

NOTES

- 1 Cotterill (1998).
- 2 The O.J. Simpson trial transcript website has recently been reorganized and relocated. Full transcripts from the criminal trial are now available at the following URL:

<http://www.mbay.net/~walraven/simpson/simpson.html>

Due to the format of the transcript, it is unfortunately not possible to provide official page references for the extracts cited.

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Threatening revisited

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ABSTRACT This paper considers the act of verbal threatening. I first examine what constitutes a verbal threat, concluding that it involves conveying both the intention to perform an act that the addressee will view unfavourably and the intention to intimidate the addressee. I then compare threatening to promising and warning, and I examine the ways in which a speaker may issue a threat, given that one can never guarantee success in threatening. Finally, I look at the multitude of factors that must be considered if one is to conclude that a serious threat was made.

KEYWORDS threatening, intimidation, warning, implied threat, promise, conditional threat

INTRODUCTION

From time to time forensic linguists are asked to evaluate a discourse in which a threat is alleged to be present. The alleged threat may have been performed directly or indirectly, and its ramification may have been trivial or quite serious. In looking at the literature on threats and threatening in the course of writing an arbitration decision, I was surprised to see that there is no one place where the topic is addressed in a systematic and thorough way. This paper is an attempt to remedy this lack.¹

I am concerned in this paper with verbal threats involving human agency, verbal acts such as 'Take one more step towards me and you're history,' and am not concerned with so-called natural threats, such as thunder threatening rain or non-verbal threats. Nor will I address the issues of the rationality of accepting or rejecting a threat (Shavell 1993), when threats might be effective or useful (Rubin *et. al.* 1995), what effects a threat may have on types of behaviour such as bargaining (Deutsch and Krauss 1960), or threats to the President (Danet *et. al.* 1980).

I will treat the topic by dividing it into four parts: (1) what constitutes a threat; (2) how is a threat different from a warning or a promise; (3) how does a speaker make a threat; (4) what factors determine if a threat was made.

WHAT CONSTITUTES A THREAT?

Threats are made for a variety of reasons including anger or meanness ('You cut me off you bastard. I'm going to clean up the streets with

you'), to intimidate ('I know you're home all alone tonight'), to bring about a desired result ('If I don't get national press coverage within one hour, one of the hostages will die'), as a challenge to authority (the carrying of the banner with the slogan, 'Freedom Under Clark Kerr', during the uprising on the Berkeley campus in the late 1960s), to call attention to oneself and perhaps get help ('I'm too depressed to go on living. I'm going to jump'), to save face when embarrassed ('I'm going to get even with you if it's the last thing I do'), to show seriousness of purpose but without malice ('Touch that just once and you die'), to promote movement in negotiations ('If we don't have a counter-offer in fifteen minutes, we're going to declare impasse'), and to be humorous (when quite late at a dinner party the host announces, 'Now we are going to show you slides of our around-the-world bicycle trip').

Some threats are perfectly legal. If we threaten to withhold a gratuity unless the service improves, threaten to withdraw our business until the price is lowered, threaten to expose a person's sordid past or infidelity to his current companion, to sue for a civil wrong unless we receive restitution, to punish a child unless she behaves better, to go out on strike, to start a hunger strike, or threaten not to accompany someone to a party unless he changes into something more respectable, the threat is legal albeit sometimes very annoying.

On the other hand, some threats are illegal. If we threaten to expose information unless there is payment of money or some other consideration of value (bribery),² threaten to cause injury to another or to their property, now or in the future, unless there is payment (extortion), if we threaten to cause physical injury to another unless they hand over their belongings (robbery) or if we simply threaten to cause physical injury to another (assault), the threat is illegal. This sense of illegality is reflected in Black's Law Dictionary (1968), which offers the following on *threat*:

Threat: a declaration of intention or determination to inflict punishment, loss, or pain on another, or to injure another by the commission of some unlawful act. *U.S. v. Daulong*, D.C.La., 60F.Supp. 235, 236. A menace; especially, any menace of such a nature and extent as to unsettle the mind of the person on whom it operates, and to take away from his acts that free and voluntary action which alone constitutes consent. (*Abbott, United States v. French*, D.C.Fla., 243 F. 785, 786 (1651))

In both the legal and illegal threats, however, there is a clear commonality. Verbal threats constitute an illocutionary act, an intentional act of using language to send a message, i.e., to bring about a desired transfer of information. As a first approximation, I will define the illocutionary act of threatening as occurring when a speaker intentionally expresses through an utterance:

- C1 – The speaker's intention to personally commit an act (or be responsible for bringing about the commission of the act);
- C2 – The speaker's belief that this act will result in an unfavourable state of the world for the addressee.

Since threats are not usually issued with both conditions being explicitly articulated, as they would be in 'I am definitely going to punish you if you don't stop talking and I expect this punishment to be viewed unfavourably by you', we are typically required to infer these attitudes on the part of the speaker (more about this below).

On this account, when C1 and C2 are fulfilled by the speaker, a threat has been made, although it may not be recognized as a threat by the addressee. Note that C1 provides that the speaker has expressed an intention though not a commitment to perform an act, as is the case with a promise. We do not find people saying, 'You threatened to fire me if I didn't get the report in on time and you didn't. You lied to me.' Also, note that C2 provides that it is the speaker's belief alone, and not necessarily a belief shared by the addressee, that the state of the world resulting from the act will be unfavourable. Thus, if I say to you, 'I will bring you roses for your birthday', assuming that you are violently allergic to roses and intend it as a threat, I will have made a threat, even though I may have been mistaken about your allergies, and you will probably not feel threatened.

A brief inspection will show that both conditions C1 and C2 are necessary for an utterance to count as a successful threat. If speaker intention is not expressed, as for example in, 'John will be here on Friday', the utterance is heard as a report, warning, or promise, but not a threat. If the belief in the unfavourability is not expressed, as in, 'I will bring you the report all typed and ready for your signature by 5 p.m.', the utterance is heard as a report or promise but not a threat.

But C1 and C2 are not sufficient. There is another condition on every threat, namely, the intent to intimidate the addressee. That is, the speaker must intend to express a further condition through an utterance, namely:

- C3 – The speaker's intention to intimidate the addressee through the addressee's awareness of the intention in C1.

Inherent in every threat is the intention to send fear into the addressee. Not necessarily abject terror, but some degree of fear.³ Consider the infelicity of a remark such as, 'I don't mean to frighten you but if you don't stop bothering me, I'll haul off and coldcock you.' In some cases, this intention may be expressed by the explicit statement of the act, itself, as in, 'I'm going to beat you 'til you can't see me anymore', and 'You're going to be severely punished for doing that'. In other cases, it is only

implied, cases such as 'I know you're alone tonight', and 'I'm too depressed to go on living, I'm going to jump'. Without this third speaker condition, the intent to intimidate, the utterance is not heard as a threat. For example, if the speaker is addressing a masochist and says, 'I'm going to whip you', we know the remark is not intended as a threat because the speaker did not intend to intimidate the addressee. Keep in mind that although the speaker must intend to intimidate the addressee, he need not actually accomplish this for a threat to be successful: 'Sure, the punk threatened me with the ice pick, but I wasn't frightened. Just let him show up here again.'

Thus, for speakers to issue a threat successfully they must intend to express three things by way of their utterance:

- 1 the intention to perform an act;
- 2 the belief that the state of the world resulting from that act is unfavourable to the addressee;
- 3 the intention to intimidate the addressee.

If we can ascribe these three factors to the speaker's utterance, we will say that a successful threat was made. Since performing an illocutionary act, an act of communication, depends only on the speaker expressing the requisite attitudes which define the act, and performance does not reference the addressee, a threat is successful independent of the addressee's beliefs.

This position, taken here, stands in stark contrast to that taken by Storey (1995) who wrote in the article abstract, 'However, because the interaction of language and context is inherently and ultimately unpredictable, it is surprisingly – if not impossibly – difficult to construct a context-independent definition of "threat".' I have claimed that it is indeed possible to get a context-independent definition of a threat, but virtually impossible, as we will see, to determine with certainty when a threat has been made.

Now, if the addressee upon hearing the utterance recognizes that the speaker has expressed these three conditions, we can say that a threat was communicated. Keep in mind that in recognizing the three conditions expressed by the speaker, and thus identifying the speech act as a threat, it does not follow that the addressee endorses the view that the resulting state of the world to be brought about is unfavourable to his interests and/or feels intimidated by the prospect of the new situation. Also keep in mind that if the addressee is indeed intimidated by the threat (not part of what it means to be a successful threat), this is a perlocutionary effect of the threat. The act of threatening does not depend on intimidating the addressee for its success. I will have more to say on this later.

It should be clear that a threat may be intended and actually made but not communicated. This lack of communication can occur in several ways. Ambiguity can cloud the issue. For example, remarking, 'If you don't like my drawing, I will go elsewhere', can be heard as a threat, or, if the speaker simply wanted to accommodate the addressee, merely heard as an offer to change location. Or, a threat can be made without being heard by the intended addressee. The threat, 'I'm going to get you for that remark', could be conveyed to bystanders but not to the addressee who might not be listening at the time. Of course there are occasions when a threat can be made to an addressee but go unrecognized, thus not successfully communicated. This might occur when the speaker says 'I'm gonna cap you [beat you up]', but the addressee has no idea what *cap* means. It also might occur if you don't believe you will be affected by the act specified. For example, if I say to you, 'I am going to examine all the travel vouchers today', with the intention of exposing the travel fraud of you and your colleagues, you may feel perfectly sanguine about my doing this if you believe your travel vouchers have been taken out of the voucher file.

Although typically a threat is made to the person being threatened, there are occasions when an addressee can hear an utterance as a threat when it was not specifically intended for him. Suppose, for example, I say, 'I'm going to find and punish the person who painted over the "No Smoking" sign', in the presence of the perpetrator of the vandalism. I will not have made a threat to that person, if I remain ignorant of the role the addressee played, although the addressee may rightly construe it as a threat. Similarly, if I say to you, 'I'm going to clean out the far storeroom in ten minutes', and in there you have set up a bed to sleep on the job, I cannot intend it as a threat since I have no reason to believe that the resulting state of the world will be to your disadvantage.

Finally, there are several conditions on a threat which are assumed to hold but needn't. If they hold, the threat is felicitous, if they do not hold but C1 and C2 hold, the threat is successful but infelicitous. The first of these is that the speaker believes the performance of the unfavourable act is under his or her control, that is, that the speaker believes he or she has the power and/or capability of bringing about the new state of the world. Threatening by uttering to your foreman, 'If you give me another order, I'll report you', is an empty threat, since an employee does not have the authority to report a foreman for giving an order. A threat, but an infelicitous one. The second is that the speaker believes that the result specified in the condition of a conditional threat be capable of satisfaction by the addressee. To utter, 'If you don't recite the alphabet backwards in twenty seconds, I'll kill you', is a threat but an infelicitous one, on the assumption that the speaker believes the twenty-second requirement is impossible. A third felicity condition, again associated only with a con-

ditional threat, is that the speaker wants the condition met. To utter 'If you don't give a large contribution to your favourite charity, I'm going to fire you', is an infelicitous albeit successful threat.⁴

HOW IS A THREAT DIFFERENT FROM A WARNING OR A PROMISE?

I now want to examine briefly two similar but different acts: promising and warning. Whereas a threat involves the expression of an intention to bring about or be responsible for bringing about a state of the world believed by the speaker to be unfavourable to the addressee, a promise involves a pledge, a commitment, to perform an act (or be responsible for seeing that act is performed) which the speaker believes to be favourable to the addressee. There are two crucial distinctions:

- 1 intention to act versus commitment to act;
- 2 an unfavourable act intended to instil fear versus a favourable act intended to promote good feeling.

It follows from the first distinction that sanctions may be imposed for a broken promise, while no such redress is permitted for a broken threat. We do not find someone saying 'You threatened to fire me if I didn't finish by six o'clock, and you didn't. You lied to me. I'm going to report you.' Similarly, if the speaker believes the resulting state of the world to be advantageous to the addressee, for example, at a party stating, 'I'll bring you a drink', but in reality the addressee is a recovering alcoholic and eschews temptation, it is a promise, not a threat, although the addressee or other listeners may hear it as a threat.

A warning is much closer to a threat and, on occasion, the distinction is blurred; for example, 'If you do not perform better, I'm going to take away your promotion'.⁵ A warning is made by the speaker expressing to the addressee

- 1 the belief that some unfavourable state of the world exists ('The ice is thin') or will exist ('I'm going to turn on the sprinklers');
- 2 the belief that this state of the world is unfavourable to the addressee's best interests;
- 3 the intent to inform the addressee before a harmful effect can ensue.

The warning need not be a situation that is under the speaker's control ('It is going to rain today'), and a warning doesn't require any special status or power, but the content of the warning must be suitable between the parties. It's likely that a warning remark to the President to the ef-

fect, 'You are getting fat', would not be appropriate whereas a warning 'Your pants are on fire', would be perfectly appropriate. Notice that although you can make an empty threat, or promise, you cannot make an empty warning.

While a threat typically takes the form of a declaration with the speaker as the agent ('I'm going to get you'), with a condition possibly present, a warning typically takes the form of a declaration about the problematic condition, such as 'The foreman is coming down the hall', or an imperative-like form such as 'Don't do that', or 'You should be careful of that because it is very hot'.

The intended effect of a warning is not to intimidate or coerce, as with a threat, but to bring to the addressee's awareness a state of the world (or one about to occur), which, in the speaker's view, the addressee should want to avoid. If there is any fear from a warning, such as might occur from, 'I am warning you again that the applications are due on Tuesday' or 'The snow is creating dangerous road conditions', it is fear arising from the state of the world which exists or will exist, not fear arising because the speaker was creating a state of the world, as is the case with threats.

It is interesting to explore the point at which a warning can become a threat. This occurs, not when the warning involves natural causes ('Watch out for that falling debris'), but only when the speaker is the agent of the warning action. Consider a statement such as 'If you don't pay your premiums on time, your insurance policy will be cancelled' made by an insurance agent in two different contexts. The first, is where the agent has prefaced this remark with something like, 'I'm sorry, Mr. Jones, to have to tell you this, but...', while the second is something like 'Look, Jones, you have been taking advantage of my company's good will for six months now and it's going to stop'. The former is clearly a warning, the latter clearly a threat, with the difference between the two situations being the intent to intimidate. Similarly, the comment 'If you don't improve your performance, I'm going to take away your scholarship', could be either a threat or a warning, depending on the speaker's attitude towards the addressee. If the speaker is benevolently inclined ('I don't like to tell you but if you don't improve your performance, I'm going to have to take away your scholarship'), it is a warning, whereas if the speaker wants to intimidate the addressee, perhaps for the addressee's own good ('I have told you for the last time, if you don't improve your performance, I will take away your scholarship'), it is a threat. This last example reflects the fact that threats do focus on an action that is unfavourable to the addressee and reflect the speaker's intent to intimidate, but they may be inherently good on occasion.

Perhaps the best way to view the differences between these acts is to view a table, similar but not the same as that in Shuy (1993).

Table 1

<i>The act is oriented</i>	<i>Threat</i>	<i>Warning</i>	<i>Promise</i>
to the speaker's benefit	no	no	no
to the addressee's benefit	no	yes	yes
to the speaker's detriment	no	no	no
to the addressee's detriment	yes	no	no
speaker controls outcome	yes	?	yes
addressee controls outcome	?	?	?
speaker committed to act	no	no	yes

From the previous discussion, and Table 1, you can see that none of the acts discussed are arguably made for the speaker's benefit (as are requests) or to the speaker's detriment (as are offers), and whereas warnings and promises but not threats benefit the addressee, only threats are a detriment to the addressee. The speaker controls the outcome of a threat and a promise (conditional or not, the speaker can elect to not act) whereas for natural warnings the speaker wields no control. On the other hand, for threats, warnings, and promises, if they are conditional, the addressee has control over the outcome. Finally, only with promises is the speaker committed to carry out the action.

HOW DOES A SPEAKER MAKE A THREAT?

Having now defined threats and distinguished them from warnings and promises, let us turn to examine how threats are conveyed. First, direct verbal threats. Surprisingly, although a threat is unassailably an illocutionary act (Bach and Harnish 1979), it cannot occur in the performative form. Thus, a speaker cannot utter 'I (hercby) threaten to whip you' or even the hedged performative form, 'I must threaten to whip you.'⁶ This runs counter to Austin's analysis: 'for we can say "I warn you that" and "I order you to" as explicit performatives; but warning and ordering are illocutionary acts. We can use the performative "I warn you that" but not "I convince you that" and can use the performative "I threaten you with" but not "I intimidate you by"; convincing and intimidating are perlocutionary acts' (Austin 1962: 130). This may be British in contrast to US usage but I doubt it. In no language have I found the ability to threaten with a performative sentence.⁷

Katz (1976) finds sentences of the sort, 'I threaten you that I will murder you', to be unacceptable but, in an effort to save the status of threaten as an illocutionary act, tries to explain it away. He offers that sentences like, 'I threaten you and your city with destruction unless you surrender', are perfectly acceptable and writes:

Threats promise harm to people as a means of getting them to do the will of the person making the threat. Thus, in the normal case, it is the menacing aspect of this expression of intention to do harm on which the threatener relies, and it is to be expected that the threatener will do nothing to make the threat less menacing ... it is also clear that the explicit performative form is a more formal, stylized, ceremonious mode of performing a speech act ... Since in general the more the emphasis on form, the less on content, it follows that, in order not to reduce the menacing aspect of the threat, the threatener will reduce the formal aspect of the sentence used to perform the speech act ... This explanation allows that cases like 5.117, whose speakers are generals of besieging armies, kings, and such will not sound peculiar, insofar as they can do without the ordinary rhetorical devices for promoting the menacing aspects of a threat, and their station in life calls for formality, style, and ceremony as a matter of course. (190-91)

Whether or not you agree with Katz and his 'conquering general' example, the fact remains that almost no threats can be made performatively.

The significance of this fact should not be underestimated, for it means that a speaker can never guarantee that a threat is intended. Whereas for a warning, for example, the speaker can use 'I hereby warn you that you are going to be late', and thereby make it unequivocal that a warning is intended, this is not possible with threatening. A threat is never explicitly stated and must always be inferred. Of course the verbs *warn* and *promise* can be used instead of *threaten*, for example, 'I warn you that I'm gonna cut you bad when we get outside', and 'I [can] promise you that you will never have another opportunity here', but I have found these 'misuses' of the verbs to be relatively rare.

So how are threats made? The simplest way is to utter a declarative sentence with the speaker as the agent of the unfavourable act. 'I'm gonna cut you bad' and 'I will get you later' are illustrative. Interestingly, it is not possible to have a direct, impersonal threat. An impersonal comment such as 'Tomorrow the administration is going to clamp down on all faculty who arrive late', is only heard as a warning, presumably because one cannot impute intention to intimidate to an institution.

However, as I said above, most direct verbal threats are conditional: either the addressee is to satisfy some condition(s), or the speaker will bring about an unfavourable state of the world. There are several syntactic forms, all of which carry approximately equivalent threats:

- 1 'If you don't stop talking, I'm going to punish you.'⁸
- 2 'Stop talking or I'm going to punish you.'
- 3 'Don't stop talking and I'm going to punish you.'
- 4 'Unless you stop talking, I'm going to punish you.'

The critical point for a direct, verbal threat is that the speaker expresses intention to perform the unfavourable act, typically signaling this intention by using *will*, *am going to*, *have to*, and the like. However, the fact that the speaker believes the resulting state of the world to be unfavourable to the addressee, and has the intention to intimidate the addressee, normally has to be inferred.

What distinguishes the intention to issue a threat rather than a warning, a promise or a report is often only the nature of the act referenced and the context in which it is used. The utterance of, 'I am going to pick you up at 7 p.m.' is a report if the speaker is alerting the addressee about dinner arrangements, a promise if the speaker is assuring that the addressee will not be left behind, a warning if the speaker is habitually on time and gets angry if the addressee is tardy, and a threat if the speaker is indicating that whether or not the addressee is finished, she must be ready to go at 7 p.m.

The indirect (implied) threat, where one has to infer the unfavourable act to be performed as well as its unfavourability and intent to intimidate, is certainly a problematic area. Considering the proposals of Gingsiss (1986), Al-Shorafat (1988), and elaborated on by Yamanaka (1995), one comes to the conclusion that there is no way to predict whether a sentence is intended as an indirect (implied) threat. Yamanaka attempts to set forth some guidelines for what sentences might count as indirect threats, arguing that they should be related to the statement of various preconditions for a threat based on Fraser (1976). She concludes her paper with Rules for Indirect Threats which read as follows:

If A makes an assertion to B (not necessarily explicitly or in a declarative sentence) about

- 1 A's ability to carry out an action X
- 2 A's intention to carry out an action X
- 3 the consequences of performing an action X or of a previously performed similar action Y
- 4 the occurrence of an action X in the near future
- 5 A's suspending of an action X in return for the satisfaction of A's demands of B

and all other preconditions for a threat are in effect, then A is heard as making a valid threat.

While it is not clear from her article what 'preconditions' she is referring to, I infer she means that the speaker believes he has the ability to act, intends to act, and believes the results of the act to be unfavourable to the addressee. However, I submit that this, and any other 'rule-driven' analysis, will not suffice for characterizing what count as indirect threats.

Some examples will illustrate. If the speaker of 'I will have to sanction you for doing that,' is a superior who reluctantly informs his subordi-

nate of the consequences of an action but who is unhappy about affecting his responsibilities, the utterance will not be heard as a threat, but rather as a report. The intention to intimidate is lacking. Other examples, such as 'You're late again', said by a boss to a subordinate, 'What do you think you're doing?', said by a security guard to a visitor, 'I know you're alone in the house', said on the phone by a man who has a restraining order out against him, and 'I know you're a smart girl and I'm sure you'll keep this to yourself', allegedly said by Bill Clinton, can all be heard as indirect threats but don't obviously fall under the ambit of the Rules for Indirect Threats. Consider the remark, 'How's David?' (Shuy, 1993: 99) asked by Don Tyner to Vernon Hyde at the end of a very contentious phone conversation about the latter's young son. This question does not fall within the above rules and yet it was heard as a serious threat on David's life according to the Federal court which indicted Tyner.

In short, although we can specifically define what a threat is and what has to occur on the part of the speaker to issue a threat, there is no way to guarantee that a threat has actually been made. To perform a direct threat the speaker must provide the proposition which specifies the unfavourable act, thus providing the listener with at least a clue to the possible interpretation. However, the belief in the unfavourableness of the resulting state of the world and the intention to intimidate are seldom explicitly present. To perform an indirect threat, the speaker is under no such obligation and sentences covering a wide range of topics in every syntactic form can count as indirect threats, providing a connection can be made between what is said and the unfavourable act and results.

WHAT FACTORS DETERMINE IF A THREAT WAS MADE?

Anyone can threaten, but will the utterance be heard as a serious threat? Given that the speaker has said something that might be construed as a threat, how are we to assess whether or not it really was a threat and how seriously to take it? That is, words often aren't enough, and it is necessary to place an utterance in its context to determine if a threat was made and, if so, whether it should be taken seriously. We have seen above that a threat need not be in any particular form or phrasing, it may be issued by suggestion or innuendo, and certainly need not contain all the elements of the definition. In other words, what do we use to ground the conclusion that a serious threat was made?

The case of *Metz v. Department of the Treasury* (780 F.2d 1001 (Fed.Cir. 1986)), tracking other cases cited there, set forth the standard the Merit Systems Protection Board should use in deciding that a 'true threat' was made. This standard states that it is 'the connotation which a reasonable person would give to the words in order to determine if the words constituted a threat ... The board [must] consider the following evidentiary factors ...' (1002)⁹

- 1 The listener's reactions;
- 2 The listener's apprehension of harm;
- 3 The speaker's intent;
- 4 Any conditional nature of the statements; and
- 5 The attendant circumstances.

I have used their list as a guideline in presenting some of the issues which must be confronted.¹⁰ That is, all things considered, is the threat actionable under the circumstances, or is it merely a blip on the screen and not worthy of further consideration? An act of threatening isn't always taken as actionable and the factors set forth below must be considered and weighed in order to make a decision.

The first factor is the speaker's state of mind.¹¹ Granted, in a direct threat the speaker has symbolically made his intentions manifest, but we still have to assess his true intentions insofar as this is possible. For example, does the threatener have the capability of carrying out the threat? Is he a 5ft. 2in. 120 pound kid, who threatened to beat to a pulp with his fists his 6ft. 3in. 220 pound fellow employee, or is he more than large enough to carry out his threat? If he threatened to use a gun, does he own one or have access to one, and does he know how to use one? Does the threatener have the opportunity to carry out the act? Did he call his supervisor from prison, threatening to get him for informing on him, or did he make the threat from the next room? What is the relationship between the two? Is it contentious with constant bickering, are they brothers who make outrageous threats to each other, or do the participants hardly know one another? What was the mental state of the threatener? Was he alert and sober or was he tired, inebriated? Is he under particular pressure, for example, going through a messy divorce? What is the threatener's history of making threats on and off the job? On those occasions when he previously had made a threat, did he carry it out, or is he prone to make threats and forget about them the next day? What is the cost to the threatener? Can he carry out the threat with little or no fallout, or will he be severely disciplined, maybe fired? If the cost of carrying out the threat is small, the credibility of his intent may be greater. And finally, how did the speaker issue the threat? Was he angry and did he say things which would suggest the degree of anger, or was he calm and matter-of-fact?

The second factor is the addressee's apprehension of the seriousness of the threat. What was the addressee's immediate reaction to the threat? Did he call the police, run and hide, did he contact a friend or supervisor to report the threat, or did he calmly return to work or go for lunch with his crew?

Third, what are the attendant circumstances of the threat? Did anyone but the addressee hear the alleged threat? Did the threatener have the authority to make the threat to the addressee, for example, a supervisor threatening to fire a subordinate unless he got his work done on time. What is the

nature of talk in the workplace? Do employees regularly use coarse language and threaten each other with mayhem or is the environment typically civil and decorous? What was the unfavourable act that was threatened? Being killed, being beaten, the throwing away of some files, or just being ignored? Did the threat occur on the company property or when the employees were off duty? What was the source of the threat? Was the addresser hitting on the threatener's wife, was he playing a radio loudly disturbing the working environment, or did he 'look weird' at the threatener? Or was the threat only hearsay? Was the threatener goaded into making a threat? Was the threat work related or personal? Was there any external pressure on the threatener? Was he under great pressure from his supervisor to get the job done or was his threat solely self-generated? Then, there is the question of cultural differences surrounding the making of threats. According to Kochman (personal communication), African-Americans are much more likely to issue a threat and not intend to carry it out, whereas Anglos, once having made the threat, feel obliged to carry it out in order to save face. And, of course, some cultures treat a given threat more seriously than others. For example, a Japanese's fear of going to jail, even briefly, is much greater than an American's.

Finally, there is the issue of conditionality on the threat. Did the threatener simply say, 'I'm going to kill you when we get out of here', or did he put a condition on it, for example, 'If you don't shut that radio off right away, I'm going to kill you when we get out of here.' Conventional wisdom has it that the easier it is to fulfil the condition, the less serious the speaker is about carrying out the threat.

CONCLUSION

In the foregoing I showed that there is an unequivocal definition for the speech (illocutionary) act of threatening: the speaker must intend to express by way of what is said

- 1 the intention to personally commit an act (or to see that someone else commits the act);
- 2 the belief that the results of that act will affect the addressee in an unfavourable way;
- 3 the intention to intimidate the addressee through the awareness of the intention in 1.

After distinguishing threatening from promising and warning, I showed that even a direct threat typically only makes explicit the menacing act and, thus, it is problematic from the words alone to determine if a threat has been made. I then presented several classes of factors which, when weighed appropriately, will facilitate in the grounding of a conclusion that a serious threat was made, though not guarantee it.

None of this helps define the legal or arbitral definition of a threat, and reference to cases in both domains reveals that there is considerable variability. Nor have I provided an algorithm which you may apply to discourse and thereby conclude whether or not a threat was performed. However, I have tried to look at threatening from a number of different perspectives and thereby increase your sensitivity when making an assessment of threatening language.

NOTES

- 1 An earlier version of this paper was given at the International Association of Forensic Linguists 3rd Conference, September 1997. I am indebted to the participants for many useful criticisms. The examples used in the paper are drawn primarily from arbitration decisions – both mine and by other arbitrators. Since many of the awards are not published, I will not provide the citations for any.
- 2 Note that simply threatening to expose information is normally not illegal; it is the condition for not acting that renders it an illegal act.
- 3 I am using 'intimidate' in the sense to instill fear in one, not in the sense of instilling awe, 'He intimidates me with his rhetorical prowess'. I have not found any convincing cases of intimidation through words only that didn't involve a threat.
- 4 Although I will not be considering non-verbal threats and threatening, the definition of a non-verbal threat is the same.
- 5 Note that you can *issue* a warning, a threat, or a promise, but you can only *make* a threat or a promise, and only *give* a warning and a promise.
- 6 A speaker can use the present, habitual sense, for example, in response to being asked what you say each time your child misbehaves, you say, 'I threaten to whip you'.
- 7 The non-performative use occurs with several other illocutionary verbs including *criticize* and *blame*.
- 8 Note that if the declarative sentence reads 'I'm going to have to punish you', the utterance sounds more like a warning than a threat.
- 9 This case is not the only one to set forth guidelines for construing remarks as threats, but it will serve to provide a framework.
- 10 Note that I am not considering the degree of legality here for that would depend, among other things, upon the charge involving the threat and, in the employment context, the standards used for discipline.
- 11 I am assuming a male threatener.

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