# *Ethics and the Power of the State*

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## Abstract

One of the primary questions in social/political philosophy is the justification of the state's use of coercive power. That is, what makes a government's use of coercive power legitimate or illegimate? In this paper, I make a distinction between two sorts of power – coercive and persuasive. These two sorts of power are differentiated by a metaphysical distinction – namely the subject/object distinction. Each object in the universe is both subject and object. To treat something or someone as an object is to treat him/her coercively. To treat something or someone as a subject is to engage in persuasive power. In elaborating this distinction, this metaphysical fact of the world, it will become clear when the exercise of coercive power is legitimate, if it is.

## Ethics and the Power of the State

One of the primary questions in social/political philosophy is the justification of the state's use of coercive power. To approach that question, I propose to follow Plato in form and ask first, what justifies the use of coercive power by an individual (if indeed anything does). In the course of this discussion, we will, of course, have to specify what is meant by "coercive power."

Let's begin with that question; namely, what is "coercive power." I will suggest as at least a partial definition that one essential characteristic of coercive power is "force directed at someone or something *qua* object." Perhaps this is not sufficient for a definition of "coercive power," but I take it to be a necessary component of such a definition. An example may help. Consider a chair. It seems relatively clear that a chair cannot decide that it wants to be moved from one place to another. We rightly address chairs as objects. Hence, when we pick up a chair and move it from the table to the kitchen, we have used coercive power on the chair. Without the application of force, the chair would have remained where it was. It had no *desire* to be moved.

This picture may be objected to in at least a couple of ways. First, the name "coercive power" that I propose to give to the action of moving a chair from one point to the next seems to carry with it a level of normative weight that may be inappropriate. That is, one could say, "Isn't it a bit strong to say that a person coerces a chair when she moves it?" Perhaps. But I suspect that this response is predicated on an understanding of coercion as necessarily something negative. So, by way of refinement, let us then say that to use coercive power on something, e.g., a chair, is to treat that thing *qua* object.

Perhaps, then, an objector might say, "does this not cheapen the normative weight of the notion of 'coercion'?" For example, when Bill coerces John, we want to say that Bill has done something wrong precisely because he has used power in an inappropriate way relative to John. He has *made* John do something he would not otherwise have done, and indeed did not *want* to do.

To this, I would respond that far from cheapening the weight of "coercion," it reflects what we mean by it. To coerce another person is to treat them as an object (e.g., to treat them like a chair). And the wrong-making feature of "Bill coerces John" is that Bill treats John as an object and not as a subject.

The foregoing discussion illustrates, at least in a rough way, another distinction that has, as yet, not been made clear. That distinction is the one between subject and object.

It is far too easy to say that a chair is an object and a person is a subject. For one thing, this obscures the fact that a chair is a subject and a human being is also an object. In short, my view is that every entity, whether chair or person or anything in between, is actually both subject *and* object. The chair is the subject of its own experiences. The chair has a different experience of being sat upon than John has of sitting on the chair. It is a bit difficult to grasp the notion of chair *qua* subject. Even our language, as evident from the description of the chair's experience, obscures the fact that the chair indeed has its own experiences.

One objection to this sort of picture is that I may be guilty of anthropomorphizing the chair. That is, when I impute experience to the chair, I have imbued it with all sorts of human characteristics; that perhaps I have romanticized the chair as something that feels pain, that has wishes and desires (that is even *capable* of wishes and desires), that has intentions, and thus has mentality. And, the objection goes, that sort of anthropomorphizing would be absurd.

I will grant all of the implications of the objection, if the objection itself be proved right. But I deny the objection itself. To be sure, at times I may speak of the subject/object ontological distinction in psychological/physical terms. But that is not the elaboration of or the determinant of the subject/object distinction. Rather, the converse is so. That is, if I refer to the distinction between mentality and physicality, I do so only in the model of subject/object. The mentality/physicality distinction will be helpful as an illustration later on, but is not to be taken as the primary, base, or fundamental distinction.

A chair is the subject of its own experiences in the sense that a bat is the subject of its own experiences, a dog is of its own experiences, and a human of its own experiences. When we say that a dog is the subject of its own experiences, we do not mean that its experiences are thereby human-like ones, but rather dog-like. A nd further, those experiences are privileged – that is, Spot is the subject of Spot's experiences and I shall never be the subject of Spot's experiences because, simply, I am not Spot. Thus, when John sits down, John experiences the chair as an object upon which he sits and the chair experiences John as that which sits upon it.

We need to take a small aside. The subject/object distinction is not warmed over Cartesian dualism. I am not suggesting that the chair has some immaterial self independent of the physical material that makes up the chair. In fact, the dualism inherent in the language is both helpful and distracting. Ontologically, the chair (or any other existent) is *both* subject *and* object *at the same time*.

Another way to look at this distinction is to think again about the example, John sits on the chair. There are two distinct relations in this example. One relation – John, the chair, and the "sits on" relation John bears to the chair – is different from the other relation – the chair, John, and the "is sat upon" relation the chair bears to John. In the former, John is the subject who experiences the chair as an object. In the second, the chair is the subject who experiences John as an object. The experiences are radically different for each. The difference in the two relations points to the distinction between subject and object, but also to the ontological fact that each relatum in the relations is *both* subject *and* object.

From the ontological fact that all existents are both subject and object, we turn now to discuss normative claims about power and its use. This course, it would seem, commits us to the derivation of an "ought" from an "is." Hume's concerns notwithstanding, there are at least two ways to address this traditional philosophical problem. The first is to suppose that in virtue of all existents being subjects in one form or another that there is a level of normativity at the metaphysical level. I reject this course, although I suspect it to be so. The second is to follow Kant and Aristotle, at least in form, and to argue a connection between metaphysics and ethics from which certain, perhaps limited, ethical claims follow. There are at least three ways in which one might follow this second approach.

For example, Kant's famous dictum that "ought implies can" suggests a connection between the deontological logic of normativity and the ontological logic of necessity. Similarly, Aristotle employs sophisticated metaphysical notions of causation and nature to advance a fairly full-bodied ethics of excellence. The function argument, for example, central to the argument in Book One of the *Nicomachean Ethics* depends on the theory of causation (the Four Cause Doctrine) from *Metaphysics Gamma*.

In both cases, Kant and Aristotle understand that the facts of the universe place constraints on normativity. They further suppose that at least some very basic positive normative claims can be made given the facts of the universe – for example, human flourishing is more likely to occur under Set A of normative propositions than under Set B *because* of the way the universe *is*. The first view I'll call the weak view of the connection between "is" and "ought." This view, I suspect, is one with which a person following even a radically skeptical interpretation of Hume would accept. This weak view is simply that given facts about the world, certain normative propositions are simply impossible. For example, to say that I ought to leap over a tall building in a single bound cannot carry any normative weight because it is a fact about the universe that I cannot make such a leap.

The second view I'll call the stronger view. The radical skeptic who found himself in agreement with me in the foregoing weak view parts company from me here, I suspect. However, the Hume of the *2nd Enquiry* and of "Of Morals" in the *Treatise* would find it consistent with his view of the development of moral sentiments from the approbation and disapprobation of the common person. This view is that given certain facts about the world, namely that approbation tends to attach to some acts while disapprobation tends to attach to others, claims about what one ought to do or ought not to do follow. Thus, while there is no particular metaphysical necessity that attaches to the "ought," there is a sort of utilitarian explanation for why certain actions are considered morally appropriate and others not; and further, this explanation is dependent upon facts about the world.

There is a third view, the strong view, that supposes a full-fledged normative theory to be directly discernible from observed facts of the universe. Kant, it seems, has something of this view given that he takes the Moral Law and the Natural Law to be the same kind of thing; thus obligation in the Moral Law is analogous to necessity in the Natural Law.

I take my view to be of the second type rather than the first or third, though I do have sympathies with the strong view. To the details of this view, we now turn.

To use coercive power is to treat the thing upon which coercive power is employed as an object. If it is the case that the thing is primarily or essentially an object, then the treatment of it as an object is to interact with the thing appropriately. By "appropriately" here, I just mean that it is to treat the thing as it is. To treat it otherwise (or, to treat it as a subject) is to treat it inappropriately. For example, were I to interact with a chair as if it were essentially a subject, I would run the very real risk of personifying or anthropomorphizing it in precisely the way we found to be objectionable at the outset of the paper. Perhaps we should take a moment to discuss why that is. To do so, we need to explore briefly what I take to be the contrary (and perhaps contradictory) counterpart to coercive power; namely, persuasive power.

There are two general ways to move something – it can be pushed or pulled. Pushing is the act of forcing something to go where it would not otherwise go. Pulling can be an act of force – for example, pulling a reluctant goat into the barn is clearly an act of using force on something to make it go where it would not go otherwise. But pulling need not be exclusively an act of force. Pulling can also be understood as an act of luring something forward. For example, a worm on a hook serves as a lure to the fish in the pond. The fish sees the worm, is lured toward the hook, and becomes dinner. Here again is an act of pulling that results in less than pleasant consequences for the thing lured; but it is clearly a different situation than pulling a reluctant goat (even more different than pushing something). Each of these is a type of coercive power as well. In the first case (the goat), the coercion is clear. In the second case (the fish), the coercion is less clear. Perhaps if we gave the example its proper name, the coercion would be more obvious. In the case of the fish, the proper name for the lure is "fraud." The fish has been deceived into believing that a meal was prepared for it when in fact it was being prepared as a meal.

There is, however, a third kind of pulling. It too is perhaps best described as a luring. That lure is the pull of clarity of options, of knowledge of potential consequences, of truth. For example, suppose Jennifer has a final exam on Friday. Thursday dawns beautifully – it is warm, clear, and a perfect day to spend at the lake with friends. However, it is also the last day to study before a final exam that, for the sake of argument, will determine whether or not she graduates and gets the internship with the firm she really wants. Neither the lake nor the exam (both future possibilities) is pushing her. Presumably, the lake is not committing fraud either – it simply is what it is and in virtue of being a beautiful lake is a lure. It does not promise that should she come to the lake, she will pass the exam. It merely is alluring. The exam, on the other hand, is less so. But, it too does not push Jennifer. It is not the case that she *must* take the exam. Caught in this quandry, Jennifer's best friend takes the time to point out all of the options; to clarify the things at stake. The friend is not forcing Jennifer in either direction – merely suggesting what she takes to be the best course of action and providing reasonable arguments in support of her view.  This is the exercise of persuasive power.  It is not coercive because it neither pushes nor pulls (in the first two senses of pull) Jennifer.  But it lures her based on her own judgment of the options before her.  Ultimately, the decision belongs to Jennifer.

Persuasive power is clearly different from its coercive cousin.  It is possible to ignore the lure of persuasion; it is possible to fail to be persuaded, even by clear, valid, sound, and complete argument; it is possible to make decisions in direct opposition to the course suggested by persuasion.  All of these are possible.  However, a virtue of persuasive power over coercive power, at least relative to human beings, is that it treats human beings as subjects (sometimes I shall call the subjective side of human beings the "person" side).  This also explains why treating a chair as a subject (that is, to use persuasive power on it) is absurd. So, to treat the chair as a subject is to treat is as the kind of thing upon which persuasive power is effective.  Instead of picking it up and moving it from the table to the kitchen, I would instead seek to persuade it that the best place for it was in the kitchen.  Such an activity would be blatantly absurd.

Simply put, my view is this: to use coercive power on some thing is to treat that thing as essentially an object; to use persuasive power on some thing is to treat that thing as essentially a subject.  I think we have enough now to discuss the connection I see between metaphysics and morals.  The reason it is appropriate to treat a chair as an object is because a chair primarily *is* an object.  On the other hand, the reason it is inappropriate to treat a person as primarily an object is that a person *is not* primarily an object; rather a person *is* primarily a subject.  Any action, whether towards a chair or towards a person, expresses a proposition – either that the focus of the action is primarily an object or that it is primarily a subject.  If one uses coercive power on a chair (i.e., treating it as an object), then the proposition expressed by that action is not contrary to the structure of the universe.  If one uses coercive power on a person (i.e., treating the person as an object), then the proposition expressed by that action *is* contrary to the structure of the universe.  This is why I suggest that my view is more like the second than the third.  Like the first view, it issues prohibitions against certain actions that express normative propositions. Unlike the third view, it does not fully prescribe all the actions that are the moral ones or that are in keeping with the Moral Law.  Rather, it provides a proscriptive rather than prescriptive approach to normative propositions.  That said, it follows that if I use persuasive power on a chair (i.e., treating it as a subject), then I have acted contrary to the structure of the world and if I use persuasive power on a person, I have acted in accord with the universe.  I should point out that I am not particularly interested in the possible (indeed, likely) gradations between objectivity and subjectivity throughout the animal kingdom.  That is, frankly, beyond the scope of this paper – though interesting things could be said there.  The topic is the coercive power of the state relative to the persons under that power.  Hence, the focus here is on the ontological status of human beings/persons.

It does not follow, necessarily, that if I use persuasive power on some person, I have ignored the fact that they are objects.  Indeed, suppose that Jennifer and Dana are having tea.  Jennifer is experienced first as an object by Dana and vice versa.  Jennifer is the subject of her own experiences, and one of those experiences is "of Dana" as her tea partner.  Similarly, Dana is the subject of her own experiences and one of those is "of Jennifer."  But Jennifer is not merely an object.  Suppose that while having tea, Dana is trying to persuade Jennifer that her best course of action is to take the exam rather than go to the lake.  Thus, Dana is experiencing Jennifer as an object and treating her as a subject.

So, how is it that Dana, who experiences an object (e.g., a chair) and treats it as an object is right in experiencing an object (e.g., a human being – Jennifer) and treating it as a subject (e.g., a person)? Clearly it is good that she should have this dual reaction, because Jennifer is indeed essentially or primarily a subject and so should be treated as such. The reason for this is that to behave otherwise, that is, to treat Jennifer as primarily an object, is to act in a way contrary to the structure of the universe. One way of addressing this concern is to point toward the human capacity for sympathy. Sympathy is an element of human nature and, as such, is part of the mechanism underlying human experience. When Dana experiences Jennifer *qua* object sitting across the table from her, she also has an experience of "reflected subjectivity." Hume puts it this way, "when any affection is infus'd by sympathy, it is at first known only by its effects … which convey an idea of it. This idea is presently converted into an impression, and acquires such a degree of force and vivacity, as to become the very passion itself, and produce an equal emotion, as any original impression." (Hume, *A Treatise of Human Nature*, 316)

Thus, Dana, though experiencing Jennifer as an object, can at the same time sense the subject, Jennifer. That is not to say that Dana has now somehow become the subject of Jennifer's experiences – that would be absurd. But, in experiencing Jennifer as the *same sort of thing* that Dana is, and in knowing that she, herself (that is, Dana) is a subject, it is fairly straightforward for her to experience her own subjectivity reflected from the object experienced. That is, Dana can see herself reflected in Jennifer. That experience of reflected subjectivity is then the basis for sympathy. The concept of reflected subjectivity provides two things further – 1) the explanation we sought; namely why it is appropriate for Dana to treat Jennifer as a subject even though she experiences her as an object and 2) further support for the view that Dana acts rightly when she treats the chair (also experienced as an object) as an object. The former has been discussed, the latter is fairly obvious. When Dana encounters the chair at the table, she does not encounter it as the *same kind of thing* that she is. There is no reflected subjectivity. She does not see herself in the chair's place. If anything, the chair reflects Dana's objectivity. That is, in encountering the chair as primarily an object, Dana experiences what kinship she has with it – namely that of object-hood. Let's look briefly at another example. Suppose I go to the funeral home for the funeral of a dear friend. As I gaze upon the corpse of my friend, I do not feel reflected subjectivity; at least in part because the thing before me is not primarily a subject – like the chair, it too is primarily object. On the other hand, I do feel reflected objectivity; that is, that I too am object, though I primarily perceive myself as subject. And, while I would have practiced persuasive power on my friend before death, I use coercive power now when I serve as pall-bearer.

With the subject/object and coercive power/persuasive power distinctions in mind, it is now time to turn to the discussion of the justification of the use of coercive power, if such justification exists. At the outset, we thought it might be profitable to locate that justification for an individual. If we could do that, then locating the justification for the state could be simply a matter of analogy. So, under what circumstances is the use of coercive power by an individual against another human being justifiable, if it is? There seem three possible answers to this question – 1) the use of coercive power against another human being is never justifiable; 2) the use of coercive power is justifiable under certain circumstances; and 3) the use of coercive power is always justified. The third competitor seems straightforwardly problematic. If the use of coercive power by one person against another is acting in a way contrary to facts about the world, then the third avenue commits us to always acting in ways that express false propositions. Thus, we can dismiss the third option.

The first option seems the likeliest candidate, at least at the beginning. To borrow a page from Kant, it is clearly universalizable, it is general or formal, and it is normative. As a maxim, it could be formulated as "one ought never use coercive power against another person." However, this option has a particular and pernicious problem. Suppose Bill is beating John with a poker in order to obtain his consent to some philosophical proposition or another. This is clearly a case of coercive power. Suppose I observe this event. Suppose further that I choose not to aid John because in so doing, I would have to use coercive power on Bill (perhaps I would have to physically restrain him or pull him away or bind him in some way, clearly against his will – included in this supposition is the further supposition that persuasive power will not work). It would seem that I am then unjustified in preventing Bill from flailing John because to do so would violate the underlying foundation of the first option. Of course, in choosing not to act, I have chosen to permit Bill's treatment of John and have therefore violated the maxim expressed in the first option. Thus, (1) seems to resolve into a contradiction in that if I use coercive power on Bill, I have violated (1) and if I do not use coercive power on Bill, I have in fact treated John as primarily an object and not a subject, and hence have at least consented to, and perhaps exercised vicariously, coercive power on John and thus violated (1). If (1) is the case, then either by action or inaction, I have violated (1). Thus, there is some reason to dismiss (1) as well. However, given our earlier prohibition against treating persons solely or primarily as objects, one could suppose that there is some reason to refrain from the active use of coercive power without compelling reason to act. We will call this the "Burden of Proof" condition. Which brings us to the next option.

The second option has several subordinate options that are all related to the answer to the question "Which circumstances." For example, we could suppose that the use of coercive power is justified whenever. This would entail that it is appropriate to treat anyone, anywhere as primarily object. This fails the Burden of Proof test fairly straightforwardly.

The second form of Kant's Categorical Imperative points to some interesting possibilities – treat the humanity encountered in oneself or another as an end in itself and not as a means only. But that does not mean that one cannot treat another as both an end and a means. This seems compatible with the views expressed here; to express the subject/object distinction I am suggesting in Kantian terms would entail something like this – "to treat something as an end is to treat it as a subject, to treat it as a means is to treat is as an object." One implication of this sort of view is that it would seem to restrict the use of coercive power for one's own individual gain. Suppose that I am the CEO of a large corporation. And further, suppose I view the pension funds of my company as a means by which to engage in risky deals that will enrich me at the expense of beggaring the workers of my company. In this case, I have treated those workers, persons all, as means to an end, solely, and not as ends in themselves. Or, alternatively, I have treated them as objects, essentially, and only secondarily (if at all) as subjects. This is a special case of the Burden of Proof case because while I perhaps would admit to the subjectivity of those in my employ, I have treated them essentially as objects, and thereby violate the principle established here. This can be extended to cover all the cases in which the person uses coercive power to gain their own ends at the expense of another. Thus, on my view, individuals are unjustified in the use of coercive power for their own ends.

So, we are still left with the question, under what circumstances might coercive power be justified? Given the Bill/John example, one might be given to conclude that coercive power is justified to the extent necessary to prevent the treatment of another human being as a means (or as an object). This is a fair inference. And further, given the limitations imposed by the Burden of Proof condition, one might suppose that one is forbidden from treating the person restrained as merely an object, even in the midst of using coercive power as a restraint. Thus, we can conclude that individuals are justified in using coercive power only to prevent the use of external coercive power by another and only to the extent necessary to halt coercion.

Perhaps a discussion of the distinction between "external" and "internal" coercive power would be helpful here. External coercive power is power exercised by one over another – that is, Bill coerces John is an instance of Bill treating John as primarily an object and is an example external coercive power. However, John can treat himself as primarily an object and deny his own subjectivity? That is an example of internal coercive power. Since John's internal states are privileged, it is impossible (or at least devilishly difficulty) for another to tell whether or not John is treating himself as an object. Further, barring disability and insofar as John's actions are self-directed, it seems that other individuals have no standing from which to intercede on John's behalf. So, on the model I propose, John has wide latitude within which to objectify himself – this is an example of internal coercive power.

Another fairly direct implication of the view defended here is a principle of proportionality. Even in the case of Bill's coercion of John, it is not proper for Sam to intervene in such a way as to treat Bill (the perpetrator of coercion) as *primarily* an object. It is true that if Sam exercises coercive power against Bill to end Bill's coercion of John, then Sam has treated Bill as an object. However, the issue here is the level to which Bill has been objectified. Since the point of the intervention is to end the coercion against John and since the earlier conclusion is that Sam would be justified in using coercive power against Bill to the extent required to end his coercion of John, then it follows that if Sam uses more than the required coercive power against Bill, then to the extent that he has surpassed the required power, Sam has treated Bill as an object without justification. The important thing to note here is that this achieves a particularly attractive balance – John has been alleviated of the burden of coercion and Bill has not been coerced more than absolutely necessary to achieve the goal of ending his coercion of John. Thus, Bill has been treated as an object not to the extent he treated John so (that would be something akin to vengeance), but only to the extent needed to end his own unjustified behavior. Thus, we have the following maxim to describe the justifiable use of coercion: One is justified in acting in proportion to the force necessary to alleviate the coercion.

I take this exercise of an individual using coercive power to be the model, then, for the justification of a state's use of coercive power. We have located the proper circumstances under which the individual may exercise coercive power against another. This seems to serve the double purpose of justifying the use of coercive power by the state against members of the state (and against those without such membership) and also specifying the conditions under which the state can use coercive power. The state is justified in the use of coercive power against individuals to the extent that those individuals are engaged in the use of coercive power against other individuals. Thus, the state stands as a protector of the coerced. And, the legitimate exercise of the coercive power of the state lies not in social contracts or monarchical tyrannies or hanging chads, but in the metaphysical fact of the subjectivity of human beings; that is, the personhood of individuals.

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## Biographical Sketch

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