From William Ker Muir, Jr.,

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3 The Extortionate Transaction

I'm just giving fair warning, if anybody throws at my hitters, they will get the same in return. Pitchers have got to protect their hitters. You've got to do this, or they'll be knocking you down all season.

Gaylord Perry
Cleveland Indians pitcher
1972

War is Peace.

George Orwell
1984
1949

I

What is coercion? What makes it unique in human affairs?

Coercion is a means of controlling the conduct of others through threats to harm. Coercive relationships exist everywhere in every society: in families, in the marketplace, and, characteristically, in political institutions. Civilization tolerates, even makes possible, many uses of coercion. Most notably, it delegates to its public officials the license to threaten drastic harm to others. Some societies, particularly free countries, assure private subjects the right to exercise significant threats within a framework of law. This legal license to coerce is frequently referred to as authority, to distinguish it from the unauthorized and prohibited practices variously called tyranny, blackmail, and criminal extortion.

The practice of coercion, whether in its lawful or in its unlawful aspect, involves complex application and has troublesome consequences. To appreciate the nature of coercion more profoundly, I am going to look at a simplified model of a coercive relationship. I shall call this simplification the extortionate transaction. I use "extortion" throughout, not in its illegal

sense, but neutrally, describing both authorized and unauthorized forms of coercion—authority as well as hooliganism.[1]

II

When we construct the extortionate transaction, two facts stand out. First, an extortionate relationship is an antagonistic one. In a world in which relationships are based on threat, everyone is either a victim or a victimizer, one party perceiving that the other is trying to get something for nothing. Therefore the oppressor must instinctively anticipate resistance from the oppressed. Extortion is the classic vicious cycle. *The victimizer is always a potential victim of counterthreats,* ever on guard against the moment his victim retaliates. Both parties to an extortionate relationship have to be preoccupied with the problem of self-defense. The process of extortion in this sense is symmetrical.[2]

Second, extortion depends upon the victim's possessing two things: a *hostage* and a *ransom.* A threat is made by the victimizer committing him to injure the hostage (something the victim values very much) unless the victim will pay a ransom (something he prefers to give up to save the hostage from harm). In the absence of either hostage or ransom, the extortionate relationship will break down; it ceases to be symmetrical. The truly dispossessed—those who have nothing to lose, the life prisoner in solitary,[3] the deadbeat, the bankrupt, and the visionary whose life is worth less than his martyrdom—are not vulnerable to extortionate power. (In the legal profession, the phrase for the dispossessed is "judgment-proof.") Let us call this curious freedom from coercive threats the paradox of dispossession. *The less one has, the less one has to lose.* One cannot picket barren ground, Cesar Chavez used to warn his followers.

As a general rule, in the dynamics of extortion, the victim's position worsens the more precious the resources he accumulates. There are two reasons for this. First, the more valuable—that is, the more difficult to replace—any one possession, the more distressed will be its owner by its potential destruction. When the Spartan king Archidamus urged his countrymen not to lay waste the Athenian farmlands, his argument rested on the fact that "The only light in which you can view their land is that of a hostage in your hands, a hostage the more valuable the better it is cultivated.[4]

A second reason is, the more possessions a victim has, the more ransom he can pay to preserve the hostage and the less reasonable it becomes for him to refuse to pay. The rational kidnapper abducts the prince, not the pauper. Extortion makes us the victim of our possessions, the captive of our things.

As a consequence of the paradox of dispossession, parties in an extortionate relationship must engage in either self-minimization or self-defense. The victim himself may destroy his own embarrassment of riches. The political economist Schelling sums up the matter, "In bargaining weakness is often strength, . . . and to burn bridges behind one may suffice to undo an opponent."[5] Soldiers who sacrifice their means of retreat destroy the enemy's potential hostage. By voluntarily relinquishing their escape route, they may save themselves the ransom they might otherwise have had to pay to preserve their escape (the enemy, seeing that coercion will not avail, may fall back, not willing to pay the cost of using brute force).[6]

III

If dispossession by self-minimization is impossible, then the victim must, as Machiavelli admonished, "fortify well." The victim's possessions are less likely to be seized as hostages the more dearly the victimizers must pay to seize them. Potential victims therefore create *sanctuaries* inside which possessions are no longer vulnerable to easy seizure as hostages. The sanctuaries may be based on custom, law, or force.[7]

1. The following discussion derives from the work of five major social scientists of this century: Peter Blau, Ralf Dahrendorf, Harold Lasswell, Thomas Schelling, and Max Weber. See generally Peter Blau, *Exchange and Power in Social Life* (New York: Wiley, 1964); Ralf Dahrendorf, *Essays in the Theory of Society* (Stanford, Calif.: Stanford University Press, 1968); Harold Lasswell and Abraham Kaplan, *Power and Society* (New Haven: Yale University Press, 1950); Thomas Schelling, *The Strategy of Conflict* (Cambridge: Harvard University Press, 1960); and Max Weber, "Politics as a Vocation," in *From Max Weber: Essays in Sociology*, ed. and trans., H. Gerth and C. Wright Mills (New York: Oxford University Press, 1946).
2. Machiavelli, quoting Titus Livius, discourses on the motives and fears of individuals in politics: "And thus the desire of liberty caused one party to raise themselves in proportion as they oppressed the other. And it is the course of such movements that men, in attempting to avoid fear themselves, give others cause for fear; and the injuries which they ward off from themselves they inflict upon others, as though there were a necessity either to oppress or to be oppressed" (*Discourses*, trans. Christian E. Detmold [New York: Modern Library, 1950], bk. 1, chap. 46).
3. Gresham Sykes, *The Society of Captives* (Princeton, N.J.: Princeton University Press, 1958), chap. 3, has an especially illuminating discussion of the paradox of dispossession in a maximum-security prison.
4. Thucydides, *History of the Peloponnesian Wars*, trans. Richard Crawley, in *The Greek Historians*, ed. M. I. Finley (New York: Viking, 1960), p. 262.
5. Schelling, *Strategy of Conflict*, p. 22.
6. Similarly, Tocqueville, that brilliant and prophetic observer of nineteenth-century America, noted the extortion-proof advantages of Puritan austerity. Alexis de Tocqueville, *Democracy in America*, trans. Henry Reeve, (New York: Vintage, 1945), 1:35.
7. Moralized customary taboos exist in the class structure, professional practices, and occupational arrangements. The aristocrat does not "betray his class" by exposing the dirty linen of his peers to public view. Politicians do not defile the reputations of their colleagues.

However, the more the sanctuaries depend on force alone, the more the
victims's energies are expended on the tasks of self-defense. If an individual
relies on self-fortification, he tends to develop what is termed "the minimax
strategy": his object is to minimize the maximum risk by forgoing every
opportunity to be gainful and creative. He ends up burying his talent instead
of putting it out at risk, because the perils of seizure are too great outside the
sanctuary and the sanctuary's perimeters are too confined to accommodate
more than the solitary individual. Thus, the paradox of dispossession has
some important effects: it makes a virtue of waste and self-minimization and
penalizes creation and accumulation.

The extortionate transaction implies several more interesting paradoxes.
One is the paradox of detachment. The victimizer needs to take hostages, but
he cannot always perceive clearly what value a victim places on his own
possessions. The kidnapper of the king's daughter can never be sure whether
the king loves or hates her; if the king is glad to get rid of her, the kidnapper
will have succeeded only in taking custody of a shrew. Analogously, voters
may threaten an irresponsible senator with prospective defeat at the next
election, their hostage being his hopes of retaining office; but if he is
indifferent about reelection, their threat will have no effect on his conduct.
Likewise, the shopkeeper who has adequately insured his shop may be
indifferent to extortionate bomb threats (although his insurance company
may feel otherwise).

If the victim can make it clear that he could not care less about losing his
daughter, his elective office, or his shop, his indifference for it renders this
possession a very indifferent hostage. In dealing with extortion, then, one
way one can safeguard a possession one really cares about is to show
indifference toward it. This irony is what we mean by the paradox of
detachment: *the less the victim cares about preserving something, the less the victimizer cares about taking it hostage.*

The paradox of detachment applies equally to persons and to things to
which a victim is attached. The rule that a prison guard must shoot at
escaping prisoners who have taken other guards hostage makes sense only if
in the long run it convinces prisoners that society regards with indifference
the lives of prison guards taken hostage. We kill guards to save guards' lives;

even if they philander, get drunk, or moderately pocket some dubious profits. Even in
the Mafia, the wife and children of a gang member are not deemed to be "in the
business." As for legal sanctuaries, the usual method of providing a citizen with protec-
tion for his possessions is to designate them as "property," entitling him to invoke the
public force for his protection. A property right is nothing more than the dependable
and gratuitous assistance of judges, policemen, and public attorneys in providing a refuge
for a person's possessions.

reducing the utility of kidnapping them, we hope to reduce the frequency of such kidnappings.

Detaching oneself from the reciprocal and moralized relationships of human friendship makes a great deal of sense in the extortionate transaction. For the considerate participant in extortion (be he victim or victimizer), it is better to sacrifice his friendships than to have to ransom his friends. Furthermore, a renunciation of his attachments decreases his own vulnerability to victimization. For one thing, his friends may be more susceptible to seizure than he himself. The child lacks the prudence of his parent in fending off the blandishments of the kidnapper. And a victim with a great many friends is as vulnerable to extortion as the least careful of them. For a second thing, under most civilized circumstances, the victim may be under a moral compulsion to pay a ransom to save innocent third parties, whereas he would be morally free to assume the risk of his own destruction.[8]

Detachment, by eliminating the moral compulsion to surrender and by diminishing the dangers of vicarious carelessness, reduces exposure to extortion.

But personal detachment from human friendships poses peculiar difficulties not present in developing an indifference to things. Detachment must be continually dramatized. The victim must convince his predators that he really does not value individuals for whom the normal person would feel human sympathy. It is hard to belie normal attachments. The victim may have to "make an example" of the fact that he is cold and uncaring: he may have to live with the responsibility for the dead guard in the prison case, a spurned friendship (think of Hamlet's extravagant ways to dramatize his detachment from Ophelia), or a devastated hamlet in a war zone. Such are the perilous implications of the extortionate life.

A second costly consequence is that personal detachment isolates the individual from the strengths and the assistance of the friends he renounces.

We now come to a third paradox of extortionate behavior, the paradox of face. We say a person or gang or country has "saved face" if it has gained and preserved a reputation for being mean and meaning it. Just as having "goodwill," a reputation for fair dealing, is an asset of the marketplace, so having "ill will," a reputation for severe retribution, is invaluable in an extortionate relationship. The paradox of face—*the nastier one's reputation, the less nasty one has to be*—holds for both parties in the extortionate

8. See George E. Reedy, *The Twilight of the Presidency* (New York: World, 1972), p. 24: "Every reflective human being eventually realizes that the heaviest burdens of his life are not the responsibilities he bears for himself but the responsibilities he bears for others."

transaction. The nasty extortionist finds he never needs to execute his threats because his reputation for vindictiveness persuades his victims to capitulate without calling his bluff. On the other hand, the potential victim who is vicious discovers he never needs to retaliate against an attack because his infamy frightens off all would-be attackers. The theory of the balance of power is that two adversaries with reputations for implacability, who mean what they threaten, will coerce each other not to coerce. Peaceful behavior under mutually drawn guns may then transform itself into a profitable set of reciprocal transactions, which in time will make the parties oblivious of the guns which induced them to cooperate in the first place. A notoriety for doing evil may be the only practical means for accomplishing good.

The paradox of face originates in the fact that extortion is elementally psychological. The successful practice of coercion is not to injure but to employ the threat to injure. For example, the threat of a labor strike is an act of extortion; actually going on strike, however, is a failure of sorts. The successful strike is the one not called, the one to which the employer surrenders in anticipation of the event. There is neither profit nor victory on the picket line. Union members invariably endure far more personal distress during a strike than management. For another example, in major league baseball (for professional baseball is of all sports most like the extortionate process), no pitcher wants to bean the dangerous home run hitter. He merely wishes to intimidate the batsman so that he will not dig in comfortably at home plate.

The great risk of extortion is having one's bluff called or having one's ill will questioned. Then the only way to save face is to manifest malevolence and to respond cruelly and destructively, even if it means risking one's own destruction. To be kind, to be forgiving, or to be prudent after making or receiving a threat is to lose face. In extortion, the pressures to carry through threats and counterthreats once uttered are quite relentless. The future depends on the record of the past. Just as in a courtroom, so in extortion we apply a presumption of impeachment: *falsus in uno, falsus in omnibus,* false in one thing, false in everything. Consequently, to prevent further humiliation, one may have to make a harsh example of one's cruel determination. The danger of escalation inheres in the paradox of face—the incapacity of mutually threatening parties to lose face results in deadlock.

Violence and vendetta, or rather a reputation for them, are the qualities of the successful extortionist. Yet there are times when even the meanest reputation will not suffice to effect a successful act of extortion. Sometimes only ignorance will do, a circumstance which I shall call the paradox of irrationality. Irrationality has two distinct uses in an extortionate relationship. For one thing, it enlarges the seriousness of a threat. If a man says, "Stay away or I'll kill us both," he is most likely to be left alone if there is blood in his eyes and madness on his face—in short, if he looks crazy enough

to destroy himself. If executing a threat is so self-destructive that no sane man would execute it, only an insane man poses the threat credibly. The rationality of irrationality is how Schelling would sum up the function of pigheadedness in successful extortion.[9]

There is another sensible, self-defensive reason for not having all one's senses. Victims who are, for some reason or another, ignorant of the threats being made against them, will not be deterred by those threats. It is impossible to practice extortion on a deaf man over the telephone. The participant in extortion who deafens or blinds himself to the destructive capabilities of his adversaries deprives them, once they become aware of his ignorance, of their will to take hostages. In extortionate relationships, a fool sometimes can tread where angels fear to go, because the obvious fool really has less to fear.

The point is that being sensible and appearing so may be a liability in an extortionate world, and not knowing enough to know better may be an asset ("studied ignorance" is the conventional phrase for this virtue). We can sum up the paradox of irrationality in this way—*the more delirious the threatener, the more serious the threat; the more delirious the victim, the less serious the threat.*

As in the practical resolution of each of the paradoxes of coercion, making a dramatic example of one's irrationality is crucial and difficult. Its difficulty grows out of the fact that there is a heavy presumption that every individual is *Homo sapiens.* Hence, the burden of proof that one is really nutty is a heavy one. It may be impossible to feign madness. It may be necessary to become sincerely irrational and to believe what is otherwise illogical, to become, in a word, ideological, so that one's adversaries come to believe that one has the will to do things that are senseless in terms of economic efficiency, civilized decency, and human awareness. The politician breathing fire and brimstone, the Ku Klux Klan member with his devout belief in apartheid, and the American Civil Liberties Union zealot with his convictions about moral absolutes—each in his own way has overcome his opponents' presumption that he is reasonable. The risk of this resolution of the paradox, of course, is that if it is rational for each party to become irrational, the result may be the ultimate illogic—a suicide pact.[10]

9. Schelling, *Strategy of Conflict,* pp. 17-18.

10. On the inversion of virtues when civilization breaks down and coercion becomes the predominant means of power, see Thucydides's description of the Corcyraean revolution (427 B.C.): "Revolution thus ran its course from city to city, and the places which it arrived at last, from having heard what had been done before, carried to a still greater excess the refinement of their inventions, as manifested in the cunning of their enterprises and the atrocity of their reprisals. Words had to change their ordinary meaning and to take that which was now given them. Reckless audacity came to be considered the courage of a

IV

The extortionate model makes it possible to see the pitfalls of coercion more clearly, particularly the paradoxes of coercive power:

1. *The paradox of dispossession:* The less one has, the less one has to lose.
2. *The paradox of detachment:* The less the victim cares about preserving something, the less the victimizer cares about taking it hostage.
3. *The paradox of face:* The nastier one's reputation, the less nasty one has to be.
4. *The paradox of irrationality:* The more delirious the threatener, the more serious the threat; the more delirious the victim, the less serious the threat.

How do these four paradoxes apply to the policeman? How may they help explain his professional development? The answer may appear obvious. The policeman's authority consists of a legal license to coerce others to refrain from using illegitimate coercion. Society licenses him to kill, hurt, confine, and otherwise victimize nonpolicemen who would illegally kill, hurt, confine, or victimize others whom the policeman is charged to protect.[11]

But the reality, and the subtle irony, of being a policeman is that, while he

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loyal ally; prudent hesitation, specious cowardice; moderation was held to be a cloak for unmanliness; ability to see all sides of a question inaptness to act on any. Frantic violence became the attribute of manliness, cautious plotting, a justifiable means of self-defense. The advocate of extreme measures was always trustworthy, his opponent a man to be sus- pected. To succeed in a plot was to have a shrewd head, to divine a plot still shrewder; but to try to provide against having to do either was to break up your party and be afraid of your adversaries. In fine, to forestall an intending criminal, or to suggest the idea of a crime where it was wanting, was equally commended, until even blood became a weaker tie than party, from the superior readiness of those united by the latter to dare everything without reserve; for such associations had not in view the blessings derivable from estab- lished institutions but were formed by ambition for their overthrow; and the confidence of their members in each other rested less on any religious sanction than upon complicity in crime. The fair proposals of an adversary were met with jealous precautions by the stronger of the two, and not with a generous confidence. Revenge also was held of more account than self-preservation. Oaths of reconciliation, being proffered on either side only to meet an immediate difficulty, held good only so long as no other weapon was at hand; but when opportunity offered, he who first ventured to seize it and to take his enemy off his guard, thought this perfidious vengeance sweeter than an open one, since, considera- tions of safety apart, success by treachery won him the palm of superior intelligence" (Thucydides, *History of the Peloponnesian Wars*, trans. Richard Crawley, in *The Greek Historians*, ed. M. I. Finley [New York: Viking, 1960], pp. 296–97).

11. Whenever a citizen recognizes that a police officer is properly authorized to use coercion, he may submit willingly and without resistance. The sight of the uniform alone may remind him of his responsibilities. However, some citizens refuse to cooperate because they see the police exercise of coercion as unauthorized, a perception strongly influenced by what the legal philosopher Kelsen calls the apparent "antinomy" of the policeman's lot—that the cop's licensed tools of coercion, deadly force, injury, and confinement, are the very weapons he is expected to prevent others from using. Kelsen's description of the nature of a coercive legal order is as follows: "Among the paradoxes of the social technique here characterized as a coercive order is the fact that its specific instrument, the coercive

may appear to be the supreme practitioner of coercion, in fact he is first and foremost its most frequent victim. The policeman is society's "fall guy," the object of coercion more frequently than its practitioner. Recurrently he is involved in extortionate behavior as victim, and only rarely does he initiate coercive actions as victimizer.[12] If he is vicious, his viciousness is the upswing of the vicious cycle inherent in an extortionate relationship.

Contrary to the more unflattering stereotypes of the policeman, it is the citizen who virtually always initiates the coercive encounter. What is more, the citizen tends to enjoy certain inordinate advantages over the policeman in these transactions. The advantages derive from the four paradoxes of coercion. The citizen is, relative to the policeman, the more dispossessed, the more detached, the nastier, and the crazier. Add to these natural advantages the fact that most police-citizen encounters are begun under circumstances which the citizen has determined, and the reader may begin to feel some of the significant limits placed on the policeman's freedom to respond in these encounters. The policeman is the one who is on the defensive. What is interesting about him is that he demonstrates how difficult it is for the self-restrained person to defend himself against the bully. What will distinguish one policeman from the other are the techniques he invents to defend himself in his position of comparative vulnerability.

The irony of the policeman's lot is that his authority, his status, his sense of civility, and his reasonableness impose terrible limits on his freedom to react successfully to the extortionate practices of others. His alternatives are sharply foreclosed; he works within a much smaller range of choices than do his illegitimate and nonofficial adversaries. If Lord Acton was right that power tends to corrupt, at least it is also arguable that the corrupting influence of power stems from the way that the power of a powerful person attracts the practice of coercion against him, placing him on the defensive. Power tends to confine, frustrate, frighten, and burden the consciences of its holders.

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act of the sanction, is of exactly the same sort as the act which it seeks to prevent in the relations of individuals, the delict; that the sanction against socially injurious behavior is itself such behavior. For that which is to be accomplished by the threat of forcible depri- vation of life, health, freedom, or property is precisely that men in their mutual conduct shall refrain from forcibly depriving one another of life, health, freedom, or property. Force is employed to prevent the employment of force in society. This seems to be an antinomy" (H. Kelsen, *General Theory of Law and State* [New York: Russell & Russell, 1961], p. 20).

12. Some may argue plausibly that the citizen may have had to take the coercive initiative because of the policeman's potential coercive capacity. Because he is frightened that the policeman will misuse his authority, the citizen has defended himself by striking preemp- tively. In this sense, they allege, the citizen is not the real aggressor but is merely retali- ating. Perhaps so. But when they speak of the preemptive strike as retaliation, it sounds as if they are speaking of the kind of "retaliation" Hitler practiced on Poland in 1939.