup> J. Fitzjames Stephen, Mill's celebrated critic, argued that coercion is justified whenever it promotes a desirable end at not too great a cost, it being of no consequence whether the end to be promoted is the welfare of others or that of the person coerced.<sup>7</sup> According to S.I. Benn and R.S. Peters restraint is not justifiable if (i) in the case of a particular application of restraint...the act in question infringes no rule, (ii) in the case of a general application of

restraint by a rule, (a) ...the object of the rule is bad, (b) ...while the object of the rule is good, the means proposed cannot reasonably be expected to attain it, (c) ...though the object is good, and the proposed means would secure it, it is not of sufficient importance to warrant the degree of restraint proposed." There is apparently no restriction upon the nature of the values and goods that may be subsumed under different moral principles and which might be promoted and protected by the deliberate restriction of liberty by coercive means. Liberty apparently might be justifiably restricted to promote or to maintain security, equality, physical well-being, happiness, privacy, a person's reputation, a greater liberty, or whatever.

Some philosophers may be inclined to insist that stricter limits should be imposed upon the values that might be realised or protected by the justified use of coercion. C. Bay, for example, has suggested that coercion is justified only when it is instrumental in preventing greater or worse coercion: "The rule I propose in the area of social freedom is that some types of deliberate coercion may be justified but only if this serves to reduce the amount or effectiveness of other and definitely worse types of coercion.....Coercion to extend freedom in any sense other than 'reduced coercion' may be justified only exceptionally, and the principal exception I have in mind concerns children and very young people." Bay's argument, however, is unsatisfactory because the rule it implies excludes the use of coercion in areas or cases where it would seem to be, though for other reasons, particularly justifiable. It would not, for instance, allow for the use of coercion to prevent stealing, or breach of contract, or non-payment of taxes, or the refusal to wear seat-belts, or the adulteration of food, or the pollution of the environment, for doing any of these things, and many others besides, would not necessarily involve acting coercively in the first place.

If it were possible, which it is not, to regard liberty as the most basic of all moral values to which all other moral values and principles could be reduced, then it would be feasible to argue that liberty could only be justifiably infringed in order to preserve or to promote a greater liberty. This is not possible because there are other equally important moral principles which are not reducible to the principle of liberty and which may be appealed to in order to contest the claims of liberty. A commitment to liberty without a sense of justice or a sympathetic concern for the welfare and happiness of others would not, it is supposed, constitute a satisfactory foundation for a proper moral way of life. The use of coercion, therefore, must be justified in relation to a variety of potentially conflicting principles, sub-principles, goods and values. If this is the case, then there are of course limits to the extent to which philosophical enquiry can help to resolve our practical everyday problems or to find for any individual specific and precise answers to the two main questions that were the concern of Socrates, namely, how one should live and what one should do. Although the activity of philosophizing cannot be expected to provide precise solutions to practical problems, it aids our understanding by helping to clarify and to explain them for us, and for this reason is important.

Since philosophers have different theories regarding the justification of what is morally right or morally wrong and cannot collectively offer an uncontested ethical theory against which the status and use of coercion may be judged, it is relevant to indicate why a transcendentalist argument is preferred as a basis for the justification of basic moral principles rather than an argument based on either a naturalistic or intuitionist ethical theory.

Philosophers who prefer naturalistic meta-ethical theories seek to establish objectivity in ethics in terms of facts which are external to morality itself and which are grounded in the nature of things as revealed either by empirical enquiry, say by psychological or sociological explanations of the nature of man, or alternatively in metaphysical constructions or theories of divine revelation. Ethical principles, according to this way of thinking, are justified not in terms of the characteristics of morality itself but in terms of the methodology and content of the particular empirical, metaphysical, or theological theory concerned; consequently, the special features of morality, as a separate form of knowledge distinguishable from say religious knowledge or scientific knowledge, are ignored.

Another interpretation of naturalism must be distinguished. It is that which recognises the commonsensical and empirical observation that ethics has to be understood in worldly terms, without reference to God or any other transcendental authority, and that it must be grounded in the assumption that men are part of nature. According to this view the majority of modern ethical theories could be deemed to be basically naturalistic in so far as they follow an empiricist tradition associated with Aristotelian ethical theory, evident also in Mill, and presently enjoying a revival in philosophical thinking. Its present popularity is attributed to a reaction against the failure of philosophers to provide a satisfactory substitute for religion which itself failed to fill the gap left by the demise of Greek ethical thought which coincided with the  
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disappearance of the Greek polis. It is not this view of naturalism that is contested but that which regards as naturalistic all kinds of defintist theories of justification whether they be reportative, where justification is interpreted say in terms of normal usage, or reformative, or prescriptive, or commendatory.

A meta-ethical theory is considered to be naturalistic if it reduces moral judgments to some other kind of judgment and in so doing denies the autonomy of ethics as a separate body of thought, in which case moral knowledge becomes a branch of some other kind of knowledge. The problem of the justification of moral principles cannot, it is suggested, be resolved in this way, for in accord with the open question argument it is always possible to ask of any explanation given in terms of any other form of knowledge whether the latter itself is ethically justifiable; and this process presumably may continue and be repeated ad infinitum.

Intuitionism, on the other hand, seeks an objective basis for ethics in a sort of sixth sense, or faculty of seeing, and assumes the existence of some pre-existing, objective order of values which are irreducible and not justifiable by empirical observation or any form of metaphysical reasoning; they are simply self-evident, intuited, existing as synthetic a priori truths. The assumption is that we intuit the intrinsic goodness, rightness, obligatoriness of certain activities, and that our intuitions are equivalent to ethical principles that are not deduced from the nature of things because they exist independently of facts about man and the world. In mathematics, for example, we begin with distinct perceptions of mathematical relationships, so in ethics it is supposed that we begin with perceived, pre-existing, universal relationships between what is right and fitting in relation to certain states of affairs.

Intuitionism, like naturalistic meta-ethical theories, fails to provide a satisfactory foundation for the justification of basic ethical principles against which the status of coercion and its use might be judged. Like naturalism, intuitionism denies the autonomy of ethics as a distinct body of knowledge in its own right, as well as the notion and status of the autonomous moral, rational agent who reasons out the moral law which he wills for himself and others. Intuitionism also ignores the problem of moral disagreement, for it recognises that no one man's

intuition is any better or any worse than that of any other. Furthermore, it is surely questionable whether a given principle or insight can be assumed to be justified by a method by which conflicting principles are equally justified and by which truth emerges in a variety of guises, being intuited in different ways by different people at different times. The implication is that moral discourse is reducible to an enunciation of different intuitions instead of being recognised as a purposeful disputation and a rational, co-operative exercise in search of truth that might be discovered in a degree of compromise. It is conceded, however, that ethical intuitionists may be disinclined to favour the use of coercion and to impose their beliefs upon others. Mill's argument for utility, for example, is seemingly underpinned by a kind of ethical objectivism of an intuitive kind, for Mill assumes that we all might at some time be mistaken in our ethical beliefs and therefore have no right to coerce others into possible error by imposing our own beliefs upon them.

Theories founded upon beliefs in self-evident truths cannot be sustained as satisfactory bases for the justification of basic moral principles because they allow no room for the exercise of rational argument; they recognise only the possibility of persuasion or of agreeing to differ. Ethical judgments, it is suggested, are not based simply upon property ascribing statements, whether natural or non-natural, but reflect individuals' attitudes, dispositions, ways of life, characters and feelings. So as two senses of naturalism may be distinguished, the meta-ethical and the commonsensical, likewise two senses of intuitionism may also be distinguished. Whilst intuitionism as a meta-ethical theory is considered to be inappropriate as a basis for the justification of ultimate moral principles, it is conceded that an individual's intuitions or spontaneous convictions arising out of his nature, way of life, character and experience must be respected as being indicative of his personal moral stance and his moral point of view. Whilst the notion of intuitionism as

a faculty of the mind is rejected, an individual's intuitions, reflecting his experiences and consciousness, must be accepted as part of the process of moral reasoning.

Kant was aware of the tension between the notions of objectivity and autonomy in ethics. His solution was to seek an account of the justification of moral principles that would avoid either an infinite regress or any arbitrarily imposed stopping point. He sought, therefore, principles that might be regarded as morally fundamental and valid for all human beings but which, at the same time, could not be deduced from any set of premises which themselves contained no moral judgment or principle. If moral principles are not to be justified by considerations outside themselves yet are to be regarded as objectively justifiable, then they must presumably be determined by the formal character of morality itself; that is to say, certain moral principles must be regarded as correct if moral discourse and a moral way of life are to be conceived as being at all possible, and if moral discourse is to be conceived as an autonomous and objective form of reasoning.

It is proposed, therefore, to take the view that a basic moral principle is shown to be true without appealing to factors outside itself provided it can be established that the form of discourse of which the principle is an example is impossible without presupposing the principle itself. There are limits, however, to the kind of principles that may be so conceived as basic moral principles. They must, of course, be capable of being rationally applied and of being judged to be compatible with what are considered to be the principal characteristics of moral reasoning; they must be practical, universalisable, autonomous and objective. They must be practical in the sense that they can be related to action and what people ought to do in practical situations. They must be universalisable, first in the sense that they are applicable to all rational beings in similar circumstances, and secondly in respect of their



association with and inclusion in most if not all moral codes. They must be autonomous in the sense that they represent an independent form of knowledge, and also in the sense that they accommodate the autonomy of each moral agent's rational will. They must be objective in the sense that they override a person's personal desires, hopes and idiosyncrasies, secondly in the sense that they represent the views of an unbiased mind which is appraised of the facts and which is reasonable rather than arbitrary, and thirdly in the sense that they recognise the consistency and coherence of morality and are valid for all individuals. It is conceded, of course, that the stipulation of such conditions implies a value judgment, but we have already noted that it is impossible to offer a completely value free and neutral notion of morality.

A solution to the problem of identifying and justifying basic ethical principles, in accord with which the status and use of coercion may be judged, is to be found in any of several presumptive theories which assume that ultimate moral principles, from which subsidiary principles and values may be deduced, are presupposed by the way in which ordinary moral judgments are made and identified in society. A.P. Griffiths, for example, argues that the nature of moral discourse presupposes the ultimate moral principles of benevolence, impartiality, and liberty.<sup>11</sup> R.S. Peters argues that moral discourse presupposes the basic moral principle of respect for persons to which other less basic moral principles such as equality and justice may be reduced.<sup>12</sup> R.S. Downie and E. Telfer, whilst sharing the view that certain moral principles such as equality, liberty, and utility are reducible to the fundamental moral principle of respect for persons, dispute the notion that moral discourse presupposes that individuals participating in such discourse need to respect all human beings, or even those with whom moral discourse is practised. Their argument is that the basic principle of respect for persons is presupposed not by the nature of moral discourse as such

but by the content of morality and the nature of ordinary moral  
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 judgments commonly made in society. It is not intended to qualify  
 the particular arguments of these individual theories but simply to  
 indicate how ultimate moral principles may be identified and justified,  
 for it is by reference to such basic moral principles as impartiality,  
 benevolence, liberty, utility, and respect for persons that the status  
 of coercion and its use in particular circumstances may, it is proposed,  
 be judged.

Whether the state in fact is justified in making provision for  
 public welfare or public benefits and consequently in forcing citizens  
 to contribute towards the cost is a matter of much interest to political  
 and moral philosophers, as well as to economists and social scientists.  
 Much of the ensuing philosophical discourse has been related to the  
 clarification of relevant concepts such as freedom, justice, benevolence,  
 rights, duties, and needs; and the philosopher of course, as opposed  
 say to the scientist, has no universally acknowledged way or means of  
 resolving disputes concerning these things, either absolutely or  
 uncontroversially.

The concept of need is central to any understanding of the nature  
 and justification of state welfare provision. The satisfaction of needs  
 is clearly the goal of all social scientists, though the determination  
 of needs is not just a simple empirical exercise. If, indeed, needs  
 could be empirically determined, there would be far less disputation  
 regarding the compulsory provision of social welfare services, and there  
 would certainly be far more agreement, for example, upon the content of  
 school curricula. Other issues, of course, are equally contestable,  
 for example: whether welfare is a benefit to which all citizens have  
 a right, whether this right, assuming it exists, is a moral right  
 presupposing a duty or obligation on others entailing a right of

enforcement by those who lay claim to it, whether it is morally justifiable that individuals should be coerced to contribute towards the provision of welfare, whether the provision of welfare should be regarded as a voluntary act of charity. If welfare is regarded as a gift, then the moral philosopher might argue that as a general rule there may be a duty to be benevolent to one another but that there need not be a strict duty to be benevolent in every particular case. If, on the other hand, it is supposed that individuals have a basic right to welfare provision, then society or the government will presumably be obliged to take this into account and not to leave it to the idiosyncratic charitable whims of individuals or individual expressions of goodwill. Some philosophers will argue, for example, that health care is a basic human right for which organised provision should be made by society.<sup>14</sup> And it is possible to argue that people have a right to access to legal justice and to appropriate educational opportunities.

It is not possible to identify needs in a morally neutral way because they are related to ends through which they are justified. I might, for instance, be deemed to need poison to kill weeds or to hold as an antidote to possible exposure to nerve gas but not to kill my wife, my neighbours, or their pets. Needs cannot be identified with wants, except in the case of an individual's personally 'felt' needs, for wants express a person's subjective feelings or desires whereas needs are usually ascribed to a person by other people. It is pertinent to ask whether it is possible to identify certain basic human needs that are dependent upon ends and goals to which all individuals are committed, and to the satisfaction of which everyone is entitled as of right. If such needs are identifiable, then their satisfaction presumably ought to be the proper concern of politicians and social reformers, and to deprive people of the means of satisfying them could be interpreted as being an omission causing harm to those concerned. One basic primitive need, namely

survival, can be immediately identified, for its satisfaction is a necessary pre-condition for the continued existence of moral life, since without autonomous moral beings there can presumably be no moral codes. It must be assumed, therefore, that all individuals have a basic moral duty to help one another to survive and to preserve life; and a right must surely follow, for it would seem very odd and inconsistent to claim that a duty to preserve life existed but that no one had the right to live.

The presence of a need is distinguished by the notion of harm which is itself contestable. Even the most easily and obviously identifiable kind of harm, say physical harm, may be seen as a benefit. This might be the case when a philosopher, for instance, chooses to regard his sudden blindness as a benefit rather than an affliction because it decreases the number of distractions which inevitably interfered with his philosophizing when he could see. <sup>15</sup> Anyone to whom a need is ascribed on the grounds that he is supposed to lack some desired satisfaction may reject such an assumption. In all cases in which harm is ascribed a norm of harm is assumed which may be contested both externally, by other observers, and internally, by those to whom it is attributed. It is, of course, much easier to agree in principle upon the existence of certain basic needs, such as survival, than it is to agree upon the ascription of harm and the existence of particular needs in particular circumstances.

There is a further complication in relation to the determination of needs; the satisfaction of one need might jeopardise the satisfaction of others. Policies intended to meet the need for survival could inhibit individual freedom and autonomy which, like the need for survival, may be regarded as necessary conditions for the continued preservation of a moral way of life. The moral limitations inherent in the pursuit, in the name of freedom, of an unrestricted policy of free competition are obvious. A policy of laissez-faire could be conducive to individual

development, but it might also lead, human nature being as it is, to a diminution in the respect shown by some individuals to others. The successful satisfaction of one need may merely create another need in its place.

It is problematical how far the enforced provision of welfare services might compensate for the imperfections of free competition. Nevertheless, out of respect for human nature and the principle of justice, a case must exist for the state to provide equality of access to as many opportunities as possible to enable every individual to aspire to self-fulfilment. It is conceded, however, that such a policy need not necessarily result in equality of achievement or equality of satisfaction in any egalitarian sense; on the contrary, it could precipitate increased individual differences, leading to even greater inequalities which themselves might require a further degree of state intervention, together with a policy of positive discrimination, to prevent the weaker members of society being unduly exploited. A commonsensical view of history and human nature appears to indicate that it is not possible to persuade or to educate people to be at all times socially minded, generous and charitable without some degree of force and political coercion. This is apparently recognised, for the principal contentious issue between political philosophers seems to be not whether the use of coercion is justified as such but whether political coercion is justified only to prevent one person harming another or whether its use is justified to force people to contribute towards the benefit of others. Either argument, of course, whether coercion is justified merely to prevent harm or to force people to provide benefits, if pursued to the extreme would be equally counter-productive.

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John Rawls is representative of those who favour a collective moral ethic and prefer to argue that the state is justified in assuming a positive role. Rejecting both utilitarianism and intuitionism as

adequate ethical theories by which state intervention might be justified, Rawls proposes an equally contentious contractual theory of justice based on an hypothetical account of 'free and rational choice' which is devoid of all personal values. He requires that we imagine hypothetical man abstracted from his social context and in a state of enforced impartiality, free from bias, prejudice or ambition, deciding upon the most desirable social order. It may be objected, of course, that Rawls is not justified in making such idealistic and formal assumptions, and that he is even less justified in basing a practical theory of justice upon them. The true value of Rawls' contribution lies in his statement of belief in the possibility of reaching some agreement about ends and goals. This belief is shared by all those who believe in social and distributive justice and distinguishes those who are disposed to support Rawls from others like Nozick who take an opposite point of view.

Rawls argues: "The natural distribution is neither just nor unjust, nor is it unjust that men are born into society at some particular position. These are simply natural facts. What is just and unjust is the way that institutions deal with these facts....the social system is not an unchangeable order beyond human control but a pattern of human action." <sup>18</sup> He identifies basic needs, which he calls 'primary goods', as the basic concern of social policy and recognises the need for <sup>19</sup> the state to intervene in order to ensure a degree of justice for all. Rawls' concern is to justify the distribution of social goods, such as rights, liberties, opportunities, power, income, wealth, self-respect, in accord with a simple basic principle of justice which states that they should be distributed equally unless an unequal distribution would be to the advantage of the least favoured. This he calls his maximim principle which he supposes will guarantee the largest possible share to each individual. In other words, Rawls is willing to accept entrepreneurial society provided the harsher aspects of competitive individualism are

mitigated by equalising as far as possible the starting point of such competition as a basic condition of fairness.

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R. Nozick, in 'Anarchy, State and Utopia', his critique of the basis for state intervention in social life, takes an opposing and different view. Nozick recognises that it is the satisfaction of needs, which is the principal goal of scientists and politicians, that distinguishes welfare programmes from ordinary market transactions, but denies that needs can be determined in a morally neutral way. In his view, it is essentially a normative concept of need that is used to justify social policies. Nozick denies that the state should be obliged or even permitted to force others to contribute towards the satisfaction of needs. To do so, he thinks, would amount to treating the coerced not as ends in themselves but as a means for the benefit of others, which would infringe the principle of respect for persons.

There seems to be some inconsistency in Nozick's argument. He is quite willing to allow the state powers to prevent people from harming others even though it might imply the infringement of some other individuals' autonomy and their being treated as a means to preserve the position of others. A commitment to Kant's categorical imperative in the form of respect for persons could just as easily lead to a state of affairs approaching anarchy in which the state has no role at all rather than to Nozick's conclusion that the state may exercise only a minimal and preventive role.

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Nozick hesitates to go so far. He recognises the state's right to interfere with the rights of individuals in a limited sense; he proposes a policy of 'rectification', allowing a limited redistribution to the needy, particularly to those who are deemed to be the most seriously deprived.

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There is clearly a difference of emphasis between Rawls and Nozick. Rawls argues that competitive individualism can only be fully realised if all individuals are given a fair start. Nozick is of the opinion

that giving priority to the maximization of the position of the least well off would stifle rather than enable individual fulfilment to flourish. For Rawls, welfare is the right of each individual, and its provision is a duty. For Nozick, welfare is primarily a gift, not a right; it is an act of benevolence, an imperfect rather than a perfect duty imposed upon members of society. Whether welfare ought to be regarded as a right giving rise to a duty or as a voluntary act of charity is the question at issue. Mill, of course, was in no doubt, sharing views similar to those of Nozick which are revealed in his discussion of the distinction between the imperfect duty of benevolence and the perfect duty of justice: "Justice implies something which it is not only right to do and wrong not to do but which some individual person can claim from us as his moral right. No one has a moral right to our generosity or beneficence because we are not morally bound to practise those virtues towards any individual."<sup>23</sup> If welfare is judged to be a right, then state action to secure and to maintain such rights may presumably be legitimised; but if, on the other hand, welfare is judged to be a gift of charity, then no government presumably can be judged to have the right to coerce individuals to make contributions, say through compulsory taxation, towards the provision of welfare services.

Various arguments, all of which, it is suggested, fail, have been proposed denying that welfare is a right. Some will argue that since injustices can only arise from the deliberate actions of people, deprivations arising from accidents of birth, whether genetic or economic or environmental, are just facts of life giving rise to no moral obligation<sup>24</sup> upon those who are more fortunate. The assumption is that if no one is responsible for creating such inequalities, then no one can be blamed and those suffering such deprivations have no moral basis for a claim on others. Welfare, therefore, must be regarded as a gift not as a right, and no one, it is assumed, has the right to a gift. This kind of



reasoning is apparently based on the epistemological assumption that knowledge is always incomplete and that it is impossible to reach any firm agreement on ends or on any real purpose for society. Instead, society is conceived as being accidental and beyond human control, composed of individuals all pursuing their own individualistic ends, leaving the notion of justice as irrelevant. This, it is suggested, is a singularly negative, defeatist, and unproductive point of view and is unworthy of serious consideration.

Other philosophers who choose not to recognise welfare as a right seek to show that welfare provision cannot be satisfactorily justified in terms of justice because the notion of just distribution is logically tied to the notions of desert and merit rather than the notion of need. In the context of welfare provision this implies that only those who are deserving and earn help should be entitled to it. So, those who already have get more whilst those who are really in need, who cannot help themselves, are deprived, and are not therefore judged to be deserving, such as drunks and drug addicts, and are not considered to merit any help at all. To each according to his desert is a rule of justice in positive law and a principal characteristic of the criminal code. In other words, in law, an individual is considered to be responsible for his misdirected behaviour and his lack of effort in society. This criterion of assessment, however, is of little help in distinguishing between the deserving and the undeserving in the context of welfare provision, for no man can be said to be responsible for or to deserve his natural, genetic attributes or inadequacies, or the conditions of his birth, or the social or economic circumstances in which he may find himself as a result of factors outside his control. An analysis of the principle of justice reveals a variety of sub-principles including distribution by merit and desert as well as by need, but no one of these is always predominant when the principle of justice is given substance

and is related to practical circumstances in everyday life.

A further argument that is used to refute the claim that welfare is a right is based upon drawing a distinction between human rights and social or economic rights. <sup>25</sup> If a human right to welfare is established, then presumably there is a strict obligation to provide welfare benefits and the state is justified in coercing citizens to make a positive contribution towards the benefit of others. Cranston, however, argues that welfare rights are in a different category from established human rights to freedom, to life, and to free speech. Whereas human rights are practical, relating to duties, and universal, applying to all regardless of their social or economic role or status, and are important, relating to the basic requirements of life, social rights on the other hand, says Cranston, fail all these tests. Established human rights, it is claimed, are rights of forbearance depending upon the negative principle of non-interference and the Kantian argument that 'I ought implies I can', and all governments, however poor, are deemed able to fulfil these obligations to some degree. Social rights, on the other hand, make a demand on resources <sup>26</sup> and therefore, it is supposed, are in a different category. But these tests imposed by Cranston may be challenged. If, for example, it is conceded that rights of forbearance might also require the expenditure of resources, then the charge of impracticability made against social rights is weakened; if it can be conceded that social rights may be universally attributed to all people in certain particular circumstances or roles in which such rights arise, then the test of universalizability is satisfied; and, if it is acknowledged that one cannot survive without being healthy and educated, then even social rights may be regarded as being of paramount importance.

Nozick interprets Kant's second formulation of the categorical imperative as meaning that individuals have the right not to be treated as a means without their consent. The enforced restriction of their

property, therefore, for the benefit of others, in Nozick's view, is likely to violate their autonomy. But it is problematical whether Nozick's view can be sustained. In the long run, for an individual to will such a rule might be detrimental to his own interests, for at some time in the future he might himself be in need of the help of others in order to realise his own ambitions and it would not be forthcoming. Whether Kant saw helping others as a right or a claim is not particularly relevant for it is, in any case, possible to interpret Kant as implying that help is a right and a duty. In other words, to respect the ends of another may be interpreted as implying that we should try as far as possible to facilitate the efforts of others to achieve their ends. Kant writes: "For the ends of a subject who is an end in himself must also be as far as possible my ends."<sup>27</sup> We may conclude therefore, contrary to Nozick, that the basic moral principle of respect for persons does in fact allow the notion of need satisfaction to be conceived both as a right and a duty, and that the community ought to feel obliged to attend to the basic needs of its members in accord with the principles of justice and respect for persons.

It is one thing to justify the existence of a right, it is another thing to justify a further right of enforcement.<sup>28</sup> On a one to one individual basis, for example, a promise made to me does not automatically give me an unconditional right to enforce its implementation. I simply do not have the right to go around punching people on the nose because they refuse to honour the promises they have made to me. I may have the right to ask for an explanation, assuming that a promise must give me some kind of right and especially if I have acted upon it in good faith, but I do not have an unconditional right of enforcement. There may be a variety of good reasons why a promisor chooses at the time not to implement a particular promise. I may believe I have a right to live, but this does not mean I have the right to expect unconditional help

from anyone who happens to be around when I find that my life is at risk, for people are not expected to be saints or heroes, or to act beyond what might be reasonably expected of them in the circumstances. Similarly, I may believe I have the right to welfare against the state, and that the state has the right to provide welfare services, but in neither case will the right of enforcement be unconditional.

To argue that the state has the right, albeit a qualified one, to force its citizens to contribute towards the provision of welfare services for the benefit of everybody and that all citizens have the qualified right to force the state to help them when in need is to presume that the state has the capacity to act as a moral agent. Nozick, as we have noted in the first two chapters of this thesis, is loath to make this concession; instead, he significantly limits his analysis of coercion to a relation between individuals and ignores the possibility of any entity, other than the individual, being capable of coercing or of being coerced. Nozick is suspicious of the notion of a collective community acting as a moral agent and exercising a common will, and is fearful lest the acceptance of such an idea should lead to the suppression of freedom and individuality which he thinks should be inviolable. He does not, however, press his thesis to the extreme for he introduces the notion of 'partial communities'.<sup>29</sup>

Nozick believes that if individuals are inviolable, then it is morally wrong to force them into any community that fails to express their interests or to produce the means for the realisation of their desires. Since human nature is complex, he suggests that one form of community, say the state, is unlikely to meet every individual's needs and therefore a variety of communities is required, not just one all-embracing, homogeneous, state community. Nozick envisages a variety of groups or 'partial communities' within society, some of which may be concerned with welfare, but he wishes to leave room within the greater

society for the free expression of the moral virtues of benevolence and altruism together with the opportunity to choose for oneself. So, Nozick advises a minimal role for the state, leaving the provision of services, including welfare, to voluntary effort. In Nozick's view, the right to enforce the state to provide welfare services and the right of the state to force its citizens to contribute towards such provision does not arise because the provision of welfare is regarded as a gift freely and voluntarily given.

We have argued, on the other hand, that the state, like any other corporate body, may be imagined as reflecting the will of its members and may be regarded, like any individual, as a legal and moral agent with rights and duties. So, the state, charged with the responsibility of caring for its members, must have a moral and presumably a legal duty to meet this obligation. Furthermore, if, as is often the case, the needs of its citizens have in fact arisen as a result of state policies, then the state is presumably blameworthy and morally bound to remedy matters. Undoubtedly a fair proportion of the needs of people in modern society, in education, housing, health, employment, and security, arise and have arisen in the past as a direct consequence of national negligence and mismanagement on the part of state officials.

Likewise, if members of society collectively agree that their representatives should tend to the well-being of all citizens, then ethical consistency must require that everyone should contribute towards providing the means. Whilst citizens have the moral right to force the state to fulfil its responsibilities, the state surely has the right to force its subjects to meet theirs, though not without qualification for there must be limits to the charges that may be made against any individual's property and person. Whilst for instance a compulsory contribution towards welfare might be justified as a valid charge on an individual citizen's income, it would be quite improper,

of course, to suggest that the state should have the right to force an individual to surrender his bodily organs or even his blood for the benefit of others. Such a policy might be justified on utilitarian grounds, as being to the advantage of the greatest number or for the benefit of the community as a whole, but would nevertheless be regarded as morally unacceptable and as breaching the basic moral principle of respect for persons.

It is easier to justify the satisfaction of a need than the conferring of a benefit, though it is not always easy to distinguish the one from the other because one man's meat, so to speak, may be another man's poison. Without the authority and organising power of the state many public benefits, amenities, facilities, would not materialize. Advocates of perfect competition, laissez-faire, free markets, privatisation, who favour minimal state intervention in human affairs, offer no panacea. It is not, for example, in the obvious interests of competing entrepreneurs, and it is certainly contrary to the immediate maximisation of their profits, to have to meet extra costs involved in satisfying the needs of their workforces or the costs of preserving the natural environment say by preventing pollution. The avoidance of pollution is no doubt in everybody's interest in the long run but it could be immediately suicidal for one industrialist to take the initiative and to dissipate all his profits on schemes to avoid pollution instead of using them to undercut the efforts of his business rivals. Only the state, through means of a charge on all offenders, is able to enforce such things as anti-pollution policies equitably for the benefit of society as a whole. It is inevitable, in any system of mandatory contributions, that some injustices will ensue, and that some people will feel they are being coerced. Childless families are taxed willy nilly to pay for schools and non-drivers are required to contribute in their taxes towards the upkeep of the roads. The alternative to compulsory taxation is either a voluntary policy or simply no policy at all.

The logic of free enterprise and unrestricted individualism taken to the extreme is, like the logic of collectivism, self-defeating. It is in the interests of all competitors, even in a free market economy, that restrictions are imposed from time to time by the state on the output and quality of goods in order to maintain minimum standards. Likewise, the state is *prima facie* justified on utilitarian grounds and in the just interests of all its citizens to provide public welfare facilities and public benefits, and to force citizens to contribute towards the expense, provided in every case the final decision is made in accord with established basic moral principles.

Liberty limiting principles presume that there are good reasons for the use of coercion and the ensuing restriction of people's freedom. The justified use of state coercion to provide public welfare facilities and public benefits is one such principle. Another, not unrelated to it, is that which proposes the use of coercion by the state to maintain the moral values of society which, it is assumed, all citizens share, and which are considered to be essential to society's well-being. Three aspects of this principle may be distinguished: the suggestion that the state may use coercion to maintain the valued and established institutions of society that are in the public interest, the suggestion that it is justifiable for the state to punish and to forcibly prohibit immoral behaviour because it is immoral, and the suggestion that the state is justified in using coercion to prevent breaches of the moral code that cause offence to other members of society.

It has been a popular criticism of Mill's liberty principle that it fails to take sufficient account of the social structures, the shared values and institutions that society should protect, if necessary even by coercive means, against individuals and agencies within society which

threaten to destroy them. In Mill's defence, however, it must be stated that he recognised the desirability of maintaining a stable society but not at all costs, for he realised that not all stable societies are necessarily good. <sup>30</sup> It was not Mill's intent to advocate change for change's sake to the detriment of all proven values, but he realised that a good society was simply more than just a static one. Liberty entails, he argues, an element of instability and individualism which are both essential for the continuance of a valued and progressive social life. Much of the discussion that has ensued regarding the state's right to enforce the supposed shared values of society has centred around the notion of morals offences.

Offences against morality and decency are in law distinguished as a separate class distinct from offences against the person or against property. They are usually taken to refer to sexual offences such as adultery, fornication, sodomy, incest, prostitution, though non-sexual offences against people's feelings and presumed moral consciousness, including indiscriminate or deliberate cruelty to animals, violation of the dead, the desecration of venerable and sacred beliefs and artefacts, <sup>31</sup> are also included. The distinguishing characteristic of such offences is that whilst their perpetration might harm some individuals, even willing participants, they do not necessarily result in as serious a threat to public security as say murder does, unless of course they are committed deliberately in full public view, in which case they may be deemed to amount to a public nuisance and banned as threatening to cause a breach of the peace. The problem posed is whether such offences, even if committed in private in the presence of consenting adults, should be coercively prohibited by the state on the grounds that they are in any event detrimental to the maintenance of the well-being of society and its presumed shared values and standards.

A utilitarian might point to the anticipated unwelcome cost of state



intervention in this area, as Mill did, and to the difficulties involved in preventing such behaviour taking place and the opportunities that might arise for blackmail and corruption in the process of detecting and gathering evidence of it. An alternative view is to argue that the prevention of harm involves not merely harm to individuals but to society as a whole, to its institutions and shared moral values which, it is assumed, bind individuals together collectively and responsibly. According to this view, the infringement of society's moral code even by consenting individuals in private is considered to be detrimental to the well-being of society, the maintenance of its standards, its stability, and likely to lead to the proliferation of undesirable attitudes and practices calculated to subvert it.

In recent years the principal protagonist of such arguments, which represent a public rather than a private interpretation of the harm principle, has been Patrick Devlin.<sup>32</sup> Devlin objected to the conclusions of the Wolfenden Committee which, guided by Mill's arguments in 'On Liberty', recommended that homosexual practices between consenting adults should not be a crime and that prostitution should not be made illegal but legislated against on the grounds that it perpetrates an offensive nuisance to ordinary citizens.<sup>33</sup> Devlin argues that the maintenance of a shared moral code is a necessary condition for the health and survival of society. In Devlin's view, says H.L.A. Hart, the shared moral convictions of society's members act like invisible bonds unifying the moral life of society in a 'seamless web',<sup>34</sup> which if damaged in any particular is considered to be weakened in its entirety. As Devlin himself says: "...for most people morality is a web of beliefs rather than a number of unconnected ones."<sup>35</sup> So, Devlin concludes that the state can no more tolerate moral diversion, even if committed in private and by willing parties, any more than it can tolerate political subversion or treason.<sup>36</sup> Devlin's case is questioned and particularly the

two basic doctrines upon which it is based, namely, the disintegration thesis which assumes that morality holds society together and therefore is indispensable, and the conservative thesis which assumes that the majority in any society has the right to follow its moral convictions and feelings and to defend them at all costs.<sup>37</sup>

Devlin distinguishes two kinds of harm, tangible harm and intangible harm, both of which he claims result from individual violations of a society's shared morality.<sup>38</sup> Tangible harm is established empirically and consists in the diminution of the physical well-being of society which, it is assumed, will result if unrestricted individual infringements of society's moral standards are tolerated to excess, enabling a vicious minority to diminish the physical health of individual members of society and of society as a whole. The assumption is that immorality, as in the case of the transmission of infectious sexual diseases and the perpetration of incestuous liaisons, weakens the moral standards of society as well as the health of its members. It is not always easy to establish tangible harm in every case. In the case of cruelty to animals perpetrated in private the harm is sustained by the participating individuals and may not be physically obvious. Also, it is not clear whether Devlin is convinced that a shared morality is determined simply by the numbers supporting it or whether its content or quality is also significant; he observes without comment that celibacy no less than sexual promiscuity, if pursued to excess by a majority, is just as likely to be detrimental to society's well-being.

Intangible harm, according to Devlin, consists in the weakness of commonly held moral beliefs which, he argues, will ensue if the indiscriminate practice of immoral behaviour in private is tolerated on a significant scale. Here Devlin appears to move from the notion that some shared morality is essential to the existence of society to the unacceptable position, which he seemingly assumes as an a priori truth

and for which he offers no explanation, that a society can be actually identified with its morality. This entails the unlikely assumption that any change in society's morality is tantamount to the substitution of one society by another. This ignores the possibility of the continuity of society and the possibility of societies developing and changing. It also denies the possibility of there being a distinction between public and private morality.<sup>39</sup> Devlin also chooses to ignore other factors, other than a shared morality, that are commonly recognised as being significant in maintaining the stability of societies, things such as a common history of shared experiences, a common language, a genetic identity, the need for security and economic survival, not to mention shared values other than moral ones such as an aesthetic regard for ceremonies and rituals and for a common culture.

Despite evident shortcomings in Devlin's arguments many will support the commonsensical utilitarian presumption that a shared moral code of some kind is essential for the continued existence of any society, for it is inconceivable to imagine any society without a body of shared moral values forming part of its common culture. This is not to claim that the preservation of society requires the coercive enforcement of its morality as such and as of right according to majority opinion. It is, however, possible to establish unequivocally by empirical observation that some moral offences do in fact lead to the physical deterioration of society if pursued to excess, or even if pursued to any degree at all. And it would seem to be quite wrong to suppose that the absence of a shared sexual morality would be no more disruptive to society than say an absence of a fondness for the same kind of food. The arrival of AIDS has undoubtedly added weight to Devlin's argument that tangible physical harm both to individuals and society can result from the practice of sexual promiscuity and deviant sexual behaviour between consenting adults.

Where harm is established empirically and the survival of society is in question there would seem to be a case, in accord with the principle of utility, for coercive intervention by the state, even if it is at the expense of freedom and respect for individual liberty, for if people do not survive there will be no society and no morality to speak about anyway.

The justification of state intervention upon grounds of intangible harm amounting to an anticipated weakening of the moral fabric of society is more problematical. Whereas empirical evidence furnishes a justification in terms of consequences for the enforcement of a shared morality, the justification of state intervention on the grounds of the anticipated or threatened disintegration of society is questionable, for such harm is difficult to establish being related in Devlin's argument to the notion that immoral acts committed in private represent a weakening of society itself, which is based on the dubious assumption that society and its moral well-being are one and the same thing.<sup>40</sup> So, any breach of the moral code, even if committed in private with no apparent affect upon any other, is deemed to be *prima facie* wrong and to warrant state intervention. In effect, the enforcement of morality becomes an end in itself.

If it is supposed that at any given moment of time society is identical with its moral values, then it must be assumed that any change in its values registers the end of one society and the beginning of another, which is a very odd presumption because it precludes the possibility of ever imagining the moral values of any society changing. It also presumes the enforcement of a static, fixed morality and a uniform pattern of life on all citizens, and the right of the state to enforce the maintenance of existing institutions in perpetuum, if the present society is to be preserved. Hart is justly critical of this kind of argument and writes: "The attribution of value to mere conforming

behaviour in abstraction from both motive and consequences belongs  
 not to morality but taboo."<sup>41</sup>

Forcing people to conform to an imposed and inflexible code of moral values is clearly likely to be counter-productive. Individuals are deprived of their freedom to make rational choices, of their sense of responsibility, and of opportunities to develop and to exercise their autonomy; instead, they are committed to an enforced policy of fallible authoritarianism. It has been suggested that Devlin does not intend such extreme consequences, for he does in fact admit that a shared morality can be changed, though only by taking the risk of defying the law and proving by a kind of trial by ordeal that the proposed change is itself worthy of the law's protection.<sup>42</sup> There is, it is suggested, sufficient inconsistency in Devlin's argument, quite apart from its neglect of certain basic moral principles, to deny his attempt to justify the state's use of coercion to enforce a strict policy of moral conformity in both public and private life.

Devlin's argument that the preservation of the existing morality of society is itself of value and therefore justifies the use of coercion by the state to preserve it must be distinguished from another of his propositions to which it is related, namely, that it is justifiable for the state to prohibit behaviour that is offensive to the feelings of others. It is a constituent part of what Hart calls Devlin's conservative thesis that it is the state's duty to preserve any institutions of society as essential institutions, if the ordinary man feels strongly enough that it is important to do so, on the grounds that in the final analysis<sup>43</sup> the will of the people must prevail.

It may be objected that an appeal to the will of the people could involve an appeal to the ordinary man's feelings of intolerance, disgust, indignation and prejudice, or to whatever is taken to represent the will of the prevailing majority. It follows that should the majority be

offended by the thought of sexual deviations taking place in society, even in private, then state suppression of all expressions of deviant behaviour in sexual matters is justified. Devlin presents this argument as an appeal to democracy, instead of appealing as Mill would do to an imagined morally conscious and educated elite. But again Devlin is inconsistent when he makes the observation that an energetic minority might possibly carry greater weight than the majority,<sup>44</sup> and suggests<sup>45</sup> that the task of the state is not simply one of counting heads. Indeed, if the latter were the case, then any popular despotism would be deemed to be democratic so long as it was approved by popular acclamation. This of course was what Mill was afraid of.

There are good reasons for rejecting the offense principle, in the form proposed by Devlin, as a liberty limiting principle. People are fickle in their tastes and preferences and may be offended quite irrationally by harmless activities. It is because 'being offended' is such a subjective reaction that the minimum requirement for even entertaining the possibility of the cause of the offence being justifiably prevented by the state must surely be the satisfaction of the test of universalisability. In other words, the particular offense in question must be expected to be registered by any one individual selected at random from the population concerned. This really must be the case, for recognition of the principle of liberty requires that individuals are free from restrictions imposed upon them by the irrational tastes and preferences of their neighbours, unless additional reasons are forthcoming and the claims of other moral principles are judged to be in the circumstances more important than respect for the principle of liberty itself.

The use of coercion by the state to ensure the continued well-being of society may be justified in terms of consequences in accord with the principle of utility, particularly when the health and security of society are at stake. But the right of the state to intervene in the affairs of

individuals must not be conceded without qualification, or without recourse to alternative moral principles that might override even the the claims of utility. Devlin's contention that the state should be entitled to enforce the shared moral values of society either as of right or as long as the majority so determine must be questioned: firstly, because Devlin is not consistent in his arguments, secondly because the assumptions upon which his arguments are based are antithetical to an empirical and commonsensical view of the nature of change and development in societies, and thirdly because he ignores the relevance of other basic moral principles such as liberty and justice which in certain particular circumstances might be judged to be paramount.

The enforcement by the state of the shared values of society might be justified on paternalistic grounds, that is to say on the basis that it is in the individual's own interest, whether the individual thinks it is or not, rather than on the grounds that it is just deemed to be right, or because it is for the benefit of society, or because the abuse of such values is offensive to others. Mill was obviously aware of the difference between these two approaches when in the first chapter of 'On Liberty', whilst considering what he believed to be inadequate grounds for coercing an individual against his will, he makes a distinction between interfering "because it will be better for him" or "because it will make him happier" from "because in the opinion of others it would be right".<sup>46</sup> Nowadays, whenever the state undertakes to protect individuals for their own good, or say from self-inflicted harm, the action of the state is normally legitimised by law, irrespective of whether the action of the state is morally justified or not, and irrespective of whether the individual welcomes the protection of the state or not.

Crudely put, paternalism, which need not always be coercive, to lie

in order to protect somebody for example is not to coerce them, is a preposterous doctrine. If adults are treated like children, they will presumably become like children, and if children are always treated as children and are deprived of opportunities of choosing for themselves, they will presumably remain as children and their individual personal development will be arrested. All this was evident to Mill when he rejected the use of coercion for achieving paternalistic ends. For Mill, as for all individualists, the preservation of free, voluntary choice for every human being of mature years in matters directly affecting his own interests is so essential that no one, not even the state, is recognised as being justified in claiming a right to interfere with it simply on the grounds that such interference is for the individual's own good and that the state or whoever knows best.

It is not possible, however, to reject paternalism outright or to deny that a person's own good is ever a valid reason for coercing him, for to do so would be to ignore the dictates of sound commonsense and the evidence of long established practice.<sup>47</sup> Subject to certain exceptions such as rape the criminal law has never admitted the consent of the victim as a defence. The consent of the victim is never admitted as a defence to charges of homicide, or to the charge of murder, deliberate assault, euthanasia or mercy killing. Likewise, the state refuses to permit anyone to consent to his own debasement or demise. In contract one cannot consent to sell oneself into slavery, nor can one contract to become a person's mistress or second wife. One is not allowed by law to purchase certain drugs without a prescription. Ordinary citizens may legally use reasonable force to prevent an individual mutilating himself or committing suicide. The rationale behind such rulings is simply that beatings, mutilations, death, concubinage, slavery, bigamy are considered to be detrimental to an individual's welfare, whether he himself realises it at the time or not, and that antibiotics are too dangerous for any



non-expert, and drugs for anyone at all, to take on his own initiative.

The concessions Mill makes to the use of coercion for paternalistic reasons are limited. They are determined in part by his own idea of how a normal person is expected to behave, partly by his notion of voluntary and non-voluntary behaviour, and partly by the degree of harm that might be avoided. He is criticised for optimistically accrediting the ordinary individual with all the wisdom of a mature middle-aged adult. He concedes that paternalism is justified in the case of people who are judged to be less than normal. This includes those suffering from some defect of reason caused, for example, by some congenital handicap, or by age, or by some incapacity, accident or illness not of their own causing, or by lack of knowledge or information amounting to ignorance, or by some temporary incapacity of their own causing such as drunkenness.

It may be objected that Mill sets his standards too high. He would not, for example, prohibit the sale of drugs but rely instead upon the normal person being able to read and to understand appropriate warnings and to decide sensibly for himself whether he should use them or not. This, of course, is the policy presently pursued by most governments with regard to smoking, although it is plainly obvious that individuals are perfectly capable of convincing themselves quite irrationally that the warnings exhibited are not relevant to their own particular situation. Mill appears to attribute to ordinary people far more good sense than can reasonably be expected of even highly educated and intelligent people. In the special case of drugs, for example, he not only fails to take account of the lethal effects and addictive qualities of certain drugs but also of the possible occurrence of weakness of will in all sections of the population regardless of their intellectual competence.

Following Mill's reasoning, it is traditionally presumed that coercive, paternalistic interference in another person's affairs is more easily justified when the behaviour of the victim is non-voluntary, though it

is not always possible to determine precisely the point at which non-voluntary behaviour ceases and becomes voluntary. A similar difficulty emerges in relation to the assessment of the degree of harm that might be prevented and which might justify paternalistic interference. In some cases the degree to which actions are harmful need not necessarily vary with age. The harm caused by glue-sniffing, for example, is ultimately the same for everyone. But the degree of maturation, normality and voluntariness expected of any individual is in some measure related to his age and experience. This is why we normally take for granted the increasing inappropriateness of coercive, paternalistic intervention in another person's affairs in proportion to his age, unless of course through age he has become incapable. Generally speaking, the older a person is the more we expect him to be responsible for his own choices.

It is sometimes suggested that the fiction of inferred consent should first be established before coercive, paternalistic interference can be justified in terms of being for the victim's own good or future benefit. The assumption is that if the victim's consent is inferred, the restriction upon his liberty which is imposed by coercion is only temporary. So, following this reasoning, it is necessary to be able to anticipate the possible consent of the victim, and it is assumed that no normal, sensible person would wish to do anything to his own detriment and would therefore approve of anyone else trying to stop him if he did. This is the position that parents and teachers find themselves in with regard to their respective offspring and charges, and it is the basis upon which they justify their use of coercion to persuade the younger generation to adopt appropriate and socially acceptable habits, tastes, attitudes and values. That is to say, children are constantly coerced, contrary to their immediate desires, because it is presumed by their guardians that were they adults, as they will be one day, they would approve of the present action of their mentors.

It is not suggested that it is possible for a person to consent to be coerced. Such a proposition would seem to be self-contradictory, for it is not possible to do something against one's will yet at the same time will to do it. It is the case that we do from time to time submit ourselves to the authority of others and to institutionalised rules and procedures associated with society and groups within society to which we belong. This happens when people join a tennis club and agree to abide by the rules which are for the benefit of all members including themselves, though they may realise that sometimes they will not always want to agree with all the rules and that new rules might be forthcoming to which they might wish to object. Similarly, as subjects of a state we agree to legislation empowering the state to regulate our lives even to the extent of protecting us from our own weaknesses and moral lapses, say from stealing or assaulting others or from not paying our debts. If a majority of subjects want heroin to be banned because they fear they might in their weakness otherwise yield to the temptation, then one might argue that the state is justified in assuming a paternalistic role in this respect. This does not mean, however, that the majority in question has agreed to be coerced. Should any change their minds and decide to use heroin, or should the minority persist in their opposition to state interference in their lives in this respect, then both respectively will feel coerced and will be coerced. In other words, it is possible to agree to a paternalistic relationship within which one might be coerced from time to time, but, logically speaking, it is not possible to agree or to consent to be coerced. Coercion cannot be justified on the grounds that the coercee has given his consent.

People in various ways become involved in paternalistic relationships giving others control over them. I may, for instance, being aware of my own extravagance, arrange with a friend to keep a portion of my wages and save it for me. I may ask a companion at a party to insist upon

driving me home should he think I am becoming incapable of driving, or, being a compulsive gambler, that he should lead me away from the tables should he think my losses are threatening to become excessive. In situations like this, should I choose to resist the actions of my appointed protector when he insists upon doing his duty, I will be coerced, in so far as in the present circumstances I will be forced to act against my will. Paternalism, in other words, is not equivalent to coercion but may become coercive. Once an agreed paternalistic relationship moves from relying upon rational persuasion and consent to reliance upon the use of threats and physical force it becomes coercive and will tend to deny the victim's status as a human being and his capacity to act as a moral agent. If taken to the extreme, paternalism degenerates into bondage and contravenes the basic moral principles of liberty, justice and respect for persons.

If the use of coercion is to be justified in terms of paternalism, then the ends of paternalism must at least be those which a rational individual, in the particular circumstances concerned, could be expected to agree to as a realistic protection against his own irrational and non-voluntary propensities and ignorance. There are basic needs which every individual requires to be satisfied if, that is, he is to aspire to a life and condition of well-being in the Aristotelian sense. He must enjoy access to certain goods such as health, education, friendship, and the opportunity to fulfil a satisfying role and function in society. The judicious use of coercion to induce and to encourage individuals to appreciate and to benefit from the satisfaction of such needs may in particular circumstances, it is suggested, be justified.

As a standard of reference, Mill's position regarding the notion of paternalism is useful. Mill opposes, as being contrary to the principle of negative liberty, strong paternalism, or interference with another individual's life for his own benefit when he is quite capable of thinking

and acting for himself; but, he allows for the qualified justification of weak paternalism in circumstances when the individual is judged to be less than fully capable of making his own decisions. Whereas in the case of strong paternalism the victim's rationally expressed views and values are ignored and are imposed upon, in the case of weak paternalism every effort is presumably made to anticipate his future interests and desires. There are, however, limits to paternalism per se because, whilst it is acceptable that in a positive sense an individual's freedom might be enhanced by entering arrangements which temporarily curtail his freedom of action, thought and choice, it is not acceptable to follow those who, like Rousseau, Marx, and various divines, claim it is possible to give up one's freedom yet at the same time to attain a greater freedom than before. In sum, it is proposed that the notion of paternalistic coercion is only justifiable in circumstances in which it is used to preserve or to enhance the victim's ability in the future to develop as a rational and autonomous moral agent.

The justification of the use of coercion depends upon the recognition of certain basic moral principles the interpretation of which will vary according to whether they are applied to circumstances in the respective domains of public life and public morality or private life and private morality. Private morality is that which exists between individuals as such, whereas public morality embodies the values that are recognised between bureaucracies, corporate bodies of all kinds, religious and economic, between political entities such as states, and between individuals when representing such organisations in an official capacity. Nozick proposes an analysis of coercion based upon private morality and values governing interpersonal relationships between individuals, whereas in this thesis it is argued that groups of individuals and corporate bodies may quite

properly be regarded as moral and legal personalities representing the collective will of their members, capable of coercing other groups of individuals, and capable also of being coerced themselves. Nozick is, nevertheless, right to indicate the threat to individual freedom that may arise from attributing excessive powers to corporate organisations such as the state and no doubt wishes to preserve the values associated with a society of free, autonomous, moral beings. He recommends, therefore, that state interference in the lives of individuals should be minimal. In effect, he is concerned lest the values associated with public morality override the values recognised between individuals in their private capacities, to the detriment of the latter.

In private life, moral values are acquired much like good manners in so far as they are internalised through the experience of a shared way of life and become part of each individual's personality and moral disposition. When we express moral judgments by action or word, we do not reason like the pocket calculator or the computer but as human beings reflecting all our feelings, character, nature and experience. We explain our behaviour with reasons distilled from an amalgam of memories, experience, feelings, impressions, and intellectual contemplation, comprising a sort of intuitive selection reflecting the complex nature of our individual human minds and personalities. <sup>51</sup> Even our most deliberative and premeditated thoughts are based upon this kind of intuitive, selective process that reflects the complexity of the human mind and human reasoning. This is presumably why Hume argued that morality is more felt than judged of and that it cannot be explained in terms of demonstrative reason alone.

In the sphere of private morality, therefore, less explicitness can be expected in the reasons given for moral judgments than say in the sphere of public morality, yet it is imperative that due respect is accorded to each individual's sincerely held feelings and beliefs. It is important, for instance, that respect is shown for the views of individuals such as

the Catholic wife who prefers not to be coerced into having an abortion merely to reduce the risk to her own life, and the Christian Scientist who chooses to risk an early demise rather than to be forced to have a blood transfusion, and the expectant mother who wishes to have a natural delivery and to preserve the inviolability of her own body against medical interference, regardless of how beneficial and useful such interference may be judged to be in terms of the values of public morality either for herself or for medical science and future generations.

In public life different moral standards prevail. Institutions and corporate bodies, whether political, economic, religious, bureaucratic or whatever, are more impersonal in their relations with each other and also with individuals in their private capacity with whom they come into contact. Success in public life is judged in terms of consequences, in terms of results, effectiveness, profit and efficiency. Since Machiavelli the relation between public expediency and the preservation of a minimum acceptable moral code in keeping with human dignity and decency has been a matter of concern to political and social philosophers. Machiavelli believed it was wrong to apply to states the moral standards appropriate to private life, such as justice, friendship and honesty, because any state which refused to be ruthless in pursuit of its objectives or refused to resort to deceit and guile if necessary would, in his view, at least jeopardise if not forfeit its capacity and ability to protect its subjects effectively. Violence, threats, sanctions and force are normal instruments of state practice. Historians have traditionally valued a state's success in terms of the power, prestige and prosperity it has achieved at the expense of others.

Between states and similarly between other bureaucratic political and economic institutions consequential and utilitarian considerations are the normal standards of reference, and the ends that are sought tend to determine and to justify the means. Pursued to their logical conclusion

such considerations are used to justify torture and even genocide when states seek interests which they consider to be especially important. The justification of the use of coercion in the sphere of public morality is related to values that are quite different from those that prevail in the sphere of private morality, though both sets of values are derived from the same basic moral principles. Whereas the state, for example, may feel justified in coercing its subjects to enlist in order to vent its spleen on an offending neighbour, no individual in private life would be justified in doing the same were his neighbour to affront his dignity and cause him harm. In human affairs a commitment to efficiency, expediency, cost-effectiveness and similar values seems to increase proportionately with a commitment to power and success. Coercion on a grand scale has always been more easily justified in terms of the values of public morality. The experience of history indicates that it is the impersonalised political and economic institutions of society which, acting as agents of coercion, precipitate and perpetrate the worst kinds of exploitation and the worst kinds of crimes against human beings.

Problems arise when the two moralities, public and private, conflict. It would be naive and foolish, for instance, for an individual in his role as head of state or as principal of a large industrial enterprise to expect to be able to conduct his public responsibilities in accord with the rules and values of private morality. Most people, of course, operate in two moralities relating respectively to their public and private roles in society. Some groups in society, particularly amongst the professions, like teachers, lawyers, doctors and even some financial advisers and stockbrokers, attempt to relate the two moralities by jealously guarding their professional, ethical codes of conduct regulating their relations with their clients and between themselves. On the other hand, businessmen and politicians as a rule have no such arrangements and show no such concern. In the case of entrepreneurs and politicians, the desire for power, the will



to succeed, their competitiveness and determination to profit at someone else's expense preclude much of the altruism that is characteristic of relationships between individuals in their private lives. State officials, for example, are able to levy the most crippling taxes and to force citizens to commit horrific crimes against their fellow men, but no such demands can be made by one individual upon another in their private capacities.<sup>53</sup>

Justification of the use of coercion is ultimately dependent upon the interpretation given to rules and values which are derived from universally recognised basic moral principles. The values, however, may differ in private and public life. What is accepted as being just between individuals in their private lives may not coincide with what is accepted as being just between political and economic institutions in public life. When the values of public and private morality clash, it is essential, Nozick argues, that the latter should be regarded as being *prima facie* paramount and the fundamental moral principle of respect for persons recognised, if morality in any respect is to survive. There must be limits to which expedient, consequentialist and utilitarian considerations may be allowed to justify actions allegedly pursued in say the national interest, or for the good of the firm, or for the benefit of some particular group. That is to say, the values of private morality must ultimately be recognised as a restraining or limiting factor upon the conduct of public officials and public institutions and of individuals acting in a public role.

In normal practice, public officials are expected to treat private individuals impartially, and are expected to be seen to do so. It would in any case, of course, be difficult for them to be partial and loyal to their own organisation or institution whilst at the same time acting partially to individual clients. People in public life are accountable to public opinion and are expected to conduct their lives and to carry

out their responsibilities within recognised principles of justice and fairness, and to give explicit reasons for their actions. <sup>54</sup> If, unhappily, in the course of their work, they happen to subvert ordinary moral decencies, contrary to the natural sentiments and intentions of the people at large, then their policies may be judged to be morally unworthy if not in all cases to be wrong.

Within both moralities, public and private, there are limits, basic prohibitions or barriers to action, which are recognised as being unsurmountable except in very exceptional circumstances. Any individual, for example, who chose in his private life to take an equivocal view of friendship, or of loyalty to family, would be considered to be abnormal. Likewise, in public life, a politician who chose to entirely disregard the value of human life and recognised rules of justice would be discredited. The assumption is that if such barriers are breached, then anything goes. It is this thought that generates respect for moral standards and the will to resist the slippery slope leading to a state of nature such as Hobbes described.

These ultimate prohibitions, which encompass rules regulating the taking of human life, the conduct of sexual relationships, the distribution of justice, rights and duties in relation to property, family duties and friendship, normally refer to activities that are recognised within a way of life, or within a society, as being intrinsically unworthy, inhuman, and contrary to basic moral values. The use of coercion, even in the sphere of public morality is not justified on consequential grounds alone, for these prohibitions represent a basic respect for human nature and for individual human beings as free, autonomous, moral agents. Any professed justification of the use of coercion, in either the public or private domains of morality, must take account of such considerations and the ultimate moral principles upon which they are based.

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