# Dialogues in Argumentation

Edited by Ron Von Burg
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# Windsor Studies in Argumentation

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**Table of Contents**

## Acknowledgements

**Introduction-Dialogues in Argumentation**

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The relationship between dialogue and argument enjoys a rich, intellectual history. The interactive nature of dialogue features in many approaches to the study of argument, from the dialectical to the rhetorical to the sociological. However, the virtues of argumentative dialogue in the academy are often liabilities beyond its wall. In the contemporary moment, many outside the academy treat colloquial understandings of an argumentative dialogue as a good conversation ruined. The common usage of "argument" implies confrontation and hostility, an indecorous turn that disrupts pleasant exchanges populated with personal opinions. When such assertions face scrutiny, many are all too willing to retreat to the dialogue-ending retort: "Well, that's just my opinion."

As the circumference of argumentative dialogue widens to public spheres, we find that quarrelsome discourse does not carry the same liabilities as it does in interpersonal dialogues. The echo chambers of modern media establishments that satisfy the tendency for epistemic closure and opinion-affirmation are often the most conducive to confrontational and combative discourse. Political talk show hosts of all ideological stripes hurl clichéd invectives at the opposition, forgoing any intellectual charity or search for commonalities. Moreover, a cursory glance at contemporary American political discourse reveals spirited and contentious disagreements that mask a dearth of argumentation acumen. Public debates over climate change, abortion rights, foreign policy, and gun control, to name a few, are some of the most strident disagreements riddled with fallacious reasoning, poor evidence usage, and unsupported claims. Political debates in Europe and Canada, unfortunately, do not fare much better.

For argumentation scholars, this is a troubling phenomenon. Argument should be a celebrated concept, a testament to the virtues of sound reasoning, credible evidence, and justifiable rationality. Argument, while inviting clash, need not be confrontational but a productive pursuit of resolving disagreement, guiding action, and advancing knowledge. In navigating the muddy waters between theory and practice, argumentation scholars who study argument as it happens and aspire to offer correctives when rationality and reason are lacking will find a bevy of opportunities for scholarly and pedagogical intervention.

Previous collections of argumentation scholarship, such as van Eemeren and Houtlosser's (2005) edited volume *Argumentation in Practice*, highlight the importance of studying argument *praxis*, encouraging theoretically informed criticism of actual argumentative practices. Such volumes, and the field of argumentation studies in general, benefit from enriching interdisciplinary conversations that bring into dialogue multiple methodologies and distinct cultural interests to lay a foundation for new opportunities to improve argument *praxis* and criticism.

This collection reflects a similar spirit, asking tough questions of ourselves and of the argumentative practices we study, especially in the contemporary moment when public dialogue is marked by truculence and discord. This volume, which brings together selected essays from the 2006 11th Wake Forest University Biennial Argumentation

Conference held at Florida Atlantic University in Boca Raton, Florida and the 2012 14th Wake Forest University Biennial Argumentation Conference held at Casa Artom in Venice, Italy, emerges from a rich history of conferences that seek to meld theory and practice, advancing a dialogue about argumentation well beyond national as well as disciplinary borders.

The Wake Forest University Biennial Argumentation Conference began in 1982 as a biennial event to help promote argumentation scholarship among directors of intercollegiate debate.[1] The first three iterations of the Conference were held on the Wake Forest University campus in Winston-Salem, North Carolina, before alternating between the main Wake Forest campus and the Wake Forest University Venice, Italy campus— Casa Artom—in 1988, with the exception of the 2006 Biennial Conference held at Florida Atlantic University. The Biennial Argumentation Conference boasts a rich history of producing exceptional argumentation scholarship, from edited volumes[2] to special issues of flagship argumentation journals[3] to landmark essays in notable rhetoric and argumentation journals.[4] This volume seeks to be part of that storied tradition by including essays from numerous celebrated argumentation studies scholars who engage fundamental questions about the breakdown of argumentative dialogue and how argumentation studies can provide insight into stalled public dialogue.

David Zarefsky, in his opening essay "On Deep Disagreement," identifies the widening chasm between the vibrant and historically rich study of argumentation and its contemporary practice in various deliberative spaces. Zarefsky notes that deep disagreement—a "controversy all the way down in an infinite regress [where] there is *no* shared framework that can serve the arguers as a common standard or point of reference" (12)—plagues our contemporary discourse. The disjuncture between argumentation theory and the practice of argumentation, where deep disagreement is commonplace, provides an opportunity for further scholarly intervention.

Hansen pulls on a similar thread, identifying unique contributions of argumentation studies on argument practices beyond the academy. Hansen illuminates this challenge by posing a series of provocative questions: why study argumentation? If all disciplines promote argumentation, what is the unique value-added of an argumentation studies discipline for the academy and beyond? These questions of disciplinary anxiety have troubled many other disciplines, including one of

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[1] For a detailed history of the Wake Forest Argumentation Conference, see Williams, D. C. & Hazen. M. D. (2009).

[2] See Williams, D. C. & Hazen, M. D. eds. (1990). *Argumentation Theory and the Rhetoric of Assent*. Tuscaloosa, Alabama: University of Alabama Press and van Eemeren, F. H., Hazen, M. D., Houtlosser, P. & Williams, D. C. eds. (2006). *Contemporary Perspectives on Argumentation: Views from the Venice Argumentation Conference*. Amsterdam: SIC-SAT Publishers.

[3] See Williams, D. C. & Hazen, M. D. eds. (2009). Special Issue. *Argumentation & Advocacy* 45 and Von Burg, A. B. ed. (2011). Special Issue on Argumentation and Democracy. *Controversia* 7:2.

[4] For example, Gross, A. G. (1988). "On the Shoulders of Giants: Seventeenth-century Optics as an Argument Field." *Quarterly Journal of Speech 74*:1, 1-17; Madsen, A. J. (1993). "The Comic Frame as a Corrective to Bureaucratization: A Dramatistic Perspective on Argumentation." *Argumentation & Advocacy 29*:4, 164-177; Jasinski, J. (1993). "(Re)constructing Community through Narrative Argument: Eros and Philia in *The Big Chill*." *Quarterly Journal of Speech 79*: 4, 467-486.

argumentation's intellectual kin: rhetoric.[5] Hansen allays such concerns by introducing *argument profiles*—sketches of argumentation behavior based on "concepts unique to argumentation studies such as argumentation schemes, dialogical roles and responsiveness" (30)—as practical interventions into public discourse.

One argumentation scheme with noticeable practical application, argument from analogy, is also one with the most troubled standing. Do analogies serve as sufficient proof or persuasive fallacies? Hample's contribution to this volume, which is part of a larger series of studies on defeasible arguments in conversation, engages such questions by testing the argumentative force of analogies when introduced into conversation. The experiment tests whether analogies introduced into a conversation have a convergent effect in supporting a position. In confirming the suspicions of argumentation theorists, analogies are often greeted critically, and do not possess a cumulative effect in promoting adherence to a specific claim.

Blair moves us from the practical to the normative, investigating the possibility of an ethics of argumentation. Argumentation theory is rife with discussions of norms, ethics, and judgment, but there remains the question of whether there exists a moral normativity with argumentation itself. For Blair, the answer is "under certain circumstances." Blair rejects the idea of a "non-moral" form of argumentation that is entirely free from any ethical or moral obligations, contending that under certain circumstances and in special cases moral normativity of argumentation has *pro tanto* applications.

Debates often materialize when there is a disagreement over values. But in the current discursive climate where unassailable scientific evidence and notarized birth certificates are treated as hoaxes and conspiracies, Klumpp contends that the breakdown in social argument is not a disagreement over values, but a discrepancy in facts. Klumpp locates this breakdown in a burgeoning distrust of institutions that provide factual information for public deliberations: mass media and government. Klumpp notes "[o]ur democracy avoided the problems of anomie because in the end we had recourse to these two institutions to provide reliable starting points to resolve the controversies of democratic dispute. At the dawn of the 21st century, however, these institutions have failed. The result is a weakened civic argument" (97). Repairing civic argument, however, is a herculean task, one that requires focused engagement with the very features that have complicated contemporary public argument.

In a similar spirit, Bruner challenges assumptions concerning the relationship between the rational and the reasonable. By putting Husserl, Derrida, and Perelman into dialogue to flesh out the relationship between these concepts, Bruner identifies a more universal meta-reason that better helps our understanding of political transformation. In this impressive engagement with luminaries of critical theory and modern western philosophy, Bruner suggests that by revealing the rational dimensions of the reasonable, we are better equipped to unearth the "structuring fictions" that inform political reason.

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[5] Similar questions have dogged rhetorical studies, whereby identifying the ubiquity of rhetoric threatens the uniqueness of its theoretical and critical insights. This debate is captured in Gross and Keith's edited volume, *Rhetorical Hermeneutics*. Dilip Goankar's opening essay calls into question the theoretical viability of rhetoric of science; the nature of this critique is equally applicable to rhetorical studies writ large. The subsequent essays offer extensions and rebuttals to Goankar's discipline questioning critique (see Gross & Keith (eds.), 1997).

Bruner contends that argumentation scholars are in a unique position to explore the repressed and rhetorically unconsciousness elements in public argument, rendering such structuring fictions visible.

The poststructuralist turn and the rise of social constructivism have certainly taken their toll on the status of facts in public debates. Therefore, it is rather ironic that the Internet, and its promise as a democratizing technology, is also a hyperreal bastion of unsupported "facts" and rancorous opinions. Yet, the Internet is an undeniable force in public argument. Goodnight engages features of cyberspace, specifically the meme, to demonstrate how the Internet changes argumentative culture, even as it has roots in the discursive practices of the past.

The second half of the volume brings into dialogue a series of case studies, informed by a variety of methodologies, from Pragma-dialectics to rhetorical criticism, that outline the features of contemporary public argument. These case studies draw from a variety of international settings, including the Egyptian presidential race, the European Parliament, Russian politic, American institutions, and visual apologias. Each case study provides an important insight into the role of public argument in contexts with differing institutional relationships with democratic deliberation.

Although many of these deliberative institutions seek to resolve disagreements with a yes or no binary, most of the deliberations are rarely two-sided affairs with distinct and exclusive interests in the resolution. Strategic maneuvering, an aspect of Pragma-dialectics' engagement with rhetorical forms of argument, highlights how parties navigate multi-dimensional debates. In "Dialectics and Polylogues: The Case of Multi-party Deliberations," Lewiński examines the deliberations during the 2012 presidential elections in Egypt to promote the concept of argumentative polylogues to account for the limitations in dialogics in multiparty deliberations. Lewiński draws upon strategic manoeuvring to account for the shifting focus during electoral debates for the three candidates for the Egyptian presidency, revealing the limitations of issue-based and role-based dialectics in decision-making where there are more than two solutions.

Mohammed turns our attention from decision-making in multi-party deliberations to a single interlocutor navigating multiple institutional and discursive goals. Mohammed's examination of European Parliament deliberations over immigration and the Schengen Agreement reveals how concessions functioned as strategic maneuvering to achieve distinct argumentative goals and promote positive outcomes for more than one standpoint at the same time. Mohammed highlights how such strategic maneuvering discloses numerous institutional features of the European Parliament that shape the deliberative process.

Whereas deliberative settings often accommodate such maneuverings, the democratic legitimacy of the judicial arena relies, purportedly, on avoiding overtly political argument. However, Placone argues that the Supreme Court of the United States, ideally a nonpartisan entity that adjudicates disputes based on the soundness of one's arguments, is a "political" institution. Placone notes that the *Casey* opinion, a case determining access to abortion services, blends both deliberative and forensic discourses, deciding arguments not solely on their judicial merit, but also their political ramifications. Placone's essay calls for greater scholarly attention to *amicus curie* briefs, which appeal to deliberative arguments to influence judicial judgments.

For a volume that seeks to advance dialogues about argumentation, it is fitting that we begin with deep disagreement and conclude with reconciliation. Winkler's essay highlights the important, but often overlooked, role visual images play in apologia and reconciliation. She contends that in the age of the Internet and recirculating images, understanding how visual depictions of apologia function argumentatively is essential for recognizing ways to advance healing and dialogue.

The essays in this volume demonstrate how dialogues, be they across time, context, or methodology, offer new insights into argumentative practice. At their best, dialogues celebrate a sense of openness, a freedom for interlocutors to share thoughts unfettered by ubiquitous forces that silence or fetter such an exchange. At their worst, dialogues devolve into solipsism or polemics, an interaction where common ground remains elusive, and perhaps even avoided, where the interlocutors have little to no regard for the utterances of others. In a moment marked by deep disagreement, productive argumentative dialogues are essential. The volume, which brings together some of the finest scholars in argumentation studies, hopes to be a step in that direction.

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**On Deep Disagreement**

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Abstract: Deep disagreement is a concept that has been widely mentioned but is under-theorized in the argumentation literature. This essay discusses what deep disagreement is, argues that it has become more frequent and serious, and then maps out a range of argument patterns that may be signs of its appearance: polemic, condemnation, paradigm shift, and interdependence. Finally, the essay suggests that rhetorical moves may be needed to alter the frame of reference and transcend the disagreement. Most of the examples come from the United States, because I know it best, but I believe that my claims are applicable generally.

Key words: deep disagreement, argumentative impasse, polemic, paradigm shift, transcendence of conflict

1. The notion of deep disagreement

Contemporary argumentation research is sophisticated and robust, marked by rich theoretical and critical inquiry, with programmatic pursuits under such headings as informal logic, rhetorical criticism, pragma-dialectics, polemics, and dialogue logic, and supported by an infrastructure of conferences, journals, and books. The practice of argumentation, in contrast, is impoverished. Extensive reconstruction is needed to make anything like arguments out of much public discourse and, rather than engage each other, opposing arguments often reach an impasse. Meanwhile, at least in the English language, argumentation has the connotations of quarrelsomeness, contentiousness, or barely sublimated violence. In short, argumentation does not enjoy a good reputation and is not practiced very well.

This condition is apparent immediately to those immersed in U.S. politics. This state of argumentative deadlock extends far beyond American shores, however. It includes those who were trying to respond to the precarious state of the euro in 2012 and 2013, those trying to advance the Arab spring of 2011 to whatever its next phase might be, and those who were trying to "reset" relationships between the United States and Pakistan, or for that matter, the United States and Russia. It seems that at many spaces in the public sphere, men and women are unable to use argumentation as a means of deliberation, decision, and action. Instead, intentionally or not, argumentation often thwarts those objectives and results in stalemated discourse.

There is a term to describe this state of affairs. It was put forward by the American philosopher Robert J. Fogelin nearly 30 years ago, almost offhandedly in a relatively informal essay (Fogelin, 1985). The term is *deep disagreement.* It is the antithesis of superficial difference and refers to a situation in which there is controversy all the way down in an infinite regress: there is *no* shared framework that can serve the arguers as a common standard or point of reference. Although Fogelin coined the

contemporary term, the concept of deep disagreement can be traced back to the sceptics of antiquity.

In proposing this construct, Fogelin noted – as have many other writers – the paradox that one cannot have productive disagreement without some underlying agreement (Fogelin, 1985; Perelman & Olbrechts-Tyteca, 1969: 65; Ehninger, 1958: 28; Brockriede, 1975: 182; MacIntyre, 1984: 8). The need for an underlying stratum of agreement among disputants arises from the fact that, outside of formal reasoning, there are no universally accepted standards of judgment. Acceptability therefore depends upon consensus among the arguers in a given case. If I advance a claim and you doubt it, I must provide a warrant for it that will satisfy you or some third party we both have selected to adjudicate the dispute. If, say, my warrant comes from the Bible and you regard the Bible as a work of fiction with no status as an authoritative text, then I must either stop and legitimate the Bible as a warrant or else come up with some other warrant. If you do not accept the authority of that warrant either, then I must find something else yet. To resolve our disagreement, we need to find *some* common standard to which we can both appeal and then see which of our appeals is more compelling. If arguers go on and on, unable to find any common basis for judgment until, in Professor Griffin's felicitous phrase, "the well of invention runs dry" (Griffin, 1952: 186), then our infinite regress produces the condition that Fogelin labeled deep disagreement. Interlocutors may withdraw in frustration, or the dispute may proceed indefinitely without any advance.

Fogelin assumed that such situations would be rare. In normal argumentation, he believed, there is a whole web of unstated assumptions that the parties share and that are non-problematic. These include assumptions about what counts as evidence, what counts as proof, what procedures will be followed, and what are some of the basic axioms or beliefs of the culture to which arguers explicitly or implicitly stipulate. These do not enter into the argument unless either party has an occasion to question them, and on such occasions they are readily identifiable and can be addressed without an infinite regress. It was only on very infrequent occasions, he believed, such as conflicts among philosophical schools, that all the elements of this assumptive structure would be knocked out. If that happened, the result would be deep disagreement that seemingly could not be resolved. Fogelin evidently had in mind the model of dialogue between philosophers on timeless questions, so he did not assume that deep disagreement on such matters necessarily would be harmful. The fact that contemporaries dispute many of the same questions that challenged the ancients is not regarded as a problem. There is no urgency requiring speedy resolution. Fogelin advises the arguers in such a case to pursue "non-rational" means of persuasion because those are the only means available. This advice muddies the waters because Fogelin does not identify what his standard of rationality is. Presumably he judges rhetorical appeals that do not meet formal standards of argumentation as non-rational.

2. Re-examining Fogelin

On the twentieth anniversary of the publication of Fogelin's essay, the journal *Informal Logic* reprinted the article (Fogelin, 2005) and featured a set of responses that show that the original article remained controversial. Fogelin continues to attract respondents from time to time. Dana Phillips criticizes Fogelin for exaggerating the extent of the shared assumptive framework that was necessary for argumentation to take place. For Phillips, agreed-upon substantive beliefs are not required, only procedural

rules. In order to understand each other at all, the arguers "must agree on the meanings of at least some terms or signs," but "the potential for fruitful argument does not require any common beliefs" (Phillips, 2008: 87-88). Phillips implies that Fogelin is being overly pessimistic about the possibility of finding underlying agreement and hence that Fogelin is too quick to give up on argumentation.

In a different critique, David Adams (2005) finds Fogelin's conception even less useful, since even if in fact there are no common anchors for an argument, there is no way that the participants in an actual dispute could know that to be the case. Accordingly, they never know when to make the switch from presumably rational to non-rational means of appeal. Therefore they ought to continue as before, pursuing the search for a common foundation to their dispute. If that is what happens, then the concept of deep disagreement has no practical use. It describes a state of affairs that may or may not exist but in any case cannot be experienced.

Dale Turner and Larry Wright (2005) advance a different complaint: that the alternative decision-making methods to which Fogelin defaults are not necessarily non-rational. There are many disputes, they note, that turn on "what is to count as proper understanding and genuine competence as much as (…) the substantive topic," and observe that if all these depend upon non-rational resolution, "then much of the motivation for the appeal to argument in such disputes is undermined" (Turner & Wright, 2005: 30). Instead, even while they suggest that arguers can try to "walk back" the disagreement to neutral ground and then proceed carefully, step by step, they nevertheless acknowledge that in practice rational decision-making activities are embroiled "in a complicated mix of friendly cajoling, facile eloquence, strategic positioning, social pressure, verbal threats, and pure negotiation" (Turner & Wright, 2005: 33) and that "the felt urgency of these issues naturally undermines the patience required to treat a subject of this depth and subtlety" (Turner & Wright, 2005: 32). The difficulty with this critique is that neither Turner and Wright, nor Fogelin, has offered clear criteria for what counts as rational. While the word "rationality" is used primarily as an epithet, one detects that Turner and Wright believe that argumentation can be used more extensively than Fogelin thinks, notwithstanding its susceptibility to the claim that it produces deep disagreement.

Finally, there is the critique of Vesel Memedi (2007), who points out that the seeming intransigence that can develop in a two-person dialogue can be mitigated by bringing into play a third-party judge. This changes the task by orienting the advocates to persuading the judge, not each other. There is much sense to this suggestion, but it does not deny that deep disagreements still arise between the advocates, or between any of the advocates and a third party.

In sum, then, the critiques of Fogelin do not dissolve the problem of deep disagreement. Fogelin examines deep disagreement as a philosophical condition, a conceptual impasse that results when arguers' assumptions in fact are irreconcilable so that there is no way they can find a common foundation. In such a case, more argument will not help them; they can resolve their dispute only by non-argumentative means of persuasion. Understandably, a philosophical deep disagreement is rare. But there is also the much more common case in which arguers behave as if they were in a state of deep disagreement, whether or not a philosopher would agree that such is the case. If advocates behave as if there is "real" deep disagreement, they will produce the same consequences whether the deep disagreement is real or not. In such a case, more rather

than less argument is called for. This may include rhetorical moves that enlist what Fogelin appears to regard as non-rational means of persuasion. They can be employed for the rational purpose of exposing the lack of "real" deep disagreement and thereby opening a path for reconciliation. The remainder of this essay will examine disagreements of this latter type.

## 3. The frequency of apparent deep disagreement

Two factors make at least the appearance of deep disagreement in contemporary argumentation practice far more frequent than either Fogelin or his critics imagine: the rise of religious fundamentalism around the world, resulting in the interpretation of issues as matters of moral certainty, and the discovery (particularly in the U.S.) that polarization enacting the posture of deep disagreement – whether or not sincerely felt – is politically useful.

### 3.1    Religious fundamentalism

Within many of the world's major religions, the past generation has seen a resurgence of fundamentalism. This is true of ultra-Orthodox Judaism, evangelical Christianity, and radical Islam. In general, fundamentalists believe that it is possible to know God's will for sure. They therefore reject the assumption of human fallibility and the resulting tolerance for diverse viewpoints. If one knows God's will for sure, there is no reason to tolerate error by others. Rather, fundamentalists view their task as the discovery of God's true word, its proclamation, and its infusion into social discourse and practices. Politics, for example, is not seen as an area separate from religion, but as one of the sites in which religion works its influence. Politics normally is understood as an arena for compromise. But if politics is regarded as an outlet for moral truths, then it is not open to compromise (Zarefsky, 2012a). Even seemingly long-settled social values, such as a woman's right of access to contraception, are back on the table, at least in the United States, if the seeming resolution offends fundamentalists. And what might seem like a pragmatic compromise in the Affordable Care Act (popularly known as Obamacare) – recognizing women's right of access to contraception without requiring the church to pay for it if it disapproved – was regarded by true believers as a sellout because it ceded the principle that contraception is immoral. If argumentation proceeds in such a vein, it is not surprising that deep disagreement will often arise. Between the claim that one knows God's word for sure and the claim that it is impossible to do so, an impasse will develop quickly.

(I focus on religious fundamentalism because it is widespread, but a counterpart development, at least in the United States and other advanced democracies, is the prevalence of "rights talk," the claim that something or other accrues to human beings as a right because of their humanity.  If health care, employment, or personal safety, for example, is a right, then prudential arguments against its necessity or value have no traction. Things that are clearly *rights* are not subject to dispute. "Rights talk" has the same argument-stopping character as religious fundamentalism. Ultimate appeals to religion tend to characterize the ideological right and appeals to rights tend to characterize the ideological left, but both are forms of fundamentalism.)

### 3.2    Political polarization

Political polarization, too, brings with it seemingly irreconcilable disputes, because the underlying political ideologies are fundamentally at odds. From its history as a two-party nation in which both parties are broad-based coalitions, the United States has

moved over the past 30 years in the direction of ideologically distinct parties characteristic of a parliamentary system but without the presence of multiple parties creating the need for coalition building. Even in parliamentary democracies, though, deep disagreement can thwart the effort to build coalitions, as a minor party being approached to join a coalition may be able effectively to stalemate an argument by requiring major-party acceptance of their extreme moral position as the price of joining a coalition. This is part of the explanation for the near-failure to form a Greek government in May of 2012, and more generally for the turmoil in the euro zone and in the Middle East. In the United States, political party identification is the single greatest predictor of polarization. In particular, according to a study from the American Enterprise Institute and the Brookings Institution, "Republicans in particular have become so extreme that compromise is all but impossible" (Lightman, 2012: sec. 1, 24). The likely alternatives, then, are capitulation by one side or deep disagreement.

Campaigning for the U.S. presidency in 2008, Barack Obama promised an alternative to the partisan deadlock that had gripped Washington for decades. What he probably did not realize was that his stance of rejecting partisanship ceded control of public perceptions to his political opponents. Senate Minority Leader Mitch McConnell announced after the 2010 midterm elections that the very top priority for the Republican caucus was to make Obama a one-term president. As a practical matter, this entailed opposing whatever the president might support, sometimes only because he had supported it, even if it was something like the individual mandate in the health care bill that originally was a Republican idea. If these are the argumentative strategies, an impasse will develop quickly. It is important to note that there may not in fact be deep disagreement; the parties may be less polarized than people think. What matters is that they are able to behave *as if they were*, and that can trigger the same argumentative impasse. This will happen when either of the parties has an incentive to stymie action, as the minority party especially will, and particularly when they can cite such divisiveness as proof that the president has failed in *his* effort to rise above partisan divisions. They have every incentive to create a situation that they then can cite as evidence of *their opponents'* failures.

The point here is that it may not matter whether arguers truly are in deep disagreement; behaving as if they were is just as effective. And the ability so to behave calls into question Fogelin's assumption that deep disagreement is rare. Indeed, deep disagreements might be quite prevalent, because there are no empirical facts that will resolve them. At what point a "fetus" becomes a "person" is not a question of fact but of definition. Skilled arguers usually can find ways to avoid accepting definitions that harm their strategic interest. And not only on moral issues but even on seemingly prudential questions such as the debt ceiling in the United States, a recurrent controversy can be identified, in which the appropriateness of raising taxes or cutting spending are often discussed as if they were non-compromisable moral absolutes, even though an impartial observer could identify political "grand bargains" that draw something from the positions claimed by each side.

4. Argumentative indicators of apparent deep disagreement

11

That being so, scholars need to understand far better what argumentation looks like as a controversy evolves into deep disagreement. Here I would like to consider four basic scenarios, any of which may be taken as a sign of deep disagreement.

4.1     Polemic
*Polemic* is a mode of discourse in which the aim is not compromise or agreement but victory over the opponent through the evacuation of his or her rhetorical position. This is done through persistent attack, whether on the opponent's truthfulness, character, motivation, leadership ability, goals, designs, or methods. Except for the fact of intense opposition, consistency of position is not required of the polemicist. The polemicist is not out to defend a position of his or her own but to undermine the opposing position through persistent attack. What theorists of debate call "straight refutation" is the polemicist's goal.

Should the adversary appear to yield ground or make a conciliatory gesture, the polemicist may shift ground in order to maintain the opposition stance. The polemicist seeks continual conflict, not agreement. The language of the polemicist usually is intense; he or she is armed with the certainty that the opponent is wrong and the confidence that the polemicist enjoys divine sanction. Every argumentative encounter is Armageddon and the stakes always are total.

Polemic can be either one- or two-sided. When the response to a polemic is another polemic (two-sided polemic), the temperature of the argument rises very quickly and the advocates will be likely to engage in mutual recrimination and character assassination. This is because both arguers are committed to defeating the opponent, not to resolving the issue. Third-party observers will be as likely to say "a plague on both your houses" as to try to ferret out and understand the underlying argument. Alternatively, a polemic can be one-sided if it is answered not in kind but with a plea for restoring the norms of civility, calmness, and reasoned discourse. In this circumstance, the polemicist's tone and intensity are used to discredit the worth of his or her position. If the position were tenable, the interlocutor maintains, it would not be necessary to mask it with the shrillness of tone and the indecorousness of the attack. The polemicist might counter that it is immoral to remain calm and neutral about a matter that by rights should evoke outrage, and thereby can seek to reclaim dominance of the argument. And so the encounter will proceed, with the competitors trying to inflict damage on each other and ultimately to delegitimize one of the positions so that the other might survive.

For the most part, polemic is not taken seriously as a form of argument; often it is seen as argument's antithesis. The most sustained research program on polemic is that of Ruth Amossy and her colleagues at Tel Aviv University (Amossy, 2010; see also Kraus, 2012). Using the approach of French discourse analysis, they regard polemic as a combat between discourses rather than between arguers. They are able to depersonalize the objects of their study and to identify the structures and dynamics of these contests in order to identify how one discourse engages another. Their plea is that polemic be taken seriously as a type of argument. This is a particularly important admonition if, as I have suggested, polemic is a frequent indicator of deep disagreement. It is not too much of an exaggeration to say that contemporary political campaigns are largely polemical – this, after all, is usually what is meant by the term "negative campaigning." They are attacks on the opponent, buttressed by what appears to be evidence but is likely to be false or

misleading. The conclusion of the message may extrapolate well beyond the scope of the argument, finding in it demonstrative proof that the candidate is unfit for public office. The various "ad watch" efforts can be seen as attempts to regulate polemic and to subject it to analysis under the light of day.

4.2    Condemnation

A second type of discourse that develops in situations of deep disagreement is *condemnation* of the impasse itself, usually accompanied by blaming the other party for starting or perpetuating this situation. The parties both conclude that they are unable to resolve their differences but each believes that this state of affairs is undesirable, the fault of the other party, and risky (perhaps because a third party expects them to compromise in order to reach agreement), so what ensues is a struggle for public perception. Each party tries to portray itself as the embodiment of reason, having made sensible and generous offers and then having gone the extra mile to reach agreement, only to be rebuffed by the intransigence of the other side. This is a common approach in the aftermath of failed labor-management negotiations. Its use is a means to coax the opposing party back to the negotiating table or to blame the opponents for a strike if one results. A similar move may be used in the face of failure to resolve a legislative stalemate or to reconcile differences in proposed bills seeking the same objective. Or it can be employed in a case of unsuccessful diplomacy.

This form of argument acknowledges that the parties are in a state of deep disagreement. It appeals to the other party, who is presumed to be in the wrong, to make some concession in order to get the argument (back) on a constructive track. It can be successful, but only if one side can seize upon widely popular *topoi* and quickly establish its position as the more plausible, putting pressure on the other party to yield. Otherwise condemnation, like polemic, is likely to stalemate with a reciprocal exchange of charges, leading a neutral third party to regard both positions as irresponsible.

4.3    Paradigm shift

A third possible sign of deep disagreement is the *paradigm shift*. One makes the argument in a different paradigm reflecting a different world-view. Reality is seldom univocal but can be imagined in different ways through the use of different approaches to talking about it. If there exist multiple paradigms or world-views for considering a topic, and an advocate shifts from one to another, this may be a sign that the disputants have reached deep disagreement within the original paradigm. What happens here is not that the advocate invents a new paradigm but rather that he or she selects from the paradigms already available.

O'Gorman (2012) demonstrates how this was so with respect to the ideologies of the early Cold War. Different ideological perspectives were "out there" and advocates might switch from one to another if the initial paradigm produced an impasse. More generally, Kuhn (1970) has argued that scientific revolutions are less the result of a theory's being conclusively discredited than of one framework or worldview's coming to be regarded as more sensible or a better explanation of the facts than another. This suggests that an impasse between competing positions might give rise to a judgment that one or the other "feels right" or makes more sense.

It is not necessary that the competing paradigms are logically incompatible, although the impasse between them may be more obvious if they are. It is only necessary that they work at cross-purposes so that one would not *want* to pursue both. A good example of deep disagreement expressed in alternative paradigms was found in a 2012 issue of the *New York Times.* By coincidence, the op-ed page included two essays on the same day addressing the ideology apparently undergirding the current Republican Party in the United States (Krugman, 2012; Brooks, 2012). One, by Paul Krugman, lambastes the Republicans for their attacks on government spending, ridicules their belief that there is substantial bureaucratic waste that could be cut, and concludes that the Republicans reveal their true colors when they imply that it is better to fire teachers and policemen than to yield their pigheaded refusal to raise taxes for any reason. The other essay, by David Brooks, tries to position the Republicans in such a way that their refusal to raise taxes is not obstinate or pigheaded, but principled. He does so by imagining this behavior within a different paradigm, one that regards the welfare state as obsolete and irremediable, treats any significant public spending as throwing good money after bad and delaying the necessary transition to a new way of imaging our society, and thus views any increase in taxes as wasteful if not perverse. Krugman and Brooks are not advocating incompatible propositions but they do lead in very different directions. Having reached a stalemate over the question, "Are we a welfare state or not?" Krugman and Brooks each describe the kind of society he envisions, within the contexts of very different worldviews. The inability to engage these worldviews directly is a sign of deep disagreement.

4.4     Interdependence
        A fourth maneuver indicating deep disagreement is *interdependence.* This approach seeks to induce antagonists to embrace a standpoint that otherwise would be objectionable in order to secure a desired standpoint that otherwise would be vulnerable. It is most likely to succeed when there is a package proposal whereby each arguer is able to secure his or her primary interest only by yielding on an interest of lesser priority. If, for example, you are opposed to abortion and I am opposed to restrictions on abortion, while I favor a single-payer health care system while you are opposed to government financing of health care, we actually might have the makings of an agreement. You might be willing to go along with single-payer health care, even though you don't like it, if you could assure yourself that no funds under the health care program will be used to support abortion, assurance that I am reluctant to provide. In this example, each of us could protect what he or she valued most, but our ability to do so was dependent on our linking it to a position that we found objectionable but less important. But this approach is more likely to mark than to resolve deep disagreement, because arguers are reluctant to alter their commitments even if they can secure a fundamental value by doing so. In negotiations, people tend to focus more on what they stand to lose than on what they stand to gain.
        A historical example of an attempt at interdependence is the settlement of the Mexican-American War in 1848. The United States acquired vast new territory and needed to provide for some form of civil government. Few people either North or South thought it likely that slave-owners would wish to move to these new lands, because the climate was deemed inhospitable. Nevertheless, many Northerners wanted to add a

specific prohibition of slavery, in order to assure that result, while many Southerners regarded such prohibition as an offense against honor. Neither party saw large practical consequences riding on the outcome but neither would yield on a point of principle, so the argument remained at an impasse. Not until these positions both became parts of a larger compromise package could the argument proceed. And this package, the Compromise of 1850, was soon and easily pulled apart a few years later, when each party concluded it had given up far more value than it had been able to protect. The deep disagreement between Northern and Southern world-views ultimately was resolved not through argument but through the American Civil War.

5. Transcendence of deep disagreement

As has been explained, it is more likely that the above moves will sustain rather than resolve deep disagreement. That may not be a problem if an enduring stalemate can be tolerated, as it can when discussing some conflicts in metaphysics or axiology. But when movement toward a decision is required, one must find some way to transcend the deep disagreement. This cannot be done within the framework of the argument as it stands, but requires somehow reframing it. This is not the same thing as arguing within one among already-evident paradigms. Rather, it is an exercise in rhetorical invention, finding a new way to think about a subject that the disputants have not recognized but might find persuasive in a given case. Although this operation is rhetorical, it is hardly non-rational. It has an underlying logic that can be explicated. The rhetorical critic may be able to resolve what for the disputants is deep disagreement because the critic can imagine possibilities that the disputants cannot.

Zarefsky (2012b, 2012c) identified and examined four pairs of rhetorical moves illustrating the potential for transcending an argumentative impasse. One pair relates to inconsistency: charging the opponent with hypocrisy or employing the circumstantial *ad hominem* to show that the interlocutor's own situation is at odds with his or her commitments. Another pair involved packaging the argument: breaking the impasse by incorporating one of the competing positions into a larger package and subsuming both of the competing approaches under a larger category that they presumably share. A third pair of argumentative approaches concerned the treatment of time: holding that the exhaustion of the interlocutors made the stakes less important, creating the desire for a settlement, or holding that the urgency of the situation precludes extended disputation and requires the selection of some option, even though sub-optimal, that everyone could live with. The final pair of approaches involve changing the ground of the controversy: interfield borrowing, making arguments in one field through the language or conventions of another in order to moot the question of what field the argument is in, and frame-shifting, such that the argument comes to be viewed from a different frame of reference.

These approaches are promising and suggestive of the potential for rhetorical moves to resolve an argumentative impasse. But implementing them is difficult. Many depend for their strength on shared conditions among the disputants. For example, exhaustion will work as a way to break an impasse only if arguers on both sides are equally exhausted. If one party is exhausted and the other is gearing up for a long fight, it is most unlikely that appealing to the feeling of exhaustion will lead to transcendent moves. Likewise, in an interfield dispute, if one party is willing to embrace the other's terminology and assumptions but the second party resists any effort at ecumenicalism,

then nothing will happen. More generally, it is probably the case that *any* unilateral effort to overcome deep disagreement is unlikely to work. Although it is possible to imagine a situation in which one party might be seduced by the other into getting beyond an impasse, it seems more likely that the arguer who does not mind being in an impasse can maintain that condition, all the while using his or her intransigence to argue that the *other* party has not succeeded in overcoming the impasse.

6. Critical questions

   A more systematic treatment following the lines suggested here would flesh out a wide range of examples, see how they fit the patterns identified here, and explicate their dynamics. The underlying assumption of the project is that the discovery of incommensurable positions does not bring analysis to an end or require the substitution of "non-rational" means of persuasion. Nor can we rest in the misplaced confidence that cases of deep disagreement are rare and relatively inconsequential. Rather, when confronted with what appears to be deep disagreement, we need to ask a series of questions:

 (1) Is this controversy easy to resolve without imagining it as a case of deep disagreement?
 (2) What are the consequences of conceiving of this controversy as deep disagreement rather than just as intense conflict, pigheadedness, etc.?
 (3) What happens if the argument remains in an impasse, and what happens if the impasse can be overcome?
 (4) Which of these or other possible approaches might be available to get beyond the impasse, and what are the merits and drawbacks of each?
 (5) Finally, what approach should be recommended to the arguers and what approach should serve as a touchstone for critical appraisal?

We have far to go in really understanding what Fogelin offhandedly called "the logic of deep disagreement," but an approach along the lines suggested in this essay is at least a way to start.

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**Studying Argumentation Behaviour**[*]

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Abstract: Starting from the observation that argumentation studies have low recognition value both within and without the academy, and mindful of the current desiderata that academic research should be relevant outside the academy, I introduce the concept of an argumentation profile as a panacea for our ills. Argumentation profiles are sketches of the argumentation behaviour of either individuals or groups (such as political parties) and are based on concepts unique to argumentation studies such as argumentation schemes, dialogical roles and responsiveness. It is argued that argumentation profiles would be of interest to voters as well as political parties.

Key words: value of argumentation, argumentation agent, argumentation profile, argumentation schemes, dialogical roles

We who work in the field of argumentation studies think our subject is important and that it should be recognized as important not only by our fellow cultural workers by also by the broader public. Yet recognition of the value of our chosen field is slow in coming. Accordingly, I want to begin by posing a question that may seem rather rude, or at any rate, altogether too direct in the present volume: What is the justification for argumentation studies? What value does it have? I think we may look to three different kinds of justification, which may be distinguished as the intra-disciplinary, inter-disciplinary and social justifications of argumentation studies. It is the last one – the social source of justification – that is especially pressing these days.

1. The value of research within the academy

The intra-disciplinary justification of any field of knowledge is the growth of knowledge in that field. It is the appetite for more knowledge that drives the researcher in any discipline to learn more, to explore alternatives, and to refine methodology. Most of the efforts taking place at argumentation conferences are about expanding, organizing and re-organizing what we know about the field or discipline we call *argumentation studies*. There are friendly rivalries within the field – uncertainties or disagreements to be overcome that give impetus to further research. In all the arts and humanities we dare to hope that there may be a social benefit of the knowledge we accrue, but we are not sure what precisely that benefit is, or whether there always is one. At any rate, from the intra-disciplinary point of view, it is not the thought of the influence on society that spurs us on, but rather our desire to know more and to know better.

A further value or justification of disciplinary knowledge is when it interacts with or combines with other disciplinary knowledge. Intellectual history is replete with examples of how two distinct fields or academic subjects have profitably combined to make a new field: most

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famously, Descartes' combination of algebra and geometry to make analytic geometry. More recently biology and chemistry have combined to make biochemistry, and biology and geography have combined to make biogeography; mathematics, physics and aesthetics combine to make engineering and architecture. In each of these cases the combined intellectual product (knowledge) is something that neither contributing discipline could have achieved on its own. The value of such mixed-marriages is well recognized, and is now being actively encouraged at educational institutions in North America under the banners – as I understand them – of inter-disciplinarity (combining research methods to provide new perspectives on familiar fields) and trans-disciplinarity (transcending traditional disciplinary methodologies to create new research fields).

Argumentation studies is itself an amalgamated discipline, consisting at least of some logic, some rhetorical theory, and some dialectical theory, but it can also contribute to interdisciplinary research. I have tried some interdisciplinary work with Jane McLeod, an historian. We studied the kinds of arguments made by those who petitioned for printer's licenses in provincial eighteenth-century France. (See Hansen and McLeod, 2012; McLeod and Hansen, 2005). However, the value of these kinds of interdisciplinary ventures is still measured by their effect within the academy and its environs. They are extensions of established research techniques and are motivated by the same values that drive intra-disciplinary research: to know more and to know better.

2. Does the study of argumentation have a social value?

So far we have been concerned with the intra-mural or academic justification of argumentation research in the academy, within knowledge-seeking communities. We should now move to the next question: what payoff does argumentation studies have for the larger public, for all those outside the academy? How does or can our research benefit them?

This is not an untimely question. In the United Kingdom the way researchers go about their work is about to change, writes Andy Miah. The framework used "for assessing the value of research will now include a new component called 'impact', which requires professors to show how their research makes a direct contribution to society beyond academia" (Miah 2012: 12). There is thus "the expectation for researchers to have a presence beyond academia."

If you are applying for a research grant from Social Sciences and Humanities Research Council of Canada (SSHRCC – one of the main funders of academic research in Canada) then, under the heading of "Summary of Proposed Research," you are asked to indicate "the potential contribution of the research both in terms of the advancement of knowledge, and of *the wider social benefit*, etc." (emphasis added). At the University of Windsor, the strategic plan outlining our goals for the next few years, requires that we "foster research excellence and the greatest *societal impact* of research and creative activity through the encouragement of intra- and inter-disciplinary research (. . .)" (University of Windsor, 2012). Here again the emphasis is on *societal impact* of research. We then must ask, what is the social impact of argumentation studies? What direct contribution to society beyond academia does argumentation studies make? What is the wider social benefit of our work?

This is a fair question to ask. Obviously, research in the sciences upon which medicine rests has great social benefits in lessening suffering and increasing health. Environmental science gives us the means to manage our planet and its resources in a sustainable way (if only the public would appreciate them). Research in sociology and anthropology enables us to act constructively in lessening conflict and disruption when cultures come into conflict. Research in logic and

mathematics has contributed to the development of computers, which, as we know, has affected society, immeasurably. How then does the study of argumentation serve society outside the walls of the university? How does it serve those who do not have an interest in the pursuit of knowledge for its own sake?

I have no doubts about the value of argumentation studies for the general public. In teaching the values and techniques of good argumentation we benefit individual men and women directly, and hence society indirectly. Johnson and Blair describe the benefit rather broadly as making us more discriminating consumers of all the arguments that face us in our daily lives, including those about what to buy, where to live, and whom to marry (Johnson and Blair, 1983: xiii). Thomas Hollihan, in his keynote address at the 2011 Alta Conference on Argumentation, identifies a narrower aim: "By properly educating arguers our field claimed it could change the character of deliberative argument and help democratic reasoning flourish" (Hollihan, 2011: 8). What greater boon could an academic discipline bestow on society?

Despite our lofty goals and good intentions, however, we are faced with two important challenges. The one is admitted by Hollihan: "There is little evidence that our persistent admonitions about the appropriate conduct and character of public argument have impacted arguers' behaviour, at least in the political sphere" (Hollihan, 2011: 9). We do not have much to show for our efforts so far, despite our idealism and hard work.

The second challenge is that the unique contribution of argumentation studies does not stand out distinctly in the public's mind. Even within the academy, we may not be thought of as being particularly unique. The skills and values that we champion in argumentation studies are incorporated to a significant degree in the teaching of other subjects as well. Historians teach critical thinking about the evidentiary import of documents; scientists instill the rigorous methods of scientific inquiry in their students; professors of politics teach caution in the analysis of political events and platforms; philosophers study and criticize the values and means of deliberative democracy; departments of English teach argumentative writing and analysis; law schools train their students in the art of dialectical argumentation. This ubiquitous usurpation of *our* subject matter is cause for celebration since it shows how pervasive our specialty is; on the other hand, it is cause for despair because the general public outside the academy cannot distinguish our contribution to good argumentation practices from that of other disciplines that have higher recognition value: history, physics, chemistry, political studies, English, and law. Even in the minds of many of those within the academy our specialty – argumentation studies – does not stand out in sharp relief. If our concern is to justify argumentation studies by its impact on society outside the academy (as well as within it), then, it appears that we have a public relations problem. We need to increase our visibility.

Hollihan makes five suggestions about how "we might increase the impact of our academic scholarship, our values, and our pedagogy on contemporary argument practices and on our standing in the academy *and the broader community*" (5, emphasis added). Among his suggestions are that we should "increase the impact of our discipline within the academy by focusing on our connections to other academic disciplines" (18); that we should examine the implications of new communication technology; that we should investigate the neurosciences; and that we should reinvigorate argumentation pedagogy. But most importantly, for present considerations, is what Hollihan says about our public role:

> *[W]e need to significantly increase the public profile of our discipline*. . . . Scholars of argumentation need to be more forthright in commenting in praise and in blame about the discourse surrounding us, and we need to do so not only in academic journals and

conference presentations but also in public media. . . . Our scholarship should be more overtly practical and engaged (Hollihan, 2011: 16-17, emphasis added).

Here again, I am happy to follow Hollihan – but only part of the way.

3. Argumentation Profiles

My suggestion is that we make a unique and identifiable contribution to society by the development of what may (tentatively) be called *argumentation profiles*. By an 'argumentation profile' I mean a description or characterization of argumentation behaviour over time as exhibited by an argumentation agent. By an 'argumentation agent' I mean an individual, group, party, or collective that makes and takes responsibility for arguments.

How can argumentation profiles be of social value? Argumentation-behaviour is important for democracy; we want to elect people who will not only argue well, but also argue openly, fairly, and productively. Past argumentation-behaviour encapsulated in an argumentation profile may be considered a predictor of future argumentation-behaviour, much as past moral and prudential behaviour is considered an index of future moral and prudential behaviour.

Argumentation profiles may also be a window through which we can come to understand an argument agent's true political attitudes. Richard Weaver, in his 1952 work, *The Ethics of Rhetoric*, wrote that "[a] reasoner reveals his philosophical position by the source of arguments which appears most often in his major premise because the major premise tells us how he is thinking about the world" (55) and that "a man's method of argument is a truer index in his beliefs than is an explicit profession of principles" (58). In other words, we can learn something about a person's political beliefs and deep-seated attitudes by looking at the record of his or her argumentation.

Weaver maintained that the eighteenth century political theorist, Edmund Burke, whom we recall as a conservative, mostly used the argument from circumstance in his speeches and writings, a kind of argument more appropriate to expediency and liberal politics than to conservatism. In contrast he associates the argument from genus with Abraham Lincoln, a kind of argument usually associated with conservatism and the *status quo*; yet Lincoln is cherished as a pragmatic and liberal politician.

So, what we may take from Weaver is that the arguments agents make tell us something important, perhaps revealing and surprising about that agent. Weaver's insight can be extended by taking political parties as subjects, not just individuals, and by expanding the number of indexes (beyond major premises) that can contribute to characterizations of argument agents – to profiles. The work attempted so far focuses on the profiles that can be made of agents engaged in political argumentation, but profiles could also be made of argumentation agents in other fields like science, law, and religion.

Elaine Cassel has 'profiled' the argumentation behaviour of members of the United States Supreme Court during the recent hearings about Obama-care. She found, through looking at their argumentation behaviour, that some of the judges showed empathy and compassion for poor people, some were of even temperament, some showed an authoritarian approach to legislation, some kept their politics out of their argumentation and stuck to legal arguments, some remained aloof from the fray. Cassel claims to have learned something about the judges by studying their argumentation (Cassel, 2012).

Some people have identified a male way of conducting argumentation, and found it objectionable. A generalization about the way men argue is implicitly a rough argumentation profile of men. That there are such generalizations is an indication that there is a coarse, or

intuitive, idea of argumentation profiles already at large. The present proposal aims to give shape and character to such profiles.

A notable aspect of argumentation profiles is that they do not characterize argument agents on the basis of isolated episodes of argumentation behaviour – a particularly ingenious analogy, or an atrocious fallacy, for examples – but on their argumentation behaviour over an extended period of time. Thus, the import of profiles is that they will indicate how agents have been disposed to engage in argumentation in the past, and how they may be inclined to argue in the future.

4. Concepts Put to Work

An *argumentation profile* of an argument agent should be based on an analysis of the agent's argumentation-behaviour over a period of time and constructed from the concepts unique to the study of argumentation. Thus, when making profiles of argumentation behaviour in political contexts it is not the usual issue-oriented categories we need such as views on the economy, education, energy, the environment, and health care. The concepts needed for argumentation profiles will be quite different. They do not have to do with policies or platforms, or party philosophies. Which concepts in particular will be useful for making profiles is something we will have to find out through experimentation, but it is reasonable to begin by utilizing some of the concepts argumentation workers already have to hand.

Doug Walton and I have finished one pilot study of the argumentation in political campaigns, and we are now engaged in a second one. We studied the Ontario provincial election held in September-October 2011 (see Hansen and Walton, 2012; Hansen and Walton, 2013) and have finished gathering data on the provincial election held in Alberta, March-April, 2012. For the Alberta election we have about 600 newspaper reports to consider; we hope to complete the analysis sometime in the future. Our work is similar to that of William Benoit who has studied the argumentation in the nomination acceptance speeches by presidential candidates in the United States from 1960 to 1996. In one of his studies, Benoit recognized three basic functions in the speeches, distinguished as acclaiming, attacking and defending:

> Themes that portray the sponsoring candidate or party in a favorable light are acclaims. Themes that portray the opposing candidate or party in an unfavorable light are attacks. Themes that explicitly respond to a prior attack on the candidate or party are defenses (Benoit 1999: 254).

Benoit's leading research question was, "What is the relative frequency of use of the functions of acclaiming, attacking and defending?" (253). He found that the Democratic Party nominees engaged in acclaiming slightly more than the Republican party nominee did (77% to 68%) but that the roles were reversed when it came to attacking (30% to 23%) as well as defending (16% to 3%). Clearly, Benoit's interests and approach are consonant with our programme of creating argumentation profiles by studying the argumentation behaviour of argument agents. Our approach differs from his, however, in that we focus on arguments as the basic unit of interest, and we consider more indexes of argumentation behavior than he does.

In our first study, Walton and I sketched profiles on the basis of which kinds of arguments and dialectical roles were utilized most frequently by the agents. In our second study we are modifying and enlarging our inventory of argument kinds and roles, and adding some other categories whose utility we want to test. We are experimenting to find out which factors and categories can contribute to the making of useful argumentation profiles. The following list

of concepts is being considered:

1. *Argument kinds*: The primary classification tool we have is a list of kinds of arguments, also called argument schemes. The schemes are, roughly, definitions of different kinds of arguments, sorted on the basis of the kinds of reasons being brought to bear on a conclusion. A comprehensive list of the kinds of arguments that occur in political argumentation will help shape a picture of an agent's inclinations in argumentation. In our first study we used the basic inventory of schemes identified in Walton's *Fundamentals of Critical Argumentation*. For the second study, which is of the provincial election held in Alberta in March-April 2012 we will employ the following list of schemes:

> (1) argument from position to know; (2) argument from appeal to expert opinion; (3) argument from general acceptance; (4) argument from lack of knowledge; (5) argument from consistent commitment; (6) argument from inconsistent commitments; (7) argument from character (ad hominem); (8) argument from positive consequences; (9) argument from negative consequences; (10) argument practical reasoning – recommending/ justifying course of action; (11) argument from misplaced priorities; (12) argument from analogy; (13) argument from sign; (14) argument from distinction / classification; (15) argument from correlation to cause.

In constructing argumentation profiles, one looks to see which kinds of arguments are preferred by the argument agent. A key methodological question for us is, what is the optimal list of argument schemes that should be used for making argumentation profiles of agents engaged in political argumentation?

2. *Pragma-dialectical argumentation schemes*: It is also possible to classify arguments broadly on the basis of the kind of conduit they provide from premises to conclusions. Pragma-dialectical theory offers a three-fold classification in this category: symptomatic argumentation, instrumental argumentation, and similarity argumentation (van Eemeren and Grootendorst 1992: 94 ff.). Even though there are only three 'schemes' here they have the advantage that they are mutually exclusive and jointly exhaustive, or at least appear to be so. (The same cannot be said for the informal logic schemes; with them it is possible that an argument could instance two or more schemes, and then a decision has to be made about which scheme is the best fit for the argument.) However, because there are only three schemes in this typology, we can expect only very general information to come from this classification. But, as before, one is curious to see if an argument agent prefers one kind of scheme to the others.

3. *Aristotle's pisteis*: Aristotle's three artificial means of persuasion might also give us some insight into the argumentation proclivities of agents (See *Rhet*. 1356a). We will supplement the argumentation profiles by classifying arguments on the basis of whether it is *logos* (evidence), *ethos* (character) or *pathos* (emotion) that is brought to bear.

These first three categories of classification (kinds, schemes, *pisteis*) have to do with non-relational aspects of the arguments themselves – they are ways of classifying either the kind of reasons brought to bear, or the way that the reasons are related to the conclusion. It is also possible to study the external (relational) properties of arguments in an ongoing political discussion, in particular to consider the roles, or functions, of the arguments in the ongoing discussions.

4. *Dialectical roles*: Argument agents have purposes they want to achieve by the use of their arguments and thus the arguments are instrumental to their ends. Hence, given a context like that

of a provincial or national election, arguments may be seen as being used for certain purposes by the agents in the argument exchanges. There is no determinate list of ends that arguers have in using arguments, and so no definitive catalogue of roles that can be determined. Walton and I felt free to invent a short list of four dialectical roles, which we noticed recurring in the data of political campaign arguments. These were the policy-positive role (used to defend a statement or policy), the policy-critical role (used to criticize a statement or policy), the person-critical role (used to criticize an opponent rather than his/her position), and the defensive role (used to deflect criticisms). After reading Benoit (*op. cit.*) we added a fifth by dividing his category of acclaiming into positive and negative roles, allowing us to add a person-positive role.

Studying an argument agent's choice of roles will tell us something not only of his/her/its resources, but also about the possibilities it sees for advancing its cause. The analysis of dialectical roles must, however, be tempered by the following two dialogical considerations.

5. *Dialogical roles*: Is an argument being used to initiate discussion of an issue, or is it a response-argument, made as a reply or alternative to an argument or policy already before the public? My hunch is that response arguments are more likely to be cast in a negative role than arguments that introduce a new topic or policy. But it is not impossible that a response argument has a positive role or that an initiating argument has a negative one. This is a factor to take into consideration when constructing argumentation profiles.

6. *Dialogical position*: Whether an argument agent is the incumbent party or a challenger establishes his/her/its dialogical position, something which may well affect the choice of dialectical roles an agent gives to arguments. My inkling is that an incumbent party is more likely to have occasion to use the defensive role, clarifying misinterpretations, and defending policies. Challengers we would expect to be on the attack, being critical of both policies and incumbents. Of course, both sides will likely make arguments in all the roles, but certain roles may predominate for an agent during the course of a campaign. In sum, in constructing the argumentation profiles, both the dialogical positions of the agents, and the dialogical roles of their arguments, must be taken into consideration.

The above concepts are suggested as being of value to argumentation workers who attempt to make argumentation profiles. Additions, deletions and refinements, are solicited.

5. Illustration

Suppose we obtained the following result for three parties during an election campaign:

| Priority rankings | Party A | Party B | Party C |
|---|---|---|---|
| Argument kinds | Practical reasoning, positive consequences; fairness | Negative consequences; direct ad hominem; misplaced priorities | Fairness; Analogy; Sympathy |

| PD schemes | instrumental | symptomatic | similarity |
|---|---|---|---|
| Pisteis | ethos | logos | pathos |
| Dialectical role | policy +; person +; defensiv | person – ; policy +; policy – | policy +; person –; person + |
| Dialogical role | response; initiator | initiator; response | initiator; response |
| Dialogical position | incumbent | challenger | challenger |

What might we say about these results? We might venture these thumbnail sketches:

*Party A*: Problem-solution oriented but balanced with considerations of fairness; depends on credibility of agent; stresses the advantages of own policies and leadership; corrects misinterpretations and deflects criticism.

*Party B*: Depicts incumbent party as having bad policies, and attacks character of its members; wants to establish alternative goals; sees policies of government as indication of corruption; appeals to statistics and public opinion; puts priority on criticizing opponents over promoting own policies; initiates lines of discussion (criticism) more so than responding to the ideas of others, indicating an attempt to control the discussion.

*Party C*: Primarily concerned with social justice; makes case by drawing comparisons to other more vivid injustices; appeals to sympathy of electorate; initiates lines of argument stressing value of its own policies and is somewhat critical of incumbent and other opponent; tries to change agenda to discuss its own issues; depicts itself as having a high moral character.

Notice that these argumentation profiles are descriptive, not evaluative. Some argumentation workers would go further and, from a distant point of view, evaluate the arguments and argumentation of each of the agents, and thus make *evaluative* argumentation profiles of agents. Christian Kock (2011), for example, urges that the argumentation of politicians should be evaluated from the point of view of whether it meets the needs of the voting public in its quest to make an informed decision at the ballot box (14). And Hollihan (2011), as we saw, suggested that we should be more visible "in commenting in praise and in blame about the discourse surrounding us," especially in public media. Certainly, those who are good at evaluating argumentation should further benefit the political process by entering the fray with their findings. But what is being promoted in this essay is the construction of profiles, not the evaluation of arguments. These are different endeavours and although they are related, they put argumentation workers in different roles: creating profiles is largely empirical work; moreover, although it is not yet wholly clear what evaluating profiles might entail, it will primarily be the evaluation of argument agents, not arguments.

There are different ways of engaging the public and stimulating the democratic process. The publication of the evaluation of political argumentation requires a different skill set than does profiling and a wide acquaintance with historical, cultural and politically relevant facts. Argumentation profiling is not meant to compete with argumentation evaluation but rather to offer another a way of learning about political agents. Political discourse is already heavy on argued opinions advising people what to believe and how to vote. The suggestion here is that we prime the public's interest in the democratic process by presenting it with findings about argument agents that citizens can use in their own contemplation and decision making.

6. Social Justification / Impact

The problem taken up in this paper is whether the study of argumentation can be justified by its impact on society. In order to be validated in society's eyes, argumentation studies will have to become more visible as a socially useful field, and one way it might do this, I am suggesting, is by doing something no one else can do – to wit, create argumentation profiles of argumentation agents whose behaviour is of interest and importance to society. Some of the concepts that could be the building blocks of such profiles have been suggested, but the development of this project is still in its early stages. Nevertheless, it is anticipated that the development of argumentation profiles can have an impact on society.

A. *Value to voters.* Voters will want to take profiles into consideration when preparing to vote: not only do we want to support politicians who advocate policies we approve of, we also want to elect people who will conduct themselves in an intellectually capable and responsibly manner, if they are elected. Traits relevant to these values can be captured in argumentation profiles and be indicators of future argumentation behaviour.

B. *Value to the media.* Voters will find out about argumentation profiles through the traditional news media and the Internet. Profiles of parties (or individual politicians) can be tailored for consumption in the public media, e.g., newspapers, radio, television, blogs, etc., either during a campaign or shortly afterwards, as long as public interest endures. Walton and I have done this (Hansen and Walton, 2012). In general the media will welcome this new and different kind of analysis of political behaviour. However, if the findings are to be of value to the larger public then they should be presented in categories understood by the general public. Most people do not care to distinguish three kinds of *ad hominem* arguments or two kinds of slippery slopes. In general, technical language and stipulative definitions should be avoided. Thus the categories and language used for making argumentation profiles and discussing them with colleagues will not be the same as the categories and language used for reporting the profiles to the general public.

C. *Value to political parties.* Citizens, media and politicians exist in a symbiotic relationship: they all need each other. Political parties will be interested in their own argumentation profiles as they appear in the media, as well as those of their opponents. This is so especially to the extent that the public takes the view that it wants its politicians to behave in an intellectually responsible manner. Both individual politicians and their parties will want to know how they can improve their own profiles and how they can take advantage of their opponents' weaknesses as revealed in their profiles. There is thus a possibility of argumentation specialists working with

argumentation agents in private-public co-operative ventures.


7. Externalities

There are, in addition, a number of spin-offs, or externalities, of doing argumentation profiles that can be felt within the academy; that is, there are intra- and inter-disciplinary payoffs in our attempt to serve the extra-mural community.

D. *Concept testing*. Argumentation studies will gain some intra-disciplinary benefit from the pursuit of argumentation profiles. An example of this lies in the development of the informal-logic argument schemes. Whereas textbooks look for arguments they can use to illustrate schemes, we look for a list of schemes that will be adequate to the identification and classification of *all* the arguments in a given field of discourse. What is optimal here? We need a balance between what is informative and manageable. Our work in this direction can lead to textbooks that are a better fit with the argumentation reality for which they wish to offer guidance. This means that we must renew our efforts to develop a list of argument kinds (schemes) that will be comprehensive enough to allow classification of all the arguments found in the discourse, but which is not so fine-grained that it introduces minute distinctions that have little or no consequence for the making of argumentation profiles.

E. *Inter-disciplinary cooperation*. Argumentation workers need the cooperation of at least three other fields in order to make argumentation profiles sound and valuable. (1) The profiles will be given greater content by incorporating other rhetorical factors which contribute to the character of argumentation behaviour; for example, choice of language, responsibility with regard to the burden of proof, etc.; hence, coordination with communication workers with complementary interests will make the argumentation profiles more complete. (2) One of the research questions that we are faced with is what to make of the patterns of argumentation behaviour once they have been identified. Our analyses can be enriched by the cooperation and participation of social psychologists, people who study personality, group behaviour, and social cognition. (3) Creating profile of political behaviour invites participation and cooperation with colleagues in political studies. They can give context and analysis of political argumentation that lies beyond the reach of the argumentation specialist *qua* argumentation specialist. We should engage the collaboration of workers from these other disciplines, thus creating a new inter-disciplinary research project, one that can be justified in terms of the public interest and benefit. But we should always keep the argumentation concepts as the key elements of argumentation profiles, as the central, unifying components.

F. *Student participation*. Training students is a necessary condition, in many cases, of getting research grants. Student participation in gathering, classifying and analysing the arguments used in the creation of the profiles not only has the benefit that it trains them in their field and in research, in the case of argumentation profiles of political argumentation agents it may also stimulate their interest in civic issues and good argumentation. An additional value in having students involved is that it forces us to clarify concepts and methods from the researchers' side (in addition to the audience side, as above), so that our conceptual tools become functionally adequate. If these instruments cannot be used by university students at the upper undergraduate level, or the beginning graduate level, then we have lost sight of an important goal of informal logic viz., to provide tools of analysis and evaluation useful to the public in general. In gathering the information needed for making the profiles, we can observe how well our students do with

the materials we provide for them to work with, and make adjustments as needed.

　　This completes my case for seeking the involvement of fellow argumentation workers in the study of political campaigns, and the value of making argumentation profiles.

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**Analogies in Conversation**

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Abstract: Confederates were trained to insert analogies into an argumentative dialogue. Participants' responses were coded. As more and more analogies were included in each conversation, participants' levels of acceptance did not change. This contrasts with earlier results on weak causal arguments and examples. The latter two kinds of argument do in fact cumulate, with people becoming more accepting as they hear more of the arguments. Analogies do not converge in this way.

Key Words: Analogy, Argumentation, Conductive Argument, Interpersonal Communication, Rationality Engine

1. Dialogue

The whole of this volume is concerned with dialogue – why it falters, when arguers can reconcile, and how partisans can be constrained by the institutions they inhabit (see Von Burg's introductory chapter). For the most part "dialogue" is not being understood very technically in this book, and mainly just refers to (the possibility of) two parties presenting their cases, listening open-mindedly, and responding intelligently to one another. Very little perceptiveness, either personal or political, is required to notice that this doesn't seem to happen very often, or at least as often as we might like. Other contributors to this volume have proposed explanations for these failures: values may be incommensurable, people may be cynical about the credibility of those agencies that are supposed to be providing facts to contemplate, arguers may listen in a closed-minded way, spokespersons may not be free to express anything except a "party line," or the media and internet may bury good information in bad.

Most of those papers are oriented to the public sphere, and therefore to public actors. Such people may be speaking for themselves, but they are also constrained to speak for others at the same time: for their nation, their party, their judicial faction, one of their identities, and so forth. This is the circumstance that brings institutional constraint into play. Various dichotomous outcomes – win or lose an election, pass or fail a piece of legislation, legalize or criminalize a particular behavior – all impose unfitting simplicities on matters that are really more nuanced. Readers will no doubt discover how interesting it is to watch those other authors work through all these complexities and simultaneous voices.

Here, however, people were left in their ordinary lives. Although they were asked to pretend to be US senators for the purposes of the experiment (because we wanted them to act seriously), they were truly undergraduates and they certainly understood that. Their responsibilities for what they said evaporated the moment they finished the experiment, and of course they were aware of that as well. The constraints, responsibilities, and answerabilities that complicate public actors and their arguments

were minimized here. We wanted to see how simple face-to-face dialogues handled a particular kind of argument, the analogy.

2. Analogies

Argument from analogy is a commonly recognized argument scheme. Perelman and Olbrechts-Tyteca (1969: 372-373) give the base form of the argument as being "A is to B as C is to D." The relationships are compared, not the individual terms. That is, the A/B relationship is held out as similar to the C/D relationship. So for example: fried chicken is as American as goulash is Hungarian. This analogy would serve as support for a conclusion such as, we should regard fried chicken as representative of American culture, thereby forming an argument from analogy. The analogy does not depend on fried chicken being like goulash or America being like Hungary: only the relationships between terms are important.

Arguments from analogy have an uncertain status and a rocky history in argumentation studies. Perelman and Olbrechts-Tyteca (1969), for instance, consider that analogy should be "viewed with distrust when used as a means of proof" (372). Walton, Reed, and Macagno (2008: ch. 2; cf. Bermejo-Luque, 2012; Botting, 2012) nicely review a number of controversies about analogies: Are they legitimate argument schemes or inevitably a kind of fallacy? Are they construable as deductive, inductive, or neither? Can they prove a conclusion or only suggest one? At their best, do they offer rational support or only persuasion? Walton et al. (2008) offer this overall judgment: "argument from analogy is best seen as a defeasible argumentation scheme that is inherently weak and subject to failure, but that can still be reasonable if used properly to support a conclusion" (61). Evaluation of an analogy, they suggest, should take place in the context of a pointed dialogue between two arguers.

This project, which does in fact expose analogies to dialogue, is part of a series of studies examining how serious conversation deals with defeasible arguments (Hample, Jones, & Averbeck, 2009; Hample, 2011a, 2011b). The motivating idea behind this work was the hypothesis that focused conversation is the engine of rationality. That is, intelligent give and take was expected to set fallacies aside and give weak arguments no more weight than they deserved. The first study (Hample, Jones, & Averbeck, 2009) explored how conversants dealt with several different fallacies, and concluded that people were appropriately critical and reserved about them. The other two studies explored the possibility that individually weak arguments might cumulate into stronger overall arguments. Both weak causal arguments (Hample, 2011a) and examples (Hample, 2011b) evoked this sort of reaction from arguers. In other words, weak causal arguments and examples were found to be conductive (convergent), so that a conclusion that would be indifferently supported by a single argument was better received when supported by several (cf. Snoeck Henkemans, 2000; Wellman, 1971).

The evidence for that finding was this. Confederates were trained to insert a number of poor (but not valueless) arguments into conversations, and we coded participants' reactions to them. We found that people were expectably critical of the first such argument, but their opposition to the arguments diminished as they were exposed to more and more of them. Thus the individual arguments could only be *collectively* sufficient, and as the argument dialogue began to approach that point people were more open to additional flawed arguments.

One objection to this interpretation is that perhaps the arguers were simply worn down by more and more arguments needing answers or evaluations. Instead of seeing a proper reaction to converging proofs, perhaps we only saw growing fatigue or disinterest.

Because of their potentially indifferent quality as arguments, analogies may not have the same conductive character as examples or weak causal arguments. The key to the convergence interpretation is the idea that although one example was a weak support for a national policy, it was not entirely valueless and did in fact afford proof for one small bit of the nation. So as examples piled up, one got closer to a legitimate induction. A similar explanation was offered for the idea that mediocre causal arguments might cumulate.

However, it is not at all clear that we should expect analogies to be collectively conductive. Examples might cumulate into an induction and varieties of correlational evidence might finally make a causal conclusion more appropriate. But being like cats doesn't seem to add much to being like rust protection for a car (to mention two of the analogies used in this study). So if we see increasing acceptance as people are exposed to more and more analogies, the 'wearing them down' explanation for the earlier results will be more compelling. On the other hand, if reactions to analogies remain essentially the same during an extended period of analogical reasoning, this would highlight the conductive character of the arguments used in earlier studies and tell us something important about analogies, namely that they do not converge. It would also indicate that 5-minute conversations are not long enough to wear out interactants. This study is designed to see whether analogies converge on a conclusion or do not. Either result will put us in a much better position to understand the results of the earlier studies. And of course we will also have learned something new about analogies.

3. Method

The procedure consisted of having people engage in conversations concerning gun control in the United States. Participants were given a consent form and a brief survey that collected demographic information and pretest attitudes. They were instructed that they would be role-playing a U.S. senator and would be having a discussion with another student, who was also role-playing a U.S. senator. In fact, the other participant was an experimental confederate, who had been trained to insert analogies into the discussion. The confederates were also undergraduates.

Confederates were each assigned two analogies to insert first into the conversations to ensure that at least initially all the analogies were used with equal frequency. Analogies used in the study are in Table 1. They are what Govier (1989) classed as *a priori* analogies, as distinguished from inductive ones. Inductive or empirical analogies (e.g., We did it successfully in Chicago, so it will be successful in Detroit) are much more like the examples studied in Hample (2011b). Similarities between arguments from example and analogy are discussed elsewhere (Hample, 2012).

Table 1

Analogies Embedded into Conversations by Experimental Confederates

| |
|---|
| Taking guns away from citizens is like declawing a cat. It's fine if you're going to keep the cat inside all the time. But you can never let the cat outside because it can't protect itself. We want people to feel free to go outside and do what they want. |

But some of our big cities are like war zones. Suppose we had taken away all the guns from people in Iraq. They couldn't protect their homes, their families, or their businesses. Because the bad guys are getting guns from outside countries. We didn't really try to collect all the civilian guns in Iraq because people wanted to be able to protect themselves. We should do that in the US, too.

Suppose you had been approached by someone wanting to be in business with you, or wanting a date or something, but that the government had taken away all your internet access. You couldn't find anything out about them and you would be defenseless against someone trying to run a con on you or something like that. The government should let people protect themselves if they want to, and so they shouldn't take away guns either.

For regular citizens, guns are just for defending yourself. They're sort of like alarm systems. It wouldn't be right for the government to make it illegal to install an alarm system in your house or business. And it isn't right for the government to take away people's guns.

One of the reasons police officers carry guns is that they go into nasty places and sometimes they get surprised and have to defend themselves immediately. That's just like what happens to regular citizens, too. They think they're safe, maybe because they're at home, but suddenly they're surprised and have no time to call for help. So they should be able to protect themselves with guns, too.

You're allowed to buy rust protection for a car or a warranty for a computer, even though studies say they're really not very good investments. But if people want to protect themselves against rust or a broken video card, we let them do it. We should let them have guns so they can protect themselves against violent crime, too.

Gun control is like Prohibition. Outlawing booze because a small fraction of people got sloshed was punishing to responsible drinkers as well. Why deprive responsible gun owners because a few people use guns irresponsibly?

Gun control is like trying to reduce drunk driving by making it tougher for sober people to own cars.

Like a battleship parked off the coast its mere presence changes the dynamic of the situation without having to fire a single shot

Carrying a weapon for personal safety is much like having auto insurance. If you have it, you may never need it. The day you don't is the day you wish you did.

Every society sits on certain pillars. If you kick one of the pillars out you don't know what will come falling down. In America those pillars are freedom of speech, freedom of the press, freedom of religion, and the right to bear arms. Attempts to remove any of those pillars would be disruptive and have major unintended consequences. A de-facto

gun ban without altering the Constitution would prove disastrous. What Constitution guaranteed right would be next?

Gun ownership is like health insurance. You don't know when you are going to need it, but you are at risk without it.

The right to own guns is a part of our constitutional order. Supporting gun control is like supporting anarchy.

Patriotic Americans own guns because they are like the revolutionaries who first fought for our freedoms.

There is so much crime in the streets that people must protect themselves. Gun ownership for people in dangerous areas is a tool of necessity like a paintbrush for a painter.

Confederates sometimes lightly paraphrased these materials. After using their first two analogies, confederates inserted as many more (in any order) into each discussion as was convenient. Each conversation had at least 3 analogies, up to a maximum of 12. A total of 843 analogies appeared in the 166 discussions. The confederates were trained to leave the analogies on the floor for as long as the real participant wished to discuss them. The analogies were not pressed or reinstated, leaving the respondent in control of the analogy's development in the discussion.

The pretense was that the two senators disagreed on the topic of gun control, and were having a private preliminary meeting to see if they could come to some agreement about jointly proposing national legislation. The participant was always assigned to favor gun control, and the confederate always argued against any restriction on gun ownership. Both students were given briefings, putatively prepared by their staffs. The respondent's briefing was about 4 pages long, single-spaced. It consisted mainly of quotations taken from a 2005 U.S. House of Representatives committee hearing on gun control and provided information that favored the respondent's position. Source information accompanied each quotation. Participants were given as much time as they wished to study the materials, and they generally read the briefing carefully. Many highlighted portions of it or made marginal notes on the briefing pages. The confederate's briefing contained the same information as well as some additional material, notably the analogies that were to be inserted into the conversations. Except for the analogies, these were the same topic, materials, and conditions as for the earlier studies (Hample, 2011a; 2011b).

Both conversants took their briefings into the room where the conversation took place. Both commonly referred to their briefing during the interaction, sometimes paraphrasing or reading out portions of it. Participants and confederates were encouraged to address one another as "Senator," and both were seated with nameplates identifying them as Senator Jones or Senator Smith. The purpose of the role-playing, briefings, and nameplates was to encourage serious argumentation proceeding from a well-informed base. All of the conversations took that tone. The conversations lasted about 5 minutes. They were videotaped, and the portions involving the analogies were transcribed for coding. Respondents were debriefed after completing the posttest attitude survey.

The coding made use of a system first used in Hample, Jones, and Averbeck (2009) and later in Hample (2011a; 2011b) with modifications suitable to the different materials. The system has five categories, which are in order of increasing sophistication. The categories were (1) accepts the analogy, (2) ignores the analogy, (3) rejects the analogy without a reason, (4) rejects the analogy with a reason, and (5) takes up the analogy and improves it as an argument. Code 5 was extremely rare in this data set. In the case of codes 4 and 5, we did not evaluate the quality of the respondents' reasoning; we merely noted if some were present. Notice that smaller numbers indicate more acceptance of the analogy and higher numbers indicate resistance or rejection. Given the assumption that analogies are weak arguments, this means that lower numbered codes are the least critically aware and the higher numbered codes indicate more refinement in the participant's argumentation skills.

In total, 166 people participated in the conversations. Of these, 40% were females. Freshmen constituted 30% of the sample, sophomores 33%, juniors 14%, and 24% were seniors. Most of the participants (56%) self-identified as Euro-American, followed by 14% African-American, and 11% Asian American; the others were scattered among various ethnic backgrounds and national origins. The sample's average age was 19.7 years ($SD = 1.51$), their self-reported high school GPA was 3.67 ($SD = .37$) and their self-reported college GPA was 3.34 ($SD = .42$). Students received minor extra credit in various classes in return for their participation.

Data were collected in two semesters and a different undergraduate research team participated as confederates, videographers, transcribers, and coders in each semester. To assess reliability, the codes were treated as interval data and each coder was regarded as an "item" for the standard multi-item reliability estimates. In the first semester, 9 students coded all the transcribed analogies, and their Cronbach's alpha was .92. In the second semester, 13 coders prepared and coded the transcripts. Their Cronbach's alpha was .93. For the analyses that follow, each analogy's code was the mean of the coders' ratings.

Reliability for the 5 item (1-7 Likert scale) measure of pretest attitude was .95. For the same measure applied as a posttest, Cronbach's alpha was .93. The pretest mean was 4.35 ($SD = 1.72$) and the posttest mean was 4.25 ($SD = 1.74$). These did not differ significantly ($t = 1.05$, $df = 159$, $p = .29$). The conversations did not result in attitude change. The mean scores and standard deviations indicate that participants' attitudes tended to be distributed around the theoretical neutral point of the scale for both the pretest and posttest.

4. Results

Table 2 shows the analogies' ratings, summed across all the analogies, by their ordinal position (i.e., first analogy, second analogy, etc.) in the conversations. The overall mean rating of all the analogies in the study was 2.98, nearly equivalent to the code of 3, rejected without a reason. This critical attitude toward the analogies was apparently intuitive (see Mercier & Sperber, 2011) because the word "analogy" appears only 3 times in all the transcribed exchanges about the 843 analogies. Respondents did not appear to be bringing any formalized apparatus to bear on the task of evaluating the confederates' arguments. On the whole, therefore, participants spontaneously found analogies to be poor arguments for a national gun control policy.

Table 2

Descriptive Statistics for Analogy Codes, by Ordinal Position in the Conversation

| Ordinal Position | $N$ | Mean | $SD$ |
|---|---|---|---|
| 1 | 166 | 3.06 | .79 |
| 2 | 166 | 3.09 | .81 |
| 3 | 166 | 3.02 | .89 |
| 4 | 156 | 2.94 | .89 |
| 5 | 105 | 2.92 | .89 |
| 6 | 45 | 2.88 | .84 |
| 7 | 22 | 2.77 | .79 |
| 8 | 8 | 2.54 | 1.00 |
| 9 | 5 | 2.40 | .51 |
| 10 | 2 | 2.42 | .60 |
| 11 | 1 | 3.69 | --- |
| 12 | 1 | 2.00 | --- |

Examination of Table 2 shows that many of the conversations had 5 or more analogies, declining to only 22 conversations that had 7 or more, and only one conversation that had 12. Statistical analysis requires comparisons of ordinal positions that actually had analogies. The best break point is to analyze the results for 5 or more analogies ($N = 105$).

For these data, analysis does not show a significant effect on participants' coded responses as more analogies appear in the conversations: Pillai's Trace $F = .86$, $df = 4$, 101, $p = .49$. The power of this test is .88, assuming alpha = .05, effect size = .15, correlation among repeated measures = .20 (an approximate summary of the present data), and the observed numbers of respondents and measurements. Table 3 displays the means for the subsample that had 5 or more analogies. These results indicate that participants' behaviors were essentially unaffected by whether they were hearing the first

analogy, or the third, or the fifth in sequence. In short, there was no convergence effect, in contrast to what was found in earlier studies of examples and weak causal arguments.

Table 3
Descriptive Statistics for Analogy Codes, by Ordinal Position in the Conversation for Only the First 5 Ordinal Positions

| Ordinal Position | $N$ | Mean | $SE$ |
|---|---|---|---|
| 1 | 105 | 3.10 | .08 |
| 2 | 105 | 3.10 | .08 |
| 3 | 105 | 3.03 | .08 |
| 4 | 105 | 3.01 | .08 |
| 5 | 105 | 2.92 | .09 |

Parallel analyses were conducted for conversations having 6 or more analogies, and for conversations having 7 or more. Conversations having 6 or more analogies ($N = 45$) also did not display a significant effect (Pillai's Trace $F = 1.13$, $df = 5, 40$, $p = .36$). For conversations with 7 or more analogies ($N = 22$), the analysis is again not significant (Pillai's Trace $F = 1.49$, $df = 6, 16$, $p = .24$).

Figure 1 displays the mean ratings for analogies (the present study), examples (Hample, 2011b), and weak causal arguments (Hample, 2011a). The graph indicates the statistically significant effects in the examples and weak causal arguments data, such that people were more accepting of the arguments as they heard more of them. In contrast, reactions to analogies remained essentially unchanged as the conversations developed. In the first ordinal position in the conversations, analogies were more acceptable than either the examples or weak causal arguments. But both examples and weak causal arguments were reacted to as the conductive arguments they were, converging collectively on a more acceptable conclusion as the conversations developed. Reaction to analogies did not exhibit this effect.

36

Figure 1

Ratings of Analogies, Examples, and Weak Causal Arguments by Ordinal Position in Conversations
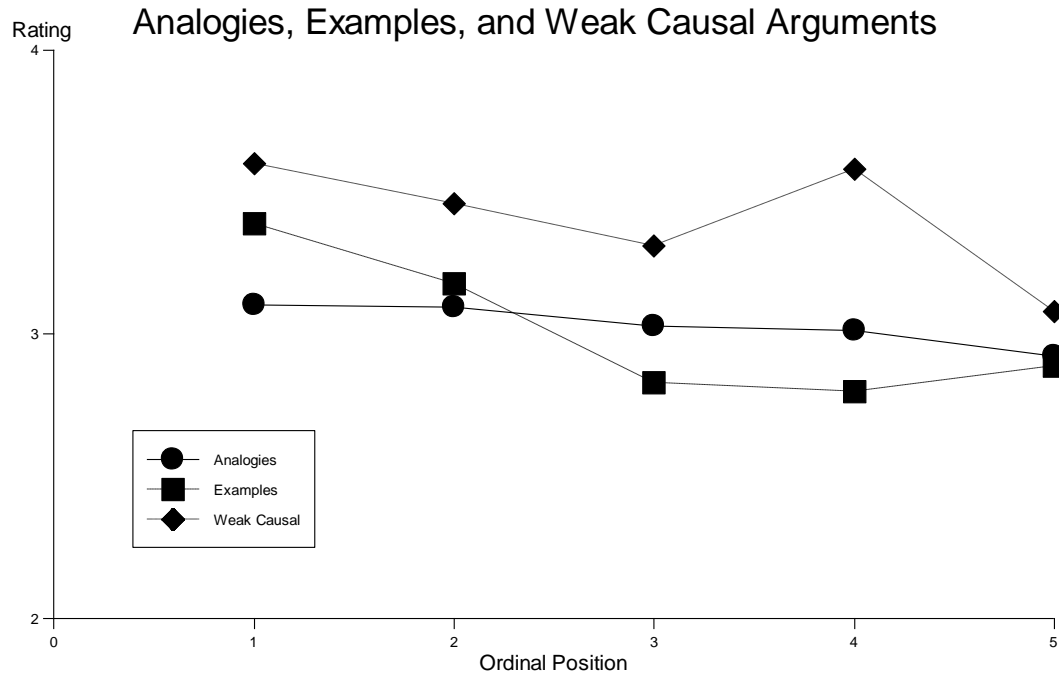


5. Discussion

Consistent with the warnings and reservations expressed by argumentation theorists, the participants in this study were not much attracted to analogies. In contrast to the examples study (Hample, 2011b), the analogy-ridden conversations were not effective in changing participants' attitudes. The essential response throughout these conversations was to reject each analogy and its conclusion without giving a reason for the rejection. Although as argumentation teachers we would prefer that people be able to articulate what is wrong with an unconvincing argument, people are at least sensitive to the argumentative reality that analogies are not compelling reasons. This underscores Mercier and Sperber's (2011) contention that people intuitively evaluate the connection between data and claim, and that evolution has made this ability consistently available to us all.

The key result in this study is a null one, namely that reactions to analogies do not show any convergence as the analogies pile up. Proving a null hypothesis is not so straightforward as supplying evidence of a substantial relationship between two variables. The statistical power of the key test in this study was .88, which is generally taken as sufficient to make a null result worthy of serious attention.

This lack of convergence – indicated by a disinclination to be more accepting of later analogies in a sequence of them – contrasts with the results of two earlier studies using essentially the same design. When people are confronted by a sequence of flawed causal arguments (e.g., interpreting correlation as proof of causality) they eventually became more open to the arguments' collective conclusion as the weak arguments accumulated (Hample, 2011a). Similarly, when people were given example after example to sustain a general conclusion, they became less critical as the examples mounted (Hample, 2011b). The conclusion offered by those two studies is that arguments that have some value but that are individually insufficient to sustain a conclusion can converge, reinforcing one another and creating what we might call joint or conductive sufficiency.

This did not happen with the *a priori* analogies used here. The individual analogies were suitably weak and ordinarily rejected. It should be noticed (see Figure 1, first ordinal position) that the analogies were actually more acceptable than the examples or flawed causal arguments. So the lack of convergence cannot be due to any special weakness of the arguments, at least insofar as they compare to the arguments inserted into conversations in the other studies.

Importantly, this null result also means that the convergence effect found in the earlier work is not due to arguer fatigue. The conversations were the same length and occurred under the same conditions. The confederates initiated approximately the same number of arguments. In short, the quantity of arguing activity seems to have been comparable in all three studies. So there is no reason to suspect that the circumstances of this study were less onerous or otherwise less likely to exhaust the participants' patience or interest.

This study points to the conclusion that analogies simply do not converge. This claim is of course limited by the topic, procedures, sample arguments, and sampling frame used in this study. It may also be very important that the analogies here were *a priori* analogies (Govier, 1989), since quite a different result was obtained using examples, which are very similar to empirical analogies.

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**Moral Normativity of Argument**

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Abstract: Can there be an ethics of argumentation? The alternatives, that no norms apply to argumentation, and that any norms that apply to argumentation are exclusively non-moral, are rejected. Three arguments are offered to support the moral normativity of argumentation. First, some standard moral norms apply to argumentation in particular; second, some standard obligations of argumentation seem to have a moral character in some situations; third, there do seem to be moral vices and virtues attributable to arguers. However, the moral normativity of argumentation, where it occurs, has only *pro tanto* application.

1. Introduction
        Sidney Hook, the American social philosopher, wrote the following about discussion and the democratic process:

> Discussion is the life-blood of the democratic process, and, wherever discussion flourishes, controversy is sure to arise.
> Certain methods of controversy, however, poison instead of refreshing the life-blood of democracy. (…) They seek to discredit persons rather than to consider problems. They ignore or suppress relevant evidence. They aim to create a mood of refusal to listen to views challenging some favored or dominant notion. Instead of exposing, confronting, reconciling or negotiating the conflicts of interest and opinion, one interest is fanatically identified with the common interest, and one opinion with the loyal opinion. (Hook, 1954)

This passage could have been written about the political polarization in the United States Congress since 2010, but in fact Hook wrote it over half a century ago during the heyday of McCarthyism. Hook did not call these democracy-poisoning practices immoral, nor did he claim the authority of morality for all items on his list of ten "ground rules for controversy in a democracy."[1] Given the value of democracy and the importance to it of

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[1]    1) Nothing and no one is immune from criticism.
    2) Everyone involved in a controversy has an intellectual responsibility to inform himself of the available facts.
    3) Criticism should be directed first to policies, and against persons only when they are responsible for policies, and against their motives or purposes only when there is some independent evidence of their character.
    4) Because certain words are legally permissible, they are not therefore morally permissible.
    5) Before impugning an opponent's motives, even when they may legitimately be impugned, answer his arguments.

free and open discussion, it is worth considering whether acts and practices that threaten to undermine such discussion are outright immoral.

Such a judgment assumes the more general proposition that there can be an ethics or morality of argumentation. It assumes that *moral* rights, duties or obligations can attach to engaging in the activities of argumentation—in the making and using of arguments for various purposes. It can also be viewed as the assumption that a person can exhibit and exercise *moral* virtues or vices in distinctive ways while engaged in argumentation. But are there *moral* norms associated with argumentation? I call the view that there are, the *moral normativity of argumentation* position.

That argumentation has moral normativity does not imply that there are moral norms unique to argumentation. Consider the analogy with professional ethics. To hold that there are medical ethics, for example, does not imply that there are moral norms unique to the practice of medicine. It is, rather, to hold that certain generally applicable moral norms—in particular: beneficence, autonomy and fairness—have applications in the practice of medicine. Similarly, to hold that there can be an ethics of argumentation is to hold that there are moral norms that can apply to argumentation.

There seem to be two possible alternatives to the *moral normativity* position. The first is that no norms at all apply to argumentation. An arguer has no rights or obligations of any kind; arguers exhibit no virtues, and are prey to no vices. Arguing is thus like walking or talking. One might stride athletically or limp along haltingly; one might talk with a drawl or in a clipped manner—these are just different ways of walking or talking (also possibly preferred or dis-preferred for one or another purpose). Similarly, in whatever manner one argues, its features have no normative character. I call this the *non-normativity of argumentation* position.

This *non-normativity* alternative is clearly a non-starter. At the very least, prudential obligations are associated with argumentation, obligations incurred as the necessary means to a desired end. In order to persuade an audience or an interlocutor, an arguer is obliged to use grounds it accepts for the claims in question. Also, if the arguer is to have a chance of success, the interlocutor must be allowed to voice objections and the arguer needs to respond to them. These might not be moral obligations, but obligations they are, for they are behaviors that are required for effective participation in the activity. Similarly, there seem to be obvious virtues and vices attached to argumentation, such as the skill and habit of clarity of expression and organization versus that of disorder and opacity of expression, or the skill and habit of keeping to the point versus that of wandering off onto tangents or introducing irrelevancies. These virtues and vices might not be moral in character, but they are instances of norms that apply to argumentation.

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6) Do not treat an opponent of a policy as if he were therefore a personal enemy of the country or a concealed enemy of democracy.

7) Since a good cause may be defended by bad arguments, after answering the bad arguments for another's position present positive evidence for your own.

8) Do not hesitate to admit lack of knowledge or to suspend judgment if evidence is not decisive either way.

9) … "It is not impossible" is a preface to an irrelevant statement about human affairs. The question is always one of the balance of probabilities. …

10) The cardinal sin, when we are looking for truth of fact or wisdom of policy, is refusal to discuss, or action which blocks discussion. (Hook, 1954)

The second alternative to the *moral normativity* view is suggested by this rebuttal of the first one. Yes, there are rights and obligations, virtues and vices, associated with argumentation; but no, they are not moral in character. On this view the norms of argumentation are like the norms of chess or any other game. To play the game one is committed to going by the rules. These consist of various obligations, prohibitions and permissions.[2] A rook may not be moved diagonally; a bishop may be moved only diagonally. To move a rook diagonally is not to play chess immorally; it is to not play chess (or to not play "standard" chess). Similarly, to different games there attach different virtues and vices. A chess player might be patient or impatient, deliberative or impetuous, imaginative or plodding. But none of this has anything to do with morality. These obligations are commitments associated with playing the game; these virtues and vices are just habits that help or hinder in doing so successfully. Similarly, there are obligations associated with engaging in argumentation. For instance, by asserting a point of view in an argument one incurs an obligation to defend it if it is questioned or otherwise challenged. This is one kind of burden of proof obligation. Or, an arguer might be disposed to be patient or impatient with frivolous challenges or querulous requests for clarification, or might be disposed to respond in an even-tempered way or curtly to criticisms. But none of this has anything to do with morality. Any such obligations (or rights) are simply constitutive of the activity of engaging in argumentation and any such habits are simply traits that are conducive to or interfere with effective argumentation. I call this the *non-moral normativity of argumentation* position.

In this chapter I argue for the moral normativity of argumentation—that there can (also) be obligations and virtues of a moral nature attached to argumentation.

2. Morality, obligation and virtue

What is implied by holding that obligations and virtues are "moral" in character? Obligations can be requirements constitutive of activity-types, such as the rules of games. Or, they can be requirements conditioned by objectives, such as what one is obliged to do if one wants to achieve a given end. Or, again, obligations can be requirements created by roles, such as the duties assigned to an occupational role, like the duties of a shipping clerk. None of these is a moral duty or obligation. Virtues are habits and dispositions— excellences, the Greeks called them—which enable one to perform a function well. We can thus speak of the virtues of a good actor, a good cook, a good athlete—or a good arguer (see Aberdein 2007); but none of these examples, except possibly the last one, is a moral virtue. So what is it that makes an obligation or a virtue a *moral* one?

Non-philosophers might—or might not!—be surprised that philosophers have found this a vexing question. This is not the place to rehearse their controversies. For the purpose of considering whether arguing, especially arguing in public spheres, is subject to moral appraisal, I will follow mainstream opinions. For instance the respected American moral philosopher, William K. Frankena, proposed that

> principles, codes and judgments are moral ones if (…), besides being universalized
> [that is, holding for anyone in a similar circumstance] they are backed, at least
> when challenged, by reasons consisting of facts about what actions, traits of

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[2] Strictly speaking these can be reduced to obligations. An obligation is a requirement to do something, a prohibition is an obligation to refrain from doing something, and a permission is the absence of any obligation to do or to refrain from doing something (see von Wright, 1963).

character, etc. do to the sentient lives of those affected, including others if others are affected … . (Goodpaster, 1976: 192.)

Frankena's account is similar to a more recent formulation in the *Stanford Encyclopedia of Philosophy* (Gert, 2008): "Morality is an informal public system applying to all rational persons, governing behavior that affects others, and has the lessening of evil or harm as its goal." In other words—or so I will assume for purposes of this discussion—obligations and virtues are moral in character just when they are universalizable (i.e., anyone similarly situated ought to follow them; they hold for all rational persons) and fulfilling them or exercising them affects the wellbeing of others.

Overlapping with morality, but different from it, are the norms of etiquette. Etiquette differs in that its norms do not apply to all (rational) persons, but rather to members of particular cultures and sub-cultures (which can be as small as families); its rules change over time; and it has only the facilitating and smoothing of social intercourse rather than the wellbeing of others in general as its goal. Morality and etiquette overlap because one can have a moral obligation to respect the rules of etiquette of a group with whom one comes into contact. However, in most circumstances violations of rules of etiquette, such as using the "wrong" fork, are not morally culpable. I mention etiquette because some norms that apply to argumentation turn out to be not moral principles but instead those of etiquette.

With this clarification of terminology in place, we can return to the nature of the normativity of argumentation.

## 3. The *non-moral normativity* of argumentation

I've noted that there are obligations that are or can be associated with argumentation that are not moral in character. For example, the rules governing the ideal construct called a "critical discussion" in the Pragma-dialectical theory of argumentation (van Eemeren and Grootendorst, 2004) are obligations the observance of which is meant to be instrumental to the achievement of the outcome of that (idealized) procedure, namely the rational resolution of a difference of opinion between two parties. The so-called "ten commandments" of the "code of conduct" proposed by proponents of that theory are prohibitions meant to be instrumental, not moral. Thus, for example, it is not (or not normally) immoral to prevent a discussant from advancing a standpoint or calling a standpoint into question (Commandment 1, van Eemeren and Grootendorst, 2004: 190). The prohibition of that conduct is just, "a necessary requirement for resolving differences of opinion, because a difference of opinion cannot be resolved if it is not clear to the parties involved that … [it] exists and what … [it] entails" (*ibid*.). Similar rationales apply to the other rules proposed in this theory. One does not have to subscribe to all the details of this particular theory to appreciate the practical applicability of many of its rules to all sorts of situations in which argumentation occurs, and the point is that such rules are justified on non-moral grounds, such as (among others) the promotion of efficient argumentation, coming to some resolution, or illuminating underlying differences.

Similarly, it must be conceded that there are virtues and vices distinctive of argumentation but that are not moral excellences or moral failings. For example, those who have sat on deliberative committees are familiar with the following characters.

- The *repeater*, that self-absorbed person who doesn't follow the argumentation in a general discussion, or ignores it, and then jumps in with an argument that has already been given and responded to.
- The *hog*, the person who monopolizes the discussion at the expense of other turn-takers, using more than his or her fair share of available time, effectively taking time from other discussants.
- The *interrupter*, who breaks in on speakers before they have had a chance to complete their contribution, or who speaks out of turn.
- The *open door pusher*, who just has to state his or her case even though a favorable decision is been made already and no further argument is needed.
- The *locked door pusher*, who insists on making his or her case even though it is clear that the sense of the body is that his or her cause has lost.[3]

We know these characters and we roll our eyes in exasperation when they pipe up in their predictable ways, but these are generally not moral failings. They are traits that exhibit a failure to appreciate what makes for efficient and effective argumentation. The *repeater*, the *hog* and the *interrupter* are impolite, not evil. The *open door pusher* and *close door puller* are ineffective, and time-wasters, but not (normally) morally culpable. These vices (and their corresponding virtues) constitute norms of the "etiquette" of argumentation. These people have bad argumentation manners, but they are not in these respects morally blameworthy people.

Clearly there are non-moral argumentation norms, namely both instrumental argumentation obligations and also virtues and vices of argumentation etiquette. So the argument for the moral normativity of argumentation cannot be based on the position that *all* of its normativity is moral in nature

4. The *moral normativity* of argumentation

To see how moral norms can have application to argumentation, consider some other types of case in which there are moral norms associated with an activity. I have in mind the norms of conduct that apply to the actions of various professionals.

Take medical ethics as an example. Physicians have obligations to patients, to patients' families, and to fellow medical professionals (other doctors, nurses, hospital personnel, etc.). In particular they have, among others, the obligation to optimize the good health of their patients, to respect the autonomy of the patient, and to distribute scarce health-care resources under their control in an equitable manner. The general moral norms of beneficence, respect for autonomy and fairness have particular applications in the medical practice of physicians and other medical professionals, and as a result there are moral prescriptions and proscriptions that apply to doctors, nurses and hospital or clinic staff in the practice of medicine.

The professional norms that are at the same time moral requirements have the property of being "moral" because they are universalizable—they hold for anyone similarly situated—and they affect people's well-being. Such obligations arise in particular in the practice of such professions because each is characterized by social roles and relationships that give rise to those particular applications of general moral norms. If

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[3] To be sure, there are occasions when it is appropriate to make the arguments for a lost cause. See Robert Asen's (2005) discussion of "responsibility attribution" in public sphere argumentation (130-131).

any activity has distinctively moral norms, whether associated with a profession or not, this feature will be at least one ground of those norms.

To be sure, arguing is not a profession. Arguments are tools that serve many uses and many kinds of activity. Argumentation—the discussions employing arguments— occurs in dormitory bull sessions, barber-shop or beauty-parlor conversations, political advertisements and speeches, discussions in legislative committees, debates on the floors of legislatures, labor-management negotiations, school boards, university senates, faculty or department debates, scholarly articles, scholarly meetings, policy and planning committee meetings varying from those of federal government departments, to corporations, to managerial staffs of small business, to union shop executives, to members of households, and so on and on. So it might seem that there is no one set of roles and relationships that give rise to moral obligations governing the way the argumentation is to be managed. On the other hand, constant in each of these venues there exists the relationship between the arguer and his or her interlocutor or audience, and there exists the fact that argumentation is usually a purposive activity premised on seeking to achieve some goal. It is these features that ensure that the normativity of argumentation *can* be moral in *some* cases or in *certain* circumstances.

5. *Moral obligations* of argumentation

Specifically, there are some *pro tanto* moral prohibitions that, by virtue of being special cases of more general moral prohibitions, apply to argumentation in some cases. By a *pro tanto* reason, I mean one that has genuine weight, but nonetheless can in certain circumstances be outweighed by other considerations. It is to be distinguished from a *prima facie* reason, which appears to be a reason, but might actually not be one (see Kagan, 1989: 17).

(1) *It is unethical to use in an argument grounds one believes to be false.* This norm is a special case of the moral injunction against lying. Presenting a proposition as a ground in an argument consists of asserting that proposition. Asserting a proposition normally entails a commitment to its truth. Committing to the truth of a proposition one believes to be false normally entails the intention to deceive, and as such, is lying.[4] And lying, other things being equal,[5] is immoral. If "lying" is too harsh a judgment for some readers' moral sensibilities, it must at least be conceded that such argumentative behavior is dishonest—and dishonesty is *pro tanto* immoral.

Of course this norm (like *any* moral norm) holds only *pro tanto*—so long as other things are equal. It has moral weight, but it can be outweighed by other considerations in special circumstances. There are situations when it is morally permissible to assert a proposition one believes to be false, and in some situations there is even a positive moral obligation to do so. The prohibition against lying is quite correctly waived, for instance, in high school or college debates, or in bull sessions. In those contexts argumentation is part of a game or of play, for the purposes of which many moral requirements are suspended. It is also possible to imagine situations in which the stakes are sufficiently

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[4] Of course there are special cases, such as when one commits to a proposition one does not believe "for the sake of argument," as in a *reductio ad absurdum* argument, when commitment does not entail the intention to be truthful.

[5] The expression "other things being equal" or "other things are equal" (*ceteris paribus*) is normally understood to refer to other things *pertinent to the matter at hand*, and I will use it that way.

high—when so much, or such grievous, injury or injustice will occur if the argument does not prevail—that a deliberately false assertion, and so a false premise or a false inference, is justified on moral grounds.

Even so, there is a general moral presumption in favor of honesty, and hence, of asserting only what one believes to be true. Consequently, when arguing there is a moral presumption in favor of asserting as grounds advanced in support of a thesis only statements that one believes (i.e., considers to be true or reasonable to believe).

(2) *It is unethical deliberately to invite the interlocutor to commit or be deceived by what one believes to be a fallacy—that is, is it unethical to offer an argument one believes to be fallacious as if it were legitimate or to make a fallacious argumentative move on purpose.* Deliberately arguing fallaciously is a case of trying to mislead the interlocutor or audience, and since deliberately misleading is a variety of lying or dishonesty, which are *pro tanto* immoral, deliberately arguing fallaciously is *pro tanto* immoral.

Again, there will be situations in which other things are not equal and as a result there are exemptions from this norm—when deliberately arguing fallaciously is not immoral. The same kinds of circumstance that exempt arguers from the prohibition against deliberately asserting falsely would also exempt them from deliberately arguing fallaciously. For example, imagine trying to convince someone, who is standing on a rooftop thinking of committing suicide, to step away from the edge of the building: the overriding imperative is to persuade the person not to jump.

Still, fallacious argumentation can be a special case of immoral manipulation or dishonesty. A use of abusive *ad hominem* can be a case of bullying. An illegitimate *ad misericordiam* appeal can be emotional blackmail. And a knowing improper appeal to authority passed off as legitimate can be intimidation. A deliberate *straw man* attack can be dishonest misrepresentation, as can be a case of deliberate fallacious *equivocation*.[6]

(3) *It is unethical deliberately to misstate the epistemic status of claims used in argumentation.* By "the epistemic status of a claim" I mean whether it counts as knowledge or belief or faith or rumor or speculation, and so on. Is the claim known to be true? Or is it presumed true, expected to be true, or plausible, or is it an intuition, or speculation, or a premonition or an article of religious faith or a guess?

For example, arguing against the Obama administration's health care legislation because it will result in America becoming a socialist state constitutes appealing to a matter of belief, not of knowledge, and it is a highly problematic belief at that. Consequently, this premise should be qualified accordingly in arguments against that law. Or arguing for the legalization of abortion on the ground that a human embryo has no moral significance is basing one's argument on a hotly-contested claim, which should be signaled as such and not presented as a settled, objective fact. It is a moral lapse knowingly to make these misstatements of the epistemic standing of the claims in question, other things being equal, because that it is an instance of misrepresentation, a kind of lying or dishonesty, which are *pro tanto* immoral.

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[6] These claims presuppose no particular theory of fallacy. They apply whether fallacies are conceived as violations of speech act rules or as logical misbehaviors. On theories for which fallacies are pragmatic violations, my contention is that such deliberate violations intended to deceive are at the same time, *ceteris paribus*, moral violations.

It would be fair to say that the qualifier "deliberately," in a prohibition against deliberately misrepresenting the epistemic standing of claims lets most people off the hook, since most people don't reflect much about the epistemic status of their claims. Here is where the ethics of belief would have application. How responsible are we for knowing the epistemic status of our cognitive attitudes (and hence of our assertions expressing them)? But even if this self-knowledge cannot be required as a rule, it can still be urged as an ideal to try to reach. In some cases we are entitled to judge that the arguer ought to have known better. These three *pro tanto* principles illustrate the kind of applications to argumentation morality can have.

The moral salience and gravity of the issue under argumentative discussion and the context in which the argumentation occurs make a difference to whether or when these moral injunctions may be overridden. In some situations the topic and circumstances render most of the above-mentioned norms inapplicable. For example, think of a college dorm room bull-session about the merits of a movie, a band, or a team. For the fun of it the students defend positions they don't believe in, use arguments they think are wildly fallacious, and deliberately misrepresent one another's views. It's all for play and mental gymnastics. As one commentator puts the point, "the violations of ordinary argumentative norms that occur do not seem to be lapses of morality because the interlocutors all understand that this is a case of eristic dialogue which is not bound by such norms." It would be moral heavy-handedness to object.

In other circumstances, respecting these norms is important. Imagine how inappropriate would be dorm-room bull-session behavior at a session of the United Nations Security Council arguing over a resolution when war hangs in the balance. The importance of respect for the office of the President is what made Representative Joe Wilson's (2009) shouted interruption of President Obama's health care speech to the joint session of Congress in September 2009 objectionable not just as bad manners, but morally so.

And yet, situation is everything. In contrast to the politeness expected to be accorded a President's address to a joint session of Congress, consider the shouted interruptions of questions for, and of answers by, the Prime Minister or Cabinet Ministers during parliamentary Question Period in the Canadian or British Houses of Commons. Disrespectful and insulting behavior has become standard and accepted as part of the convention of this particular parliamentary institution. The result is that the value of Question Period has diminished, but parliamentary democracy has hardly been undermined.

Furthermore, as Daniel O'Keefe argues, "A satisfactory general analysis of normatively desirable argumentative conduct cannot be oriented only to the analysis of argumentative devices themselves, but rather must be situated within a broader understanding of the larger ends sought" (2007: 1001-1002). To mention just one of several examples O'Keefe discusses, a physician advising a patient about the risks of certain individual behaviors such as smoking has to consider two things. (a) There is evidence that people tend to over-estimate such risks, so that if the physician provides accurate risk information, the patient is less likely to heed the warning. Also (b) by virtue of presenting the patient with risk information the physician is playing an advocacy, and hence paternalistic, role, not simply an advisory role (*ibid.*: 1000-1001). Should the physician present accurate information knowing it is likely to be less effective? Should

the physician be advocating at all? The path of virtue in argumentation is far from clear-cut and straightforward.

In sum, these moral judgments applied to argumentation must be made with sensitivity to context, and with a view to circumstances that might override their *pro tanto* moral standing.

6. Obligations exclusive to argumentation

So far the obligations discussed are cases of general moral obligations as they apply to argumentation. What about the obligations that are exclusive to argumentation, such as burden of proof obligations or the alleged obligation to seek out objections and the obligation to respond to them (see Johnson 2000: 327ff.)? Are these moral obligations as well as instrumental obligations—"categorical" as well as "technical" imperatives, as Kant (1959) would have put it? The alternative is to regard them as akin to obligations imposed by the rules that apply to anyone choosing to play a game.

Engaging in argumentation can be a game (albeit a learning game), as in school debates, or it can be a form of amusement (perhaps a kind of loosely-structured game too), as in coffee house bull sessions. Some such argumentative games (such as formal debates) are defined by strict rules; others (such as bull sessions) have few and lax rules. Still, in both situations, moral considerations apply. A senior using polished debating skills to humiliate a freshman in a college bull session is behaving immorally no less than is the debater who by violating explicit debate preparation rules is cheating.

The concept of morality itself provides a clue as to whether, and if so, when, argumentation obligations take on a moral flavor. Assuming that a morality is a system of norms that governs behavior that affects others with the goal of promoting their well-being, it follows that any actions that have the potential to affect the wellbeing of people are subject to moral appraisal. Using arguments to humiliate another person and cheating in the preparation of arguments for debate both qualify.

In many contexts and circumstances, argumentation has the potential to affect the wellbeing of other people. In legislatures, courts, boards of directors meetings, business planning meetings, health-care and education institution planning and governing meetings, political campaigns—to give a short list of contexts—the outcomes of the argumentation occurring in them will tend to be decisions that can benefit some people and harm others. And in all sorts of situations, public and private, argumentation can have as its result attitudes, beliefs or decisions that can benefit or harm people. Moreover, some kinds of argumentative behavior, such as monopolizing debate or browbeating opponents, can under certain circumstances violate the autonomy of the interlocutor. In such contexts and situations, going by the above reasoning, the manner in which the argumentation is carried out would be eligible for moral assessment. The manner of argument can exhibit respect for others and their autonomy, or denigrate the interlocutor. Presumably the obligations and virtues that theorists contend are associated with engaging in argumentation have the purpose of maximizing the production of cogent arguments and wise judgments. Thus if such obligations attach to engaging in argumentation, then, when the outcomes are likely to have moral consequences, meeting those obligations would be a moral duty. The greater the risk of harm or lost benefit from bad reasoning and poor argumentation, or the greater the disrespect for the other, the more serious would be the moral lapse of failing to fulfill such duties.

An implication of this position is that in political discourse the use of unjustified abusive *ad hominem* arguments against an opponent, the straw man distortions of opponents' positions on various political issues, the failure to respond to legitimate challenges by the press or the opponent to a candidate's or party's stated positions—all these moves and others like them count, given the importance of the outcome for the public welfare, as *pro tanto* immoral violations of argumentation norms.

As an afterword to the discussion of argumentation obligations, we might consider whether scholarly argumentation is sufficiently important to justify regarding obligations of argumentation in scholarship as being morally weighty. The objective of scholarly inquiry, and so of the argumentation constitutive of it, is the asymptotic approach to truth, the search for the best judgment available at the time and under the circumstances. The consequence of failures to meet burdens of proof, to seek out contrary arguments to test one's assumptions, to respond to objections and counter-arguments, and so on, is presumably a greater risk of error than would occur if these argumentative obligations had been met. No doubt many academic errors, such as in the misunderstanding of some obscure philosopher or poet, would and do have no impact on human wellbeing generally. The trouble is that if argument obligation backsliding is tolerated in some unimportant cases, there is a risk that it will become tolerated in others that are not so unimportant. Whether this line of thought constitutes a fallacious slippery slope or prudent foresight is an empirical question. At the least, when the outcomes of scholarly research clearly do have import for public wellbeing, the argumentative obligations that are incurred take on a moral hue.

7. Moral ideals, or virtues (and vices) of argumentation

Wayne Brockriede (1972) famously described three ways of engaging in argumentation in terms of three types of arguer: the rapist, the seducer, and the lover. Insofar as these types represent character traits, they might reasonably be classified as two argumentation vices and one argumentation virtue. The first two entail treating those to whom arguments are directed as objects to be manipulated, not persons with whom to interact. The rapist seeks to overpower, forcing the interlocutor to assent by bullying and intimidation. The seducer seeks power too, but by manipulation instead of force, trying to gain assent by cajoling and trickery. In contrast, the lover respects the interlocutor as an autonomous equal partner in the argumentation and risks himself or herself in seeking assent. Corresponding to these types of arguers, Brockriede suggested, can be hypothesized types of interlocutors—those who tend to submit to rape or seduction or those who tend to resist, insisting upon being treated as lovers, as well as those who are capable of responding to argumentation as autonomous equal partners.

My question is whether these vices and this virtue, or these two types of imperfection and one ideal, are moral vices and virtue, or moral imperfections and a moral ideal. The alternative is that their value, or disvalue, is purely instrumental: you get better results if you argue as a lover than as a seducer or rapist. The trouble with this alternative is that it seems empirically false. For instance, we hear of evidence that attack ads in political campaigns are effective. Yet I think Brockriede would nonetheless favor arguing as lovers. I think he would contend that this is how anyone should behave in arguing because it is good for both the arguer and the interlocutor, even if it is less effective than the alternatives. Furthermore, arguing as rapists or seducers entails

disrespect for the interlocutor, or even more strongly, the dehumanization of that person or those persons. These are moral failings.

No doubt Brockriede's list does not exhaust the candidates for moral virtues and vices of argumentation, but they do show that such norms have force.

8. Conclusion

Let us return to Sidney Hook's ground rules for discussions in democracy with which this chapter began, and examine them on the basis of the moral normativity of argumentation. "(1) Nothing and no one is immune from criticism." — This seems to be a political principle stemming from the nature of democracy. "(2) Everyone involved in a controversy has an intellectual responsibility to inform himself of the available facts." — Given the importance of affairs of state and the moral obligation to know the epistemic status of one's beliefs, (2) qualifies as a moral rule. "(3) Criticism should be directed first to policies, and against persons only when they are responsible for policies, and against their motives or purposes only when there is some independent evidence of their character." —Inappropriate ad hominem attacks used as arguments are cases of the *ad hominem* fallacy, and given the importance of democratic discussion, are a moral violation. "(4) Because certain words are legally permissible, they are not therefore morally permissible." —An argument move's being legally allowed does not make it morally all right. This principle applies particularly to straw man attacks and distortions in political attack ads. The law permits them, but when they distort, lie, or smear, they are immoral. "(5) Before impugning an opponent's motives, even when they may legitimately be impugned, answer his arguments." —This rule seems to be motivated by informal logic rather than by morality. A person can have bad motives for a good policy; attacking his or her motives as a way of attacking the policy is in such a case logically irrelevant. The criticism of someone's motives for a policy proposal is relevant only as an explanation of their support for a bad policy. "(6) Do not treat an opponent of a policy as if he were therefore a personal enemy of the country or a concealed enemy of democracy." —In other words, keep the discussion civil. Civility is arguably a moral virtue. "(7) Since a good cause may be defended by bad arguments, after answering the bad arguments for another's position present positive evidence for your own." —This is a rule motivated by informal logic rather than morality: refuting an argument for a position does not refute the position. "(8) Do not hesitate to admit lack of knowledge or to suspend judgment if evidence is not decisive either way." —This rule calls for a kind of integrity in arguing: don't pretend to know what you do not. Integrity is a moral virtue. "(9) … 'It is not impossible' is a preface to an irrelevant statement about human affairs. The question is always one of the balance of probabilities. …" —This rule bears on the practical reasonableness of political argument and not their morality. "(10) The cardinal sin, when we are looking for truth of fact or wisdom of policy, is refusal to discuss, or action which blocks discussion." —Discussion, which in the case of political affairs implies argument, is so important to democracy that its refusal or subversion is morally culpable.

Given the value of democracy and the importance to it of free and open discussion, we can see that some of the acts and practices that threaten to undermine such discussion are indeed morally questionable, whereas others are objectionable on other grounds. In sum, we are able to see that Hook's rules are a combination of logical,

strategic and moral advice. We thereby see the moral normativity of argumentation in practice.[7]

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**When Foundations Fail: Argument without Institutions of Fact**

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Abstract: The argument begins with an observation that polarization of the public sphere in the United States is marked not only by differences of value but also by differences of fact. Our theories of reasoning assume that public argument proceeds from mutually accepted factual premises. Pondering the problem, the essay considers where the facts for public argument come from and why they have for so long had a stabilizing influence now lost. The answer is that institutions of fact that sustained argument through the 20th century are now lost. The essay describes their demise and discusses the problems created by the need to construct argument in the absence of institutions of fact.

Key Words: Argument, fact, ideology, media

During the 2005 National Communication Association convention in Boston, I was a participant on a panel entitled, "Today's Political Polarity: Good or Evil?" Dedicated to my preparation for the panel, at the stroke of midnight the night before, I tuned my hotel television to the Discovery Channel's program entitled "Red and Blue." The strategy of this reality show was to take a politically astute family from Clinton, Louisiana – in the parlance of the program as red as Louisiana can get – and sit them down in the house of a politically astute family in Topanga, California – as blue as California can get. The conservative Louisiana family would live for a month in the social circle of their liberal California counterparts. Similarly the family from the house in Topanga would live among red-state Cajuns. The viewers would, of course, ogle the real knockdown, drag out fights that would surely ensue. The program did, to be sure, feature argument. But an interesting thing happened. As the guests confronted the arguments in their adopted venue, the argument stopped with a comment something like, "Well, that simply is not true" or "I just do not believe your facts." I took special note of this characteristic. In preparing for the panel in Boston, I had been reading that our politics were polarized by a difference in values (see, for example, Hunter, 1992). Now, "values" is a slippery term, but in watching this program one was amazed that deep values tended to be shared, and when not shared, at least respected. Disagreement-induced arguments ended not at differing values but at differing facts.

Since that night, observing citizens arguing about our most polarized political issues, I find that this characteristic recurs: When argument stops, the unbridgeable barrier is more often facts than values.[1] In the fall of 2013, the implementation of major

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[1] The democratic dialogue I ponder in this essay is the fabric of informal, dispersed discussion and debate that shapes the direction of our political economy writ large and the specific issues we term "policies" that shape that direction at any moment. One of the effects, or perhaps one of the stimulants, of the differences in these processes in our time is the construction of democracy merely as the more ephemeral elections in which active voters choose representatives. Of course, a democratic public sphere is much broader than this equating of democracy with election. Furthermore, although our media cast these elections within the

provisions of the Affordable Care Act was on the horizon. Yet, contradictory facts so surrounded that change in the system to finance medical treatment that confusion itself was recognized as a barrier to full implementation. Who was required to obtain insurance coverage? How were decisions about one's health care treatments to be made? What disorders were covered by the assurances of the plan? Such simple and threshold questions as these compounded continued rumors about death panels and rationing procedures.

Or consider questions of the impact of human activity on climate. Is the earth warming? And, if it is, does warming somehow intensify major catastrophic weather events? Is the process natural or created by human activity? Is that activity addressable or simply a matter of the expanding number of humans on earth? Even before questions of value enter to influence recommendations on how to address the problem, if real, disputes about the facts divide those in the debate.

Little wonder that facts are our stumbling block in ordinary conversation. In 2003, the most important decision a nation makes – going to war – was justified with facts that were not: arsenals of weapons of mass destruction, 9/11 connections, mobile biological weapons labs. At the most generous we had a policy driven by facts with no effective infrastructure to determine them. Less generously, the charge was that neo-Conservatives in the Bush administration engaged in what we used to call "fudging," or relying on their heart rather than their mind to determine the facts, *knowing* only what they needed to know to justify their policy desires.[2] In December 2005, the *New York Times* released information that the National Security Agency was conducting an electronic eavesdropping operation listening to the presumably private conversations of United States citizens (Risen and Lichtblau, 2005). A critical debate about the over-two-century-old principle of judicial check on government's right to explore the secrets of our lives and conversations was obfuscated by a contention that we cannot explore the facts of the government's practices because "we cannot let our enemies know."

In this essay, I want to explore the crisis these examples illustrate: the difficulty of relying on facts to resolve arguments in our culture. I will argue that we lie at a historical moment when the institutions that have provided an authority of facts for over a century have failed. I will begin by exploring the theoretical landscape that defines the significance of institutions of fact, locate the institutions in our historical moment, and then describe their historical crisis.

1.      The Importance of Institutions of Authority

We will find a theoretical understanding of institutions of fact at the nexus of what Daniel O'Keefe (1977) has labeled argument$_1$ – making an argument – and argument$_2$ – having an argument. We begin with a closer look at argument$_2$, specifically at argument in the public sphere. G. Thomas Goodnight describes the public sphere as a set of discourse practices. "The language of public address," he writes, "emanates from a community tradition of deciding and discussing priorities, constraining and protecting

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framework of the same polarized environment as the more important framework for determining direction and policy, the communication dynamic in elections is so different to require separate analysis. In this essay, I retain the focus on direction and policy.

[2] This perspective is articulated by Paul Pillar, former national intelligence officer from the Near East desk at the Central Intelligence Agency (Pincus, 2006).

habituated prejudgments, and indulging and confronting common problems" (1987: 429). Goodnight describes the public sphere as a dialectic between controversy and consensus in search of "knowledge sufficient for informed decisions" (431).

Thomas Farrell's central concept – "social knowledge" – locates in Goodnight's discourse practices. Farrell describes social knowledge as shared practical knowledge that permits a society to proceed with productive argument. He posits that this social knowledge both informs and, in turn, becomes the product that perpetuates the public's productive argument$_2$. Argument, he notes, proceeds from consensus to consensus. He does not mean by this that for argument to proceed all must agree. "By definition," he writes, "the knowledge which is distinctly rhetorical in function (...) must be based upon a consensus which is attributed rather than fully realized" (1976: 8). Farrell's move emphasizes the importance of commonly held grounds for proceeding through argument$_2$. Thus, his social knowledge, like Goodnight's, extends from a practical comfort with the discourse practice of argument to a set of understandings from which productive public argument reasons.

The theory describes a phenomenon easily visible to us. We can see people who when engaged in public arguments invoke the authority of facts in support of their positions. They do so with the firm expectation that their facts will resolve the argument in their favor. The governmental sphere has developed elaborate legal and deliberative processes in recognition of the power of facts as a basis for decision. Western democratic argumentative processes are built on faith in a common understanding to resolve arguments satisfactorily.

The importance of these common understandings is evident if we examine O'Keefe's argument$_1$. Western notions of the individual argument have, since Aristotle, featured the power of reasoning from the known and agreed-upon to the novel. Aristotle had indicated that arguers must use as their "mode of persuasion and argument (...) notions possessed by everybody" (c350 BCE/1954: 1355a). Today that definition is nearly universal. Toulmin (1958) points to arguments as built inferentially from "the facts adduced" to "the conclusions drawn from them" (13). Perelman and Olbrechts-Tyteca (1958/1969) call the known and agreed-upon quite simply the "starting points of argument" (65). Brockriede's (1975) first characteristic of argument highlights the "inferential leap from existing beliefs to the adoption of new beliefs or to the reinforcement of an old one" (180). This view of argument posits the arguer as one who, when challenged, analyzes his/her interlocutor to understand the common basis of appeal that the interlocutor will accede is proof of the arguer's claim. Thus, the texture of effective argument – persuasion as well as debate – has at its base commonly recognized starting points.

So, our concern with the quality of the democratic public sphere leads us to ask: How can a productively functioning public sphere provide such starting points of common understanding? Answering the question is complicated by a characteristic that Raymie McKerrow (1990) has noted in these argumentative communities: argument "may be characterized as less formal than that employed in other communities [such as science, law, or academic disciplines]" (38). The less formal public sphere must shoulder the burden of a practical knowledge of argumentative practice sufficient to negotiate the argumentative alternative that is the texture of democracy. How can we count on that knowledge perpetuating itself?

It is Jürgen Habermas who hints at an answer. In *Between Facts and Norms*, Habermas asks a question similar to ours: How can communicative action take us from valid facts to the normative force of policy mandates? He works out the problem by juxtaposing law and democratic freedoms to solve this problem "institutionally." His solution is not totally satisfactory. Those exploring issues of civic life from the perspective of the American communication discipline read Habermas' central solution in the analysis of intra-governmental processes as misplaced; not wrong but mislocating the problem. As intra-governmental processes have become more alien in the United States, nearly speaking a language which ordinary citizens find an affected patois, the problems of civic democracy seem much more real as problems requiring what Habermas (or his translator) misnames "republican" theory (1992/1996: 296).[3] Despite divergence in defining the problem, what this essay does borrow from Habermas is the European structuralist interest in institutions. For it is institutions that convert the reproductive force of argument$_2$ into reliable argumentative practices. Institutional inertia provides an extra habitual quality to the more informal processes of the democratic public sphere.

My project has now emerged. I want to explore our problem of anomie by studying the institutions that frame the social knowledge of starting points of argument. So, I focus upon the clusters of argumentative power that have in the past provided the institutions of authority for argument in American democracy and that are now in crisis. These institutions are historically defined. That is, they are not a matter of theoretical identification but a matter of historical study. And at our historical moment we detect trouble in the current institutions so necessary to fruitful civic argument.[4]

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[3] I call this a misnaming because the perspective Habermas labels "republican" – "democratic will-formation takes the form of ethicopolitical self-understanding" – is most often characterized as "democratic." See Klumpp (1997).

[4] Although a full history of the institutions of fact is beyond the scope of this study, a brief account may sharpen understanding of the current moment by foregrounding it in historical relief. Habermas traces the sources of these institutions to the dawn of public opinion in the philosophy of the enlightenment and the practical argument in the public coffee houses of the 17th and 18th centuries (1962/1989: 89-117).

These enlightenment ideals led the founders of the United States to privilege a public sphere and the founding documents envisioned institutions that would develop public knowledge. The first amendment in the Bill of Rights to the United States Constitution recognized the institutions of that day, including some now in eclipse. The right to assembly coupled with the right to petition highlighted the role of citizens gathered in public discussion in the early republic. A dominant institution of the day, before mass petitions dominated the right, was gatherings of citizens who drafted petitions to their public officials on issues affecting the public weal (Stewart, 2002). So strong was the appeal of public participation that less democratic institutions of fact such as the minister of Puritan New England were easily eclipsed in public influence, their diminished role finalized by the first amendment's endorsement of religious pluralism (Snyder, 2001: 302). Through the early republic, the enlightenment's preference for commonsense experience institutionalized itself in such fora.

By the mid-nineteenth century, the United States was in the full power of the age of great oratory. These great orators, educated in a system of public morality, became admired fonts of public knowledge. Their great speeches were delivered to thousands on civic occasions and reprinted in large quantities (Clark and Hollaran, 1993). Although newspapers of the era were highly partisan and generally not trusted, books and large circulation magazines dominated public reading and became institutions of public knowledge. Schoolbooks such as *McGuffey's Readers* became commonplace and the *Atlantic*, *North American Review,* and *Harper's* became staples of public knowledge. By the Civil War, sermons from the pulpit, abolitionist tracts and Harriet Beecher Stowe's novel *Uncle Tom's Cabin*, had fixed an image of American slavery in the minds of the Northern public, countered by contrary sources generated in the South. Late in this era, another important institution was the Lyceum. Traveling speakers on a variety of public subjects

2.	The Breakdown of Historical Institutions of Truth

My historical premise is that in the 20th century the consensus starting points of social argument were entailed in the institutions of the mass media and government. Our democracy avoided the problems of anomie because in the end we had recourse to these two institutions to provide reliable starting points to resolve the controversies of democratic dispute. At the dawn of the 21st century, however, these institutions have failed. The result is a weakened civic argument.

2.1	The Rise and Fall of Mass Media

Historically, the 20th century was the era of mass media. The technology of print, radio, and television could be narrowly controlled and that control was achieved by political and ideological systems in nations throughout the world. The United States was no different. Michael Schudson (1978) has tracked the emergence of what became known as "professional journalism" to the commitments of Adolph Ochs of the *New York Times* in the late 19th century, even before the heyday of yellow journalism. The commitments that arose were to ethics and to a craft. The ethical commitments included the centrality of objectivity, a sense of responsibility to democracy, and the importance of "getting it right." The craft included such rules as multiple sourcing, the importance of the probing interview, and the fulsome report defined by the five Ws and the inverted pyramid style. These commitments and skills yielded a journalism in which society placed trust as an arbiter of fact.

Schudson also described the period after World War I when this journalism rose to power as a time when an argument from fact triumphed over an argument from moral precept. The rise was fueled by the specialized training in journalism at American universities and the growth of the market as a fact-based natural arbiter of value seated in the accuracy of information. "Only then," he wrote, "did the ideal of objectivity as consensually validated statements about the world, predicated on a radical separation of facts and values, arise" (1978: 120-121). Journalists first traded in facts for the market, and then facts became central to the quality of decisions.

This was also a time of ascendancy for democratic faith. To be sure, this faith was more republican than democratic, but with a social gradation based in knowledge and the ability to reason rather than inheritance, wealth or moral stature. In the United States,

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interspersed informative presentations with entertainment programming to spread an understanding of the world through public gatherings (Ray, 2005).

Variations on this latter institution came to dominate public life following the Civil War. The age of oratory passed and the colleges that taught moral virtue before the war evolved to develop scientific and technical knowledge feeding the industrial revolution. This move was formalized in the founding of the land grant universities with their extension services that disseminated the results of scientific research to the general citizenry (Snyder, 2001: 303) through speakers bureaus. The land grant college idea recognized the difference between the technical and the public sphere, and took as its central mission the crossing of that divide: dedicated to scientific research in practical problems and to promulgating that knowledge through the popular speaker conveying scientific knowledge to the citizenry.

By the 1930s, progressive thought and Roosevelt's New Deal had brought scientific and social scientific thought into government. The media also evolved as newspapers and magazines such as *Scientific American* became the interpreters of the technical knowledge of science. As the visual dimension of media developed through the 20th century, the media also came to present the image as a dimension of factual social knowledge (Hariman and Lucaites, 2007).

faith was retained in the virtue of fact over untruth in the expectation of public opinion. And from the progressive era on, a faith in democratic education to expand the upper, rational classes into governmental participation was alive and active in the debate over governing. Journalism posited itself at the heart of this progressive energy. For a ruling class that based its legitimacy in a realistic response to facts, the market value of fact was high. Journalism became the popular conduit of objective fact to the masses that were positioned as legitimizers of rule by rational experts.

The development of a national media during and after World War II enhanced respect for the journalistic profession. This legitimation framework privileged professional journalism as reasoning from facts was elevated, despite the warnings of such conservatives as Richard Weaver (1970/1985). This was the atmosphere into which Edward R. Murrow asserted electronic journalism. His CBS news organization spawned investigative electronic journalism with its *CBS Reports* series including "Harvest of Shame" and the "Silent Spring," incorporated it into the regularly scheduled evening news program, ultimately elevating Walter Cronkite, the most trusted man in America, to its anchor (O'Connor, 1972). When Cronkite declared the war in Vietnam unwinnable, Lyndon Johnson's White House sighed; Johnson declared that the game was over.

But the commitments, the celebration, and the faith in professional journalism as an authority for facts probably peaked with Walter Cronkite and the investigative work of Woodward and Bernstein.[5] There are many reasons for the erosion of the faith in objective journalism and in the media as a source of fact for argument. The first is economic. Even as Ochs and his compatriots constructed the values of journalism in the 1890s there was a competing model, known famously in the era as "yellow journalism," that attempted to build mass audiences on sensationalism and voyeurism. This model for the media never disappeared, but the professional journalists managed to ghettoize the practices as the tabloid press, an inferior and less noble model of journalistic endeavor. Where professional journalism stressed values and craft as the measure of journalism, the alternative stressed sales in the market.

In the late 20th century, after the renewal of business primacy in the Reagan years, journalism again turned to the values of profit. Newspapers merged into once-daily delivery as readership diminished. Electronic news transformed from a source of a network's pride in public service to a contributor to a network's profitability. Entertainment moguls such as Roone Arledge took over news divisions. Gradually, the pursuit of profit moved from a grace note in discussions of the values of journalism to itself becoming a fact that tested the commitment of journalists to reality.

Equally important, however, was the debate over how to express the value of objectivity. When the Federal Communications Commission (FCC) was established to manage the commodification of the wave spectrum, the strength of the values of objectivity and fact demanded that the FCC impose these values on the users of public airwaves. The result by the 1950s was a definition of objectivity as "the absence of bias" and the operationalization of "the absence of bias" as "balance." Two changes resulted. First, the transformation tied facts to political positions that had to be balanced. Second,

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[5] Polling data support this marker. "Trust and confidence in the mass media" has declined from 72 percent of the public in 1972 to 50 percent today. The poll also indicates that the trend falls into the divisions of the country's political polarization. Thirty one percent of Republicans and 70 percent of Democrats trust the media. (Carroll, 2005).

facts as a mediator among alternative ideas were now dethroned. The assumption that facts adhered to political positions and balanced between opposing positions, despite its obvious argumentative silliness, diminished the promise of facts as arbiters of disagreement.

Third, there was an accompanying intellectual movement, the linguistic turn. Fact had been enshrined into its central place in the early century by a faith in the productive objectivity of the methods of science and social science. Now, Rorty, Burke, and argumentation scholars including Scott, McKerrow, Fisher, Gronbeck, and the POROI project, began to question the status of facts as determined by a word's correspondence to reality. The critique within the academy spread to a general intellectual movement that undermined the scientific paradigm particularly in the social sciences.

Fourth, the march of technology undermined the media's place as an institution of fact. As developing technology moved the electronic toward live broadcast, the spaces in which the journalist's craft processed raw experience into refined fact disappeared. Electronic broadcast now more and more brought cameras into the venues of real events. Reality became direct witnessing via video and audio. Trained journalists seemed important only when they warned us not to trust what our eyes told us was fact. In the extreme there was even the sense that unwitnessed events were either insignificant or did not occur. Technology even reinforced the economic pressure. The explosion of new channels and the growth of the internet increased the economic pressure to differentiate new sources of news.

Finally, the topos of media bias became a useful way of undercutting the dominant ideology of policy based in fact. Perhaps most famously, by 1969, Spiro Agnew (1969) delivered an extended attack on professional journalism and railed against the media as the "nattering nabobs of negativism" (Agnew, 1970). As time passed, the biased media became a commonplace of conservative argument. The uses of that term "bias" in FCC regulation became a central topos in the political struggle of ideas at the turn of the 21$^{st}$ century. A network came along programmed to the right and proclaimed its centralness with the slogan "fair and balanced."

By the turn of the 21$^{st}$ century, the value of fact remained strong among professional journalists, but their practices had begun to hollow out the execution of the value. Which brings us to January 2, 2006, and to Sago, West Virginia. Thirteen miners are trapped by an explosion underground in a coalmine like many others in Appalachia. The media flock to tiny Tallmansville and nearby Sago Baptist Church. Anderson Cooper, the latest hip version of objective journalism, brings his anchor position to the mine. Airtime must be filled. With mine officials preoccupied in managing the rescue from the quarantined headquarters building, local citizens will do. They report their feelings about mining, about the mining company, about the trapped miners, about their hopes and dreams and how they are economically dependent on the mine. The Governor of West Virginia does emerge occasionally to be an official source. Cooper struggles to report news using the two-source rule of his craft within the framework of real time broadcast. Then deep in the mine a communication is misunderstood. A mid-mine relay station reports to the office that all the miners but one are alive and well. Cell phones break the quarantine, spreading the news immediately to the waiting and already grieving relatives in the church. Cooper has no chance to interview, to identify sources, to use the methods of his craft. Church bells begin to ring and Cooper relays the interpretation that

this is a sign of the rescue. Still feeling the lack of a firm source, Cooper watches as the Governor passes in an automobile, giving a thumbs up. Starving for a confirming source, this suffices. The word goes out. Celebrations begin. Rumors spread that the rescued miners will be brought to the church by bus for the joyful reunion with families. The grieving turns to carnival and the feelings of joy fill the airwaves in the absence of questions and the testing of evidence. One ambulance passes by Cooper's station and cars are seen passing from the headquarters to the church. No bus brings the rescued men, but perhaps they are receiving last minute debriefing.

Then, of course, a lonely relative comes down the road and announces to Cooper that all, save the one in the ambulance, are dead. Cooper probes for sources. No probing is viable; this is a grieving messenger. The abrupt turn of the coverage has by now caught the mainstream print media with blazing headlines of hopeful salvation. Cooper keeps repeating "this is unbelievable."

This episode was to be repeated, even by Cooper's own network. Sometimes fact checking was replaced by attribution of source – "The AP is reporting (...)" (reporting the death of Gabrielle Gifford, see Tenore, 2011). Sometimes erroneous reports were freely offered with warnings – "And I want to alert our viewers, sometimes these initial conclusions can be very, very wrong." – or announcements of withdrawals – "We are no longer reporting that (...)" (Navy Yard shootings, see O'Neal, 2013). Sometimes the efforts to check facts were simply a victim of the rush to report (falsely reporting arrests in the Boston Marathon bombing, see Reider, 2013). Today the failures of media professionals in the gathering, verifying, and reporting of reliable facts is embossed on the screens and the newsprint of the nation. Today few view the media as an institution that delivers reliable facts as the starting point of argument.

2.2    The Rise and Fall of Reliable Government
The other institution that provided a common sense of fact in the 20th century was government. As the 20th century dawned, the progressive movement was promoting government as a regulator of economic abuse. The progressives sought to democratize government and through the force of democratization to impose government as an arbiter of the power of society. A key to that strategy was to establish reliable sources of information within government to serve as a basis for objective and fair regulation. In 1913, a major reform of the Wilson administration established the Bureau of Labor Statistics within the new Department of Labor. The Bureau would take the pulse of the nation's economy and report a statistical profile monthly.

The Bureau was the beginning of a social scientific revolution in regulation. In the same year the Federal Reserve Act established an arbiter of the nation's money. Soon the census bureau's already well-established function of descriptive as well as enumerative power was reinforced within the Department of Commerce. Other progressive legislation such as the Pure Food and Drug Act established the government as an honest broker and protector of the public.

It was, however, Franklin Roosevelt and those of his administration who raised this progressive faith in government to a national institution. Roosevelt's so-called "brain trust" cemented the power of social science throughout government. The alphabet agencies of the New Deal multiplied the bureaucratic arbiters of fairness and truth. The brain trust also introduced the centrality of academics to the declaring of truth. The expert

from the academy or from the regulatory agency reported to Congress and to the president who listened in order to base actions in the soundest knowledge of science, the economy and the society. These experts, in turn, became sources for the media.

To this faith in experts, FDR (1933) added his own credibility. "The only thing we have to fear is fear itself," he famously promised in his inaugural address. But even before that declaration, Roosevelt had promised a "candor" and "to speak the truth, the whole truth, frankly and boldly." After Hoover's promises that prosperity was right around the corner, Roosevelt's promise opened the opportunity to declare bad news as a part of the solution to the problem. The first fireside chat on banking (Roosevelt, 1933/2005) reassured a nation with a message designed to explain the actions of the administration and reasoned from the "simple facts" with which he began his broadcast.

Before the second New Deal had run its course at the beginning of the 1940s, the Roosevelt administration had sent forth photographers from the WPA and the Department of Agriculture whose images of the depression became the definitive memories of that time (Finnegan, 2003). When war came, the only restriction on the reports of a free press from the front was the need to protect "our brave boys" from harm.

Thus, by the middle of the 20th century, the government had developed principles and agencies above politics and dedicated to management of the economy and society through accurate information and candor. This belief was reinforced during the Cold War. The propaganda of communism was contrasted with the openness and candor of the United States government. Even the first of the Cold War agencies – the Central Intelligence Agency – was established so that the policy makers of government had a reliable source of information upon which to base the policies that would fight the Cold War. The World War II rationale for secrecy was extended to the agency but, as a sign of the power of openness, that secrecy had to be justified; reliable information was so valuable that its protection was a major objective of the war effort. Agencies such as the United States Information Agency and Radio Free Europe were established to fight communism by restoring the faith in information that communism sucked from its enslaved people.

Of course, the seeds of the destruction of the government as an institution for truth were sown broadly in Vietnam. Indeed, the earliest clash of public opinion in that war was over whether the assurances of government could be trusted. As much as anything, Walter Cronkite's declaration that the war could not be won had its profound effect on American public opinion because it split the two institutions of fact – media and government. Then came Watergate and any notion that the errors of Vietnam were errors of judgment disappeared into the web of deception that was at the heart of the intrigues of the Nixon administration.

When the Reagan administration came to power, they understood where the power of the New Deal rested. Reagan's first budget proposed vast gutting of the Bureau of Labor Statistics, the Census Bureau and other agencies (Reinhold, 1981) designed to document the programs of the War on Poverty and other late New Deal initiatives. It was part of the distrust of government that Reagan had captured in his campaign. In his inaugural address, Reagan (1981) offered a candid assessment of the nation's malfunctioning economy and then diagnosed "in the present crisis, government is not the solution to our problem, government is the problem."

His stand became one of the hallmarks of the conservative movement, arraying

the public against a big government that molded facts and truth to meet the big government agenda that fed a bureaucratic beast. By this time, investigative journalism had pitted the two institutions of fact – the media and government – against each other in a battle that would destroy the credibility that both had enjoyed earlier in the century. I should add that the conservative attack also turned toward the handmaiden of government, the academy. Today, Fox News and the other organs of conservative fact regularly portray the universities as the home of the last remnant of leftist ideology seeking to inculcate falsehoods in our vulnerable youth (see, for example, Starnes, 2013; Limbaugh, 2007).

But the demise of government as an institution of truth is not confined to conservative critique. I need not spend much time contrasting Adlai Stevenson's (1962) presentation to the United Nations Security Council with its progeny, Colin Powell's (2003) laying out of the case against Iraq. The United States is returned to the time when even the most vital decision a nation ever makes – the decision to devote its treasure and blood to the destruction of war – is a decision made on the basis of faulty information and the failures of the facts, justified by the purity of its "objectives" rather than the reliable presentation of facts (Klumpp, 2006).

3.      Do Conservatives Hate Facts?

I began this essay with a story of political polarity. That story portrayed both liberals and conservatives seeking, offering, and denying facts. Furthermore, as I have traced the demise of trust in our institutions of fact, both liberals attacking government's credibility over the Vietnam and Iraq wars and conservatives' attacks on biased media and New Deal statistical institutions have been identified as responsible for the diminished faith in the media and government. Indeed, I have also pointed to causes such as the emergence of live broadcast that owes its force to neither liberal nor conservative. But the vociferousness with which conservatives attack the mainline media, and their rejection of facts in key public issues such as global warning, has left an impression that it is conservatives undercutting the institutions that provide facts to our public sphere. Polls document the impact of the conservative argument that a biased media distorts facts.[6] Ronald Reagan's actions upon becoming president overtly targeted the purveyors of facts within government agencies. The prominence of conservatives in the popular narrative of the destruction of the 20th century's institution of facts raises the question: Do conservatives hate facts?

Careful attention to conservative argument quickly answers this question: conservatives argue from facts just like everyone else. The impasse in argument occurs not because some urge the acceptance of facts and others dismiss facts as a basis of argument. So, why does the attack on institutions of fact seem so one-sided? Is there a relationship between ideology and argument?

In *Making Sense of Political Ideology*, Bernard Brock, Mark Huglen, Sharon Howell and I (2006) argue that the strategies selected by rhetors are a more reliable marker of political ideology than are the policy positions which political actors support. Taking a cue from Kenneth Burke's linking linguistic strategies to particular philosophic

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[6] A plurality of people in the United States believes that the media is too liberal. But that figure obscures the partisan nature of the belief. Seventy-four percent of Republicans but only 19 percent of the Democrats view the media as too liberal. See Mendes (2013).

positions, we argue that when political actors reason from the world as they perceive it to justify public action, their accounts will be structured in patterns clustering around political ideology. We illustrate how accounts that begin in understandings of purpose and principle characterize reactionary discourse; accounts beginning in the character of human participants characterize conservative discourse; accounts rooting justification in descriptions of material conditions characterize liberal discourse; and accounts that begin explanations in the pragmatic impact of systems on people and conditions characterize radical discourse. Can this same tendency be carried into the starting places of argument? Is the conservative attack on the institutions of argument because those institutions have authorized the superiority of the liberal's *material* facts as the starting place for argument?

The argument seems plausible. Schudson (1978) supports its historical plausibility with his assertion that in the early 20th century the argument from material fact triumphed over the argument from moral precept. Indeed, the conservative argument of a biased mass media trumps the claim to objective facts with an assertion about the distorting power of ulterior motive or purpose. Our tracing of the origin of government fact bureaus explicitly identified them with a commitment to record material fact and a commitment by progressive government to base government decisions on material fact. Thus, an attempt to undermine them would be justified by their irrelevance to conservative starting points of argument: principle and individual character.

Indeed, this distrust of material fact can be traced to the conservative movement's favorite rhetorical theorist: Richard Weaver. In *Ethics of Rhetoric,* Weaver offers an ethical hierarchy of arguments. At the top of that hierarchy Weaver identifies the argument from definition or principle, reasoning from universal principles. The lowest form of argument, Weaver argues, is the argument from circumstances, the argument from material facts. As facts change, so do the conclusions of such argument, from Weaver's ethical perspective casting doubt on the quality of the argument (1953: 86). Although Weaver's ethical judgments do not map perfectly on Burke's description of philosophical perspective,[7] the ethical judgments elevate the arguments we have identified as those of a reactionary over the arguments of liberals. When George W. Bush reasoned from the fact that freedom burns strong in every human heart (for example, Bush, 2004), he offered an argument starting in a universal fact and reasoning to a broad set of governmental policies. When he insisted that the events of 9/11 traced to the evil terrorists (for example, Bush, 2006), he appealed to facts about the perpetrators of the attack. Thus, his facts were about the nature of humanity and human character rather than circumstances. On the other hand, when Barack Obama asked Americans to find motivation for the control of guns in the serial episodes of mass murder, he rejected Weaver's hierarchy, pointing to and seeking to amplify the motivating power of the stark facts played out in recurring tragic circumstances (Obama, 2013). Thus, the character of the fact employed in argument$_1$ differs across ideologies, and it is so-called liberal

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[7] Contained in the Burke archives at Penn State University is a letter addressed to Richard Weaver by Burke but never sent. It was a strongly worded charge that Weaver had plagiarized Burke. Burke had visited the University of Chicago at a time when he was urging the ideas of his *Grammar of Motives* and just before Weaver published his essays in *Ethics of Rhetoric.* Although Burke may have sensed his case against Weaver was not strong – the letter was more venom than reasoning – there are similarities in the schemes.

ideologies that feature material fact.

Others in argumentation have pondered the relationship between ideology and argument. As early as 1979, G. Thomas Goodnight (1980) made the case for variation in argument tied to political positions and posited the difficulties presented by such differences in argument on the public sphere. Goodnight focused on the term "presumption" and traced how political position could influence the meaning of that term (see also Hynes, 1980). Six years later, David Cratis Williams (1985) made the link between ideology and argument explicit in his essay, "Ideological Analogons: Portraits of 'Truth'." Several others have identified style of argument with particular political positions.

The popular linkage of conservatives to the attack on facts can now be placed into a more sophisticated understanding of our historical moment. The institutions we have historically located as dominating the 20th century provided a texture of material fact that supported the New Deal, the dominant political ideology of the fifty years from Franklin D. Roosevelt to Ronald Reagan. The Conservative ascendance that Reagan began would attain power only as it eroded the institutions that supplied the material facts that justified New Deal programs. In our historical moment, the conservatives did attack the institutions of fact, but the attack was not an attack on facts, per se, but on the material facts that fueled the arguments of those whom they opposed politically.

4.      A Public Sphere without Institutions of Fact

In a democracy, controversy and argument have the burden of peacefully adapting the society to the changes of circumstances and the changes of values that mark human history. Such argument crosses the political divides of a society; the reach of commonality permits the adjudication of argumentative controversy into perceived consensus. If there are no remaining institutions of fact, is our fate an argumentative rudderlessness? Or, as our red/blue obsession implies, is this political polarization that we endure destined to become a societal polarization that cannot be reconciled because the "common ground" necessary to argue our way back to consensus cannot be achieved? The United States suffered such a fate in the 19th century when the democratic, argumentative, public sphere could not resolve the problem of slavery. That failing led to the sort of societal anomie that we witness in other cultures today and, of course, to the Civil War. Certainly the dimensions of our problem today, despite their seriousness, do not compare with that failure.

This is, however, a problem that those of us working in argumentation and in the democratic public sphere must continue to address. We are now in a time when the institutions that have for a century provided our civic culture reliable starting points for argument are no longer viable. The result is a malfunctioning of the consensus that can drive rhetorical argument in a smoothly functioning democratic community.

Of course, identifying a challenge to address this problem does not predicate an obvious response. As our civic culture searches for common grounds to bring the anomie of the moment back toward a productive consensus, the argumentation community's contribution must be to understand more thoroughly such historical moments of breakdown when foundations fail and argument's power to promote peaceful democratic change is challenged. We have endured many such times in our history and have survived with considerably more success than at the time of the Civil War.

Is our argumentation theory itself at fault? Despite the classical origins of our model of argument₁, reasoning from agreed upon premises, should this model of starting points in agreement be replaced by a model that recognizes times when such agreements are rarer and are identified with greater effort? Do we need some variation of Stephen Toulmin's (1958) distinction between warrant-using and warrant-establishing arguments,[8] with the latter identified as the need for our time of anomie? Perhaps, we need to take our cue from Chaïm Perelman and L. Olbrecht-Tyteca's (1958/1969) starting points beyond facts, thus exploring presumptions and values as the starting places of argument. Should we explore more thoroughly the notion of *facts* itself as a key concept? Robert Scott (1968) began this philosophical and historical exploration some four decades ago in his examination of the rhetoric of Arthur Larson and the USIA. Or perhaps, there are new institutions of fact forming before our eyes but out of our sight that will once again permit us to proceed in a more orderly development of public direction. In the best tradition of argumentative study, the challenge is a practical one.

Whatever the solution to the problem we confront as students of argument, we will respond successfully only with the greatest care to examine all of our assumptions about argument: critical, historical, and theoretical. And the success of our rhetorical culture will depend on the paths that we pursue and what they reveal about how a society conducts democratic argument to guide its actions through the difficulties of public life.

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[8] Toulmin's (1958) distinction will not solve our problem because it is far too restricted. But the idea that there is a style of argument that *uses* facts and agreed upon warrants, and another style that *establishes* warrants may prove a possible line of inquiry.

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**Meta-Reason, Political Transformation, and Contemporary Argumentation Theory**

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Abstract: By placing in dialogue lectures delivered by Edmund Husserl, Jacques Derrida, and Chaim Perelman on the rational and the reasonable, this essay identifies some of the universal, hence rational, dimensions of reason, or the contours of meta-reason. By identifying the rational dimensions of the reasonable, we are better positioned conceptually as argumentation theorists to address the primary argumentative mechanisms of political transformation: essentialism and rhetorical unconsciousness.

Key Words: Argumentation Theory, Politics, Rationality, Reason, Unconsciousness

In his *Nichomachean Ethics*, Aristotle made clear that different types of knowledge allow for different degrees of certainty. Epistemic knowledge, or the knowledge of math and science, may be certain, while practical wisdom, or knowledge of law and politics, may only be probable. Epistemic knowledge, accordingly, recommends itself to formal, syllogistic reasoning, where conclusions are logically entailed. Knowledge in practical human affairs, conversely, requires the artful deployment of informal reasoning, long studied by argument theorists. Thus, with its foundation in Aristotle, argumentation theory has for millennia distinguished the rational from the reasonable, and certain from probable knowledge. A pressing question across the ages, therefore, concerns how those two forms of knowledge interact in the construction of our political worlds, for it is normal to find presumed certainty in political situations. If the certain and the probable are separate in theory, this is not so clearly the case in practice. So what is the relationship between the rational and the reasonable, and how might this relationship impact argumentation theory in relation to the political?

Putting in dialogue representative philosophical arguments on the rational and the reasonable, specifically public lectures by Edmund Husserl, Jacques Derrida, and Chaim Perelman, this essay seeks to explore what Jürgen Habermas and Derrida have respectively called meta-rationality or meta-reason. By placing these arguments in dialogue with the very different philosophies of history of Georg W. F. Hegel and Michel Foucault, and the different theories of political transformation those philosophies entail, Husserl's, Derrida's, and Perelman's characterizations of the rational and the reasonable suggest that the primary problem of the political revolves around the related issues of essentialism and rhetorical unconsciousness, or the broadly unrecognized aspects of presumed certainties in the probable world of the political, which, while driving its transformation, are doomed over time to fail. As Ernesto Laclau (2005) and Judith Butler (2002) have persuasively shown, the application of universals in the realm of the probable *always* results *formally* in exceptions that ultimately undermine those presumed universals, and all too often through violence. Such perspectives on the rational and the reasonable, as well as on the universal and the particular, have, I argue, implications for argument theory and practice, since the focus would shift from analyzing not only the content of situated arguments but also rhetorical unconsciousness.

It is not controversial, given the direction of critical theory since Immanuel Kant's ([1781]/1965) *Critique of Pure Reason*, where he characterizes the ineradicable distance between thought and material reality, to claim that the fundamental support of political society is provided by politically consequential quasi-fictions posing as universal truths (e.g., the divine right of kings, state sovereignty, corporate personhood).[1] Such presumed certainties work to structure political society while also often providing a reassuring sense of subjective certainty, or "metaphysical comfort," to borrow Friedrich Nietzsche's (1967: 104) evocative phrase. It is, however, *logically* and *formally* the case that those acting upon these universalizing beliefs fail to account for their disciplinary limits, or their own rhetorical unconsciousness, thus *imposing* an ultimately inappropriate rationality on the realm of the reasonable and the probable.

What, though, do these metaphysically comforting quasi-fictions have to do with political transformation? Two influential accounts, though quite different, have been offered by Hegel and Foucault. As Hegel would have it, the certain and the probable, the universal and the particular, interact in such a way that a trans-intentional force guides the seeming irrationality of political history. Hegel ([1836]/1900) maintained the existence of a "Messianic" meta-rationality, or a type of *transcendental* rational force that somehow manages the blindnesses involved in human intentionality. "Reason," for Hegel, was synonymous with "Spirit" working trans-intentionally through world history, regardless of the specific intentions of individuals and collectives. As expressed in his ([1837]/1953) lectures on the role of Reason in history, Hegel famously maintained that "the universal results from the particular and the definite and its negation," and the "cunning of Reason" is that Idea, or Spirit, that invisibly guides world history in ways that are beyond the comprehension of humankind (43).[2] Over time, the moral political state, through a difficult and painful dialectical process between universal ideas and particular events, more closely approximates the freedom of Spirit.

A much different perspective on political transformation is offered by Foucault, who consistently maintained that the political world is always violently limited, if enjoyably produced, by the blindnesses of political certainties. Foucault (1984; 2001), contra Hegel, argued that our political worlds do not progress, though sometimes people bravely speak truth to repressive power to clarify injustice and test virtue; instead, what often passes for commonsense reveals itself, upon closer examination, as unreason. For example, in his *History of Madness*, which is more properly translated as the *History of Unreason*, Foucault ([1972]/2006) goes to great lengths to trace the history of the idea of madness and its ever-changing normative and institutional forms. In so doing, he reveals how what counts as reason and unreason shifts – and quite dramatically – over the course of centuries. Madness in parts of the ancient world, for example, was associated with divine inspiration, whereas today it is medicalized. His provocative conclusion: madness is a politically consequential concept formed to protect the unreason of hegemonic reason itself.[3] As all human society is based upon politically

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[1] The political, as with the subjective, according to the strands of post-Kantian thought explored in this essay, is composed of "quasi-fictions," which are the inevitable consequence of the *fully* ineradicable disjuncture between the ideal and the real. They are *quasi*-fictions because they have concrete material effects, which is why they are political.

[2] For a thorough description of Hegel's philosophy of history, see Walter Kaufmann (1978), especially pages 249-97.

[3] In the early nineteenth century, for example, as a fully unconscious means to reassure the Parisian bourgeoisie of their own sanity, the Abbé François de Coulmier, as director of Charenton, the lunatic asylum on the southern edge of Paris, created a regularly organized spectacle where the presumably insane would put on plays, viewed by the other inmates, who in turn were viewed from the gallery by paying bourgeois customers. This "double reassurance"

consequential quasi-fictions whose own forms of madness are sublimated and repressed, Foucault asserts that what passes for reason moves from one form of "productive" domination to the next without end.[4]  In light of his historical analyses of presumed certainties about such things as madness and sexuality, Foucault (1984) was led to the claim that "only a single drama is ever staged . . . [which is] the endlessly repeated play of dominations," and that this endlessly repeated play is also a "calculated and relentless pleasure" (85).

How might we work to reconcile, if such reconciliation is even possible, Hegel's and Foucault's positions on political transformation, and how might such a reconciliation inform argumentation theory in relation to the political? To begin answering these two questions, it is helpful to place three well-known lectures by philosophers on the rational and the reasonable side by side: Husserl's 1935 lecture, delivered during the "flowering" of National Socialism in Europe, on "Philosophy and the Crisis of European Man," where he sought to "save the honor of rationality" through the "heroism of reason;" Perelman's 1977 lecture entitled "The Rational and the Reasonable," where he attempted to characterize the "dialectic" between the rational and the reasonable; and Derrida's 2002 keynote address at a conference on "The Future of Reason, the Development of Rationalities," where he sought to "save the honor of reason." Together, these lectures suggest a great deal about the relationship between rational and reasonable, the contours of meta-reason, and political transformation. Though they often talk at cross purposes by using "reason" and "rationality" equivocally (only Perelman has the precise Aristotelian account), by clarifying such confusions we can take what is now broadly known *formally* about identity construction in general, via the linguistic turn, and apply that knowledge to a more contemporary philosophical conception of political transformation and argumentation analysis.[5]

As the shadow of Hitler's Germany, cast by its presumed certainties, was falling menacingly across Europe, the Jewish-born Husserl delivered a lecture in Vienna on May 10, 1935 where he expressed his concern about what he called the "mistaken" and "naïve" rationalism, the "one-sided rationality" of "objectivism" (1935: 13-14). This "irrational objectivism," this "technical rationality," or this form of rationality used by branches of inquiry that fail to account for the broader social and political implications of their advancement, according to Husserl, was at the root of the European crisis he was witnessing. This was because the methods of the natural sciences were naïvely and mistakenly taken to apply to the "mysteries of the spirit." After fully assessing the crisis, Husserl concluded that "In all seriousness my opinion is this: there never has nor ever will be an objective science of spirit" (17).

But what is this notion of spirit, and what might an "objective science of spirit" look like? Husserl uses the term *Geisteswissenchaften*, or "sciences of the spirit," which he equates with "culture" (3). From the perspective of contemporary subjectivity studies, however, we can translate Husserl's use of the term "spirit" as referring to what today would be called more precisely, and less metaphysically, the realm of discourse (i.e., the realm of human experience

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[4] – of the presumably sane watching the mad watch the mad – nicely illustrates Foucault's central point that what passes for reason is reassured by pleasurably imposed yet repressed forms of unreason. See Foucault ([1972]/2006), 144-5.
[4] Foucault's perspective here resonates with Freud's ([1930]/1961), as Freud also maintained that civilization is based on the repression of instinct, and yet that very repression is variously productive.
[5] For the purposes of this essay, the linguistic turn refers to the influence of Saussure's semiotic theory on structuralism, post-structuralism, and contemporary conceptions of subjectivity emerging from linguistics. For a range of perspectives on this work and its influence on philosophical approaches to the political, see Dews (1987); Fink (1995); Torfing (1999); and Stavrakakis (1999).

that results from our entrance into, and subsequent use of, language).[6] Husserl's own words invite a translation of "spirit" as communication: "With the first conception of ideas man gradually becomes a new man. His spiritual being enters into the movement of a progressive reformation. This movement from the very beginning involves communication" (5). The "spiritual," then, for Husserl, involves our immersion into language, and thus communication, from the very beginning, and any "objective science of the spirit" would necessarily be based on this linguistic foundation. Nevertheless, Husserl despaired of such a science.

In the intervening years, however, and in light of the large body of work on subjectivity by semioticians, structuralists and poststructuralists in the philosophy of language, and critical political theory, we now arguably have a far more complete understanding of how the process of human communication works, and, as a result, a much better sense of the potential violence of essentialism in sign systems that are formally "shot through with absence."[7]

So what, according to Husserl, was the relationship between "the spirit" and the crisis in world history he was witnessing? The content of his lecture suggests that the central problem he wanted to address was the application of the field-specific rationalities of disciplinary knowledge to "the totality of being," pointing particularly to the problematic "naïveté" of "objectivism." There was something "blind" about field-specific thinking that, in its rationality, was also unreasonable and generally unnoticed. Sometimes the consequences of one's rational actions were out of mind, and of course other field-specific understandings were also out of mind. This "out of mind" dimension of the rational was, for Husserl, overwhelming the possibilities for political reason, or what Aristotle referred to as the knowledge required for practical wisdom. But notice in the following quote Husserl's curious blending of the rational and the reasonable – a problem that persists throughout his lecture. After noting, almost in passing, that "reason is a broad title," he states the following:

> The direct and necessary path for reason allows it initially to grasp only one aspect of the task, at first without recognizing that a thorough knowledge of the entire infinite task, the totality of being, involves still other aspects. When inadequacy reveals itself in obscurities and contradiction, then this becomes a motive to engage in a universal reflection (14).

So "reason" initially, according to Husserl, lacking a meta-perspective on knowledge production, merely grasps narrow perspectives (e.g., the field specific arguments of scientific disciplines, one's own cultural commonsense, one's given sense of a term) as universals, but contradictions then, at least potentially, lead to more broadly universal thinking. This, however, is inconsistent with Aristotle's position, where it is *rationality* that lacks the "broader perspective" provided by practical wisdom, which is the realm of the probable, of rhetoric, and hence of reason.

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[6] To trace adequately the theoretical history of semiotics, structuralism and poststructuralism is obviously not possible here, though I shall briefly return to aspects of this history in my discussion of Derrida. For those seeking an introduction to this important theoretical history, see Belsey (2002). The primary consequential principle of political importance involved in semiotics is that all identity is a function of difference. In Lacanian psychoanalytics it becomes a complexly *repressed* function. Also, whereas structuralists attempt to understand the primary element or elements that structure the structures of human meaning, poststructuralists maintain that all subjectivity is structured around an ultimately irremediable lack (Lacan) or absence (Derrida). Argumentation theorists, however, as I hope to show, are uniquely equipped to show how that "lack" is actually filled, at least in part, with repressed discursive contents, functioning as rhetorical unconsciousness.

[7] Essentialism here is used in the following sense: the belief that a subject's or group's identity stays stable over time and circumstance, or has some sort of persistent essence.

There are interesting affinities, despite such confusions over what, precisely, is rational and what, precisely, is reasonable, between Husserl's characterizations and the poststructural problematic of the relationship between the universal and the particular, such as Laclau and Chantal Mouffe's (1985) theory of hegemony and antagonisms and Laclau's (1996) notion of the universal, the particular, and political identity. Compare, for example, Husserl's claim to Laclau and Mouffe's argument that the universal/essentialist claims of "scientific" Marxism (arguably a clear example of the tragic political consequences of essentialist assumptions in the necessarily contingent realm of the political), via their falsification over time, led to the recognition that history does not *inevitably* lead from feudalism to capitalism to communism and that forms of production do not *determine* the cultural superstructure. Instead, the role of communication in the construction of hegemony becomes the central problematic in effective socialist strategy. In sum, just as Husserl is concerned about the "one sided rationality" of scientism, Laclau and Mouffe are concerned about the way essentialist assumptions in the realm of the political *always* create a field of antagonisms that eventually transform those assumptions. In this way, Laclau and Mouffe, resonant with Husserl, attempt to retrieve a form of practical political wisdom from a misplaced rationalism, and in so doing they also identify a universal dimension of rationality in the realm of reason: *all* identities create consequential antagonistic fields that go largely unrecognized.

We can draw, then, upon Aristotle's initial distinction between the rational and the reasonable, and Hegel's and Husserl's idiosyncratic use of the latter term in light of that epistemology, to begin articulating other formal, rational principles embedded in practical *reason* (i.e., the principles of meta-reason), to more carefully distinguish the important differences and similarities between the two terms, to outline the contours of meta-reason, and then discuss how those contours might productively inform argumentation theory today.

Observe the following formal, universal, aspects of practical wisdom we have already encountered: wise deliberation in the realm of politics (the good state) and ethics (the good life) *always* deals with the variable, and presumed universals *always* exclude that which fails to fall into line with those presumed universals. This problem is particularly clear in the case of technical rationality, where those engaged in highly specific disciplinary practices, such as bomb design, are conceptually detached from the larger social consequences of bombs. The same principle applies, however, to anyone who falsely believes that *their* culture is *the* culture, such as religiously-driven terrorists. Technical rationality and identity essentialism both *formally* create antagonistic limits that are normally repressed and/or alien to hegemonic discourses.

Before moving to Derrida's attempt to "save the honor of reason," as opposed to Husserl's attempt to "save the honor of rationality," and further exploring the rational aspects of reason, we should at least briefly attend to the concrete historical situation that led to Husserl's dark observations: obviously, everywhere he looked across Europe, but especially in Germany, he saw highly specialized technocrats and self-blinded ideologues imposing their "universals" and presumed certainties (e.g., of the master race) onto the political world. In so doing, they were directly contributing, even if unwittingly, to the violent chaos that would bloody the first half of the twentieth century. Husserl was undoubtedly correct, therefore, to argue that the world needed a "science of spirit" capable of assessing the "health and sickness" of "nations and international communities" (2), and that the "spirit" from the very beginning involves communication, though we might perhaps question his prediction that, should such a science emerge, a "supernationality of a completely new kind could arise" (12). After all, a theoretical *understanding* of meta-reason is not the same as *expecting* meta-reason from the world's citizens; that is, it is foolish to expect

at the present moment a self-reflective understanding of the constitutive and unconsciously disciplinary dimensions of language in use among the majority of the world's population. This is precisely why there is a pressing need for argument theories and methodological approaches that address such constitutive and unconscious conditions.

As for Derrida (2003), he attempted to answer Husserl's call for a "rational" approach to the health of nations and the broader global political community through his attempt to "save the honor of reason," specifically through his notion of "deconstructive justice."[8] Summarizing the thesis of his lecture, Derrida stated that in order for "calculative rationality" to be "reasonable" it would have to recognize the role of the incalculable in events that are to come. Here, as opposed to Husserl's "synchronic concerns" about the alienating differences between people overly engaged in micro-discourses we have Derrida's "diachronic concerns" about the alienating differences between people experiencing future challenges to their presumed certainties. As with all characterizations of meta-reason, however, he too argues for the indispensable ability to gain a contextual distance from the taken-for-granted assumptions of particular disciplinary or ideological perspectives that assume a universal status. It is not, he points out, that we can rid ourselves of universals, since they are the very stuff of the ideal, but we must always be eager, in order to be reasonable, to have the limits of those universals, in light of ever-emerging particular events, openly exposed and challenged, which is precisely what ideologues, tyrants, and true believers generally refuse to do. As one symptomatic consequence of such refusals, repressed discursive fields tend to expand, constituting a central aspect of rhetorical unconsciousness that argumentation theorists can work to identify.

Derrida's work has been interpreted, as a result of superficial readings, as being hostile to concrete political concerns, let alone to the role of argument in those concerns, since deconstruction is often equated with the postmodern attempt to undermine all universalizing narratives that might be brought bear in organizing political society (Lyotard, 1984). In a series of debates with Richard Rorty, Simon Critchley, and Laclau and Mouffe on the relationship between deconstruction and pragmatism, however, Derrida (1996) makes a series of claims regarding argumentation that challenge such presumed hostility. Not only, he insists, are critics who reproach deconstructionists for not arguing, or for not appreciating the foundational importance of argumentation, engaging in nothing less than "defamation," in fact the precise opposite is the case: "the question of argumentation," he emphasizes, is "central" to his overall philosophical project. Indeed, Derrida claims he is interested in nothing less than "*raising the stakes of argumentation*" (78, emphasis added). How so?

For Derrida, who draws heavily on structural linguistics, particularly as described by Saussure, all identity, formed through language, is *necessarily*, because of the formal aspects of language, a function of difference. Just as letters and words have no meaning in and of themselves, save for their relative position among other letters and words, so it is with concepts and the forms of subjectivity composed of those concepts. Who we "are" as individuals and groups, in other words, is a function of the relations of difference in which we find ourselves at

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[8] For a helpful introduction to Derrida's notion of deconstruction, or the methodological displacement of the unconscious dimensions of identities/equivalencies in language (both synchronically and diachronically), see Bannet (1989), chapter four. See Derrida (1984) for his original account of the term.

any given moment in time, rather than some transcendental essence.[9] This does not mean, however, that these relations of difference are immaterial; rather, they "float" in materially consequential ways over a sea of chaos and are endlessly being reconstructed.

For Derrida, the "violence" of imposing identity, which entails quasi-fictional certainty, is "*in fact* irreducible," and "all that a deconstructive point of view tries to show, is that since conventions, institutions and consensus are stabilizations . . . this means that they are stabilizations of something essentially unstable and chaotic" (83). This is why all identities, all "forced" equivalences, whether individual or collective, are political, for the essence of the political is the necessity of making materially consequential decisions, taking irretrievable actions, in an ultimately undecidable terrain. All identity, therefore all human meaning-making, according to Derrida, is a forced unity over an ever-shifting field of differences, and decisions based on patterns of identification are *haunted by the differences they fail to take into account*. Derrida (2003) maintains, therefore, that we need "to develop a new conception of reason" that will "challenge not only the sovereignty and identity of the (human) subject but the very concepts of sovereignty and identity . . . [for] only this way can we 'save the honor of *reason*'" (9). Derrida, then, like Hegel, Husserl, Foucault, Laclau, Mouffe and others, has made the case for the existence of rational principles concerning practical wisdom *and* a rhetorical unconsciousness, or fields of either unknown or repressed discourses that "haunt" identities, that result from these rational principles.

So what are these rational principles, according to Derrida, that always should be taken into account, at least by those capable of doing so, if seeking to engage in wise deliberation on the political? What does this have to do with "raising the stakes of argumentation"? Before offering possible answers to those questions, note that Derrida, like Husserl, at least in translation, also collapses the terms rational and reasonable in less than helpful ways, and this tends to occlude the very point he wants to make about "deconstructive justice:" it is a form of meta-reason that recognizes, and then works to consciously deal with, the necessary tension between rational, universalizing systems of thought and law and the irruptive and incalculable force of particular events to come. Exemplifying this conceptual confusion, in his summation of Husserl's position, Derrida argues that "scientific *reason*, in its very progress, spontaneously produces [a] crisis. It is *reason* that throws *reason* into crisis, in an autonomous and quasi-auto-immunity fashion," and that "objectivist irrationalism [is] born on the inside of reason itself" (19, emphasis added). As with Husserl, science is inappropriately associated with reason, at least inappropriately when positioned within Aristotle's epistemology, which clearly associates science with rationality. Even so, a closer look at Derrida's attempt to "save the honor of reason" helps us, as argumentation theorists, to more carefully study the role of essentialism across time (i.e., the assumption that identities remain stable across time and circumstance) in the political.

In his attempt to save the honor of "reason," Derrida, unlike Husserl, is concerned primarily with the force of law, which leads him to engage in a critical analysis of Walter Benjamin's ([1921]/1978) discussion of the violence of law in the latter's "Critique of Violence." Benjamin's main point in that essay was to defend the claim that all law making and all law preserving actions *formally* constitute a two-fold violence: law is always established by force, and then that law must always be enforced. Building upon Benjamin's thoughts on the violence of law, political justice for Derrida *always* requires a moment of decision that creatively applies

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[9] This is the opposite of Platonic idealism, where the presumed transcendental essence is always deemed superior to the material instantiation, which in turn is superior to the re-presentation of the material via language, which in turn is superior to "rhetoric" and "poetry," which tend to distort Truth.

the law to endlessly unique circumstances, as opposed to the cold and calculated (rational) application of law that fails to take such circumstances into account. True justice, like true democracy, therefore, is always "to come," for once a decision is made, and a new legal order is established, that order invariably contains the seeds of injustice if it too fails to account for the unique and incalculable aspects of the unique and particular aspects of what is to come. Once again, with Derrida we see a call for a form of meta-reason made possible by the achievement of distance from essentialist deployments of language: in this case, in light of the recognized violence of law, the meta-reflective ability to adapt the universal prescriptions of law to the unfolding particulars of concrete situations.

Returning briefly to Foucault (1984), he too speaks on behalf of meta-reason, since his conception, as articulated in his essay "What is Enlightenment," which is an echo of Kant's famous essay by the same title, also requires a "limit attitude," or a meta-reflexive ability to incessantly critique the limits imposed on us by identities, laws, and systems of thought – as structuring fictions (50). Compare Derrida's (2003) description of what he calls "the reasonable" with Foucault's (1984) description of the "limit attitude." For Derrida, the reasonable is a "rational deconstruction that will endlessly question limits and presuppositions, [and] the interests and calculations that order their deployment" (42). Foucault (1984) makes a similar point in different words:

> The critical ontology of ourselves . . . has to be conceived as an attitude, an ethos, a philosophical life in which the critique of what we are is at one and the same time the historical analysis of the limits that are imposed on us and an experiment with the possibility of going beyond them (50).

For both Derrida and Foucault, then, there are inescapable and universally problematic tensions between existing normative frameworks that pose as universals and the limits they formally and unconsciously impose. This, then, "raises the stakes of argumentation" by doubling its charge: not only must we analyze normative frameworks, we must also analyze what they unconsciously (or cynically) repress or elide.[10]

Husserl and Derrida, then, if in very different ways and through different analytical procedures, and despite their odd conflations of the rational and the reasonable, are each concerned about the dangerous essentialist notion that socially constructed truth can somehow stand still or reach a state of timelessness. They are also concerned about gaining the ability to achieve distance from one's given language, and this notion of "self-distancing" as part and parcel of meta-reason is expressed in a variety of ways. Husserl and Derrida, as we have seen, focus in part on the problems of technical rationality, in part on the violence of law, and in part on the larger unintentional chaos such forms of rationality or essentialism cause. A similar concern was expressed as early as 1795 by Friedrich Schiller, in his classic work *On the Aesthetic Education of Man*, where he noted the following:

> As soon as enlarged experience and more precise speculation made necessary a sharper division of the sciences on the one hand, and on the other, the more intricate machinery of the States made necessary a more rigorous dissociation of ranks and occupations, the essential bond of human nature was torn apart, and a ruinous conflict set its harmonious powers at variance (39).

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[10] On cynical repression, or "enlightened false consciousness," as opposed to formal or structural repression, see Sloterdijk (1987). For a detailed Lacanian account of the formal repressions entailed in our entrance into language, see Lemaire (1970).

John Dewey ([1927]/1954) as well was concerned about the unconscious aspects of self-interested actions that cause unintentional secondary effects, particularly in a socio-political world becoming increasingly complex. According to Dewey, the "public" is nothing less than the sum total of the indirect consequences of conjoint action, and it is only by becoming conscious of these otherwise unconscious consequences that we can build proper institutions. In sum, in a world filled with specialists, there are few with the capacity to step back, as rhetoricians have for millennia, and grasp complex issues from the multiple perspectives of those involved in those issues.

Even if we return to Aristotle and define reason as practical wisdom in the realm of the probable, this does not mean, as I have attempted to show, that there are not formal, rational (i.e., universally applicable and certain) dimensions to the production of social reason, and these rational dimensions constitute the contours of meta-reason. By way of introducing how these rational aspects of reason are relevant to argumentation theory, Butler (2002) speaks in the following terms:

> To claim that the universal has not yet been articulated is to insist that the 'not yet' is proper to an understanding of the universal itself: that which remains 'unrealized' by the universal constitutes it essentially. The universal begins to become articulated precisely through challenges to its existing formation (48).

In plainer terms, it is the falsification of presumed certainties by ever-unfolding particulars that in fact constitutes a *universal* aspect of practical wisdom. Another way this has been put, as we have seen with Husserl and Derrida, is to say that practical reason, in order not to ignore its formal, universal qualities, must *always* forego assumptions that are not open both to the limits they necessarily impose or to the events to come that will incessantly challenge different presumed certainties. Thus we turn back one final time to Husserl's point that technical rationality, with its necessarily unquestioned major premises and topic-specific entailed conclusions, and to Foucault and Derrida's point that presumed certainties about madness, sexuality, law and other structuring fictions are necessarily transformed by the historical particulars they inevitably encounter.[11] Technical rationality and ideological certainty both entail repressed discursive fields, with unconscious synchronic and diachronic dimensions, which indeed create a real material force.

The notion that practical wisdom formally revolves around a constellation of repressed discursive elements, or more abstractly a void or absence, also resonates with psychoanalytical accounts based on the work of Lacan who, like Derrida, was also profoundly influenced by Saussure. For Lacan, a universal dimension of all identity formations *is the void* around which they form, since, ala Derrida, the center of all structures is a formal, structuring absence, or lack.[12] So, for Lacan and Derrida, a *constitutive lack* is another important universal, hence rational, aspect of all political thought.[13]

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[11] The opposite position would be to suggest that out of the chaos of self-interest something akin to an "invisible hand" guides society and the economy toward reason. For my extended critique of such a position, see Bruner (2009). For another take on the history of the idea of the virtue of self-interest, see Hirschman (1977).

[12] Derrida's classic statement on the structuring absences at the heart of any meaningful system of signs, a statement that arguably inaugurated the transition from structuralism to post-structuralism, is found in his essay "Structure, Sign and Play in the Discourse of the Human Sciences." See Derrida (1978). Again, my ultimate claim is that argumentation scholars are uniquely positioned to show how these "absences" are mappable repressed discursive fields displaying different symptoms.

[13] Gilles Deleuze and Felix Guattari (1983), who are hostile to Freudian and neo-Freudian psychoanalytics, express this idea as "productive" lack as follows: "Desire does not lack anything; it does not lack its object. It is, rather, the

Hegemonic, totalizing, disciplinary discourses – and there is always a constellation of such discourses at work in any given socio-political situation, no matter how artfully considered – *always* inscribe limits that *necessarily* antagonize attitudes, beliefs, and actions falling outside of those limits. As particular events over the course of time encounter those limits, contradictions emerge between the normative justifications that support those structuring fictions and the concrete actions of those who defend, oftentimes in increasingly anachronistic ways, the limits they impose consciously and unconsciously. As contradictions pile up, modification in the structuring discourses are required if political violence is to be held at bay. If this account of political subjectivity is accurate, and hence formally and rationally true, then argumentation theorists should also focus on the friction among structuring fictions, their unrecognized or repressed limits, and the various ways those limits are productively or unproductively transgressed.[14]

We can see, therefore, that meta-reason is based on the rational, formal, and potentially emancipatory principle that all totalizing discourses, when those who employ them are unaware of the limits they impose, are not open to the incalculable events to come, and are not aware of the *logical impossibility* of full subjectivity, move against the spirit of enlightenment (Tully, 2003). A reactionary discourse, conversely, is one that seeks to strengthen the limits of a structuring fiction while weakening the capacity of individuals to productively question and test those limits. What, however, might an "emancipatory" discourse look like, if all discourses are constituted around an inevitable lack no particular presumptions can solve? To explore one possible answer to this question, I now turn to Chaim Perelman.

As Perelman (1979) noted in his important essay on the rational and the reasonable, these are anything but interchangeable terms, and his characterization of the distinction between them clearly resonates with Aristotle's.

> The rational corresponds to mathematical reason, for some a reflection of divine reason, which grasps the necessary relations, which knows a priori, certain self-evident and immutable truths, which is at the same time individual and universal; because by being revealed within a single mind, it imposes its themes on all beings of reason; because it owes nothing to experience or to dialogue, and depends neither on education nor on the culture of a milieu or an epoch (213).

Reason, conversely, is bound to time and circumstance and cannot be fully rational, and this is why, Perelman agues, combining the rational and the reasonable in politics is disastrous business. Echoing Hegel's, Derrida's, Laclau's, and Butler's emphasis on the problematic relationship between presumed political certainties and particular events over time that necessarily problematize those presumptions, Perelman emphasizes how rules of political action may appear "self-evident at one moment or in a given situation," but they "can seem arbitrary and even ridiculous at another moment and in a different situation" (215).

After providing his initial characterization of the rational and the reasonable, Perelman then turns to what he terms "the unreasonable exercise of power," and here is where things become particularly interesting given our focus on meta-reason and political transformation. He

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subject that is missing in desire, or desire that lacks a fixed subject; *there is no fixed subject unless there is repression*" (26, emphasis added). For useful introductions to Lacan, see Lemaire (1977), McGowan (2013), and Stavrakakis (1999).

[14] For methodological procedures appropriate to aspects of this task, see Bruner (2002; 2012). As the rhetorical unconscious is not in the text, since its content is variously repressed or excised, sites of discursive transgression and punishment are places where otherwise implicit limits are revealed.

asserts nothing less than that "the progress of thought" is dependent upon the "*dialectic* of the rational and the reasonable" (215, emphasis added). When the rational and the reasonable are "mutually supportive," he intimates, there is no discernable political problem, but when "fidelity to the spirit of a system leads to an unacceptable conclusion, in a word, to an unreasonable conclusion," this requires a reconsideration of the system itself (217). The particular and time-bound decision necessarily modifies the presumed universal, and a failure to attend properly to the particular leads to unreasonable decisions. Progress, therefore, depends, as Derrida suggests, on a meta-reflective appreciation for the complications provided by ever-changing circumstances and a willingness not to cling to increasingly anachronistic structuring fictions.

In the discussion period after Perelman's lecture, Habermas, in response, claimed that Perelman was really, like others before him, talking about the "meta-rational capacity" to recognize the limits of the rational, or the universal theoretical ideal, when applied to the reasonable, or the particular practical decision (217). And indeed this "meta-rationality" is, as I am working to show, one of the central issues preoccupying all of the theorists we have reviewed, each of whom were also attempting, in their own unique ways, to work out the universal dimensions of human reason and their import for political argument.

To concretize the fruits of such theorizing on "meta-rationality" or meta-reason and its relationship to political change, and more specifically the dialectic between presumed political universals and their necessary transformation over time, consider Neta Crawford's (2002) analysis of the global transformation over the last several hundred years from slavery to forced labor, then from military to economic colonialism, and now, most recently, to nation building. Crawford, through an historical analysis that confirms Laclau's (2005) theory, which presumes that political universals *necessarily* create antagonistic fields that eventually transform those presumed universals, shows how each shift, from structuring fiction to structuring fiction, has been accompanied by a clear and traceable process of normative argumentation surrounding repressed discursive fields.

As Crawford's work shows, and in a manner resonant in ways with both Foucault's and Hegel's historical philosophies, in different historical eras there are structuring, politically consequential fictions that protect the interests of the dominant members of the political order (e.g., slavery is claimed to be a Christian duty to bring "heathens" out of their pagan darkness; forced labor teaches people "the Christian value of work" and leads to their salvation; colonialism is a way of helping "underdeveloped" countries and their "immature" peoples; neo-liberalism and "free" trade is the best way to increase the wealth of third world countries; and it is the role of "the West" to spread "democracy" and "freedom" around the world). Each structuring fiction, claimed as a universal political truism, is deployed by those in power to justify their physical and/or economic dominance until enough counter-evidence emerges to prompt public criticism from less invested individuals within what passes for respectable society. Otherwise, the voices of the excluded and marginalized rarely have any significant effect, as they are repressed in every sense of the term. The relatively powerful voices of those who once believed in the structuring fiction slowly come to doubt its veracity as counter-evidence accumulates, and as their doubts increase they become increasingly alienated from that fiction. Those who were once "inside the fiction" demand reform, and reform is promised by those who remain true believers or cynical manipulators, despite the mounting evidence against their self-gratifying fiction. Concrete reform, however, is not forthcoming, due, returning to Derrida and Benjamin, to the inertia of the violence of what passes for law, and due as well to Foucault and Lacan's emphasis on the pleasures of repression. Then, in light of their intransigence, the

dominant forces are required to promise reform in writing, though meaningful reform is still not forthcoming, given the lingering power and metaphysical comfort the fiction still provides. Ultimately, however, in light of the spoken and written promises, all broken, enough public shame is eventually heaped on the dominant groups supporting the fiction that they are compelled to change their policies and institutions, which in turn leads to new structuring fictions, and the process endlessly repeats itself, though perhaps with marginal progress.[15]

Is this some kind of neo-Hegelian progress of Spirit? Is this Foucault's notion of moving from one system of domination to another? Can it be both? Arguably, economic oppression is not the same as cutting off a slave's nose, say, for not bringing in the requisite amount of gold, which was a nasty habit of Christopher Columbus and his fellow explorers, or cutting off some other body parts, as often occurred with runaway slaves in the southern United States prior to the Civil War (Loewen, 1995, 60-62). This does not necessarily mean, however, that the "Spirit" of humankind is *inexorably* progressing. If Todd McGowan (2013) is correct, since all attempts to construct the "good" society or to rid society of that which presumably pollutes what would otherwise be "good" is doomed to fail, "a psychoanalytic politics" must insist, a la Foucault, "on identification with the limit rather than attempting to move beyond or eliminate it" (20). This is because, McGowan argues, as obviously others do, that all political reason is built on structuring fictions that seek *to paste over* a fully unrecoverable lack at the heart of all subjectivity. Perhaps the best we can do, therefore, as argumentation theorists, is to find ways to analyze not only the structure of arguments in support of various political positions, but to also find ways of analyzing the otherwise unconscious limits and repressions such positions entail.

Formally, rationally, we cannot fully overcome or eliminate repression and limits, since they are in fact the engines of the political itself. We cannot, in other words, ever fully remove the "stain" of productive repression, or the "violence" of law. All one has to do is look at political history. We continue to witness, and shall for the foreseeable future, the continuing problems associated with jingoistic nationalism, exacerbated by the continuing fragmentation of the globe into more and more "sovereign" nations, and the problematic and anti-democratic evolution of international economic governing structures such as the World Bank, the International Monetary Fund, and the World Trade Organization. There are also the horrific global problems that continue to erupt as a result of the clash of the two dominant quasi-fictions structuring world disorder today: reactionary fundamentalist terrorism against capitalism and its attendant secularism (e.g., Barber, 1995; Debord, 1998; Žižek, 2002).

So, on the one hand, over the last two hundred years, as market relations have advanced across parts of the world, we have witnessed a proliferation of both productive and destructive alienations. Productive alienations have led to a greater awareness, at least among critical philosophers and rhetoricians, of the constitutive nature of language; thus, we have gained, mostly to the good, a productive distance from language. The "fool," from such a perspective, is the one who *truly believes* that their given language and subject position is the True language and subject position, whereas the "wise" recognize their language's relativity and constitutive limitations. Concretely, we have witnessed the physical violence of slavery slowly replaced, under expanding capitalist conditions, by economic violence, which arguably could be characterized as actual progress. On the other hand, capitalism itself, as the rational dimensions of the reasonable would suggest, is necessarily triggering its own antagonisms, and who is to say where the dialectic between the "rationalism" of fundamentalisms and political ideologies and

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[15] The process is not dissimilar to the one described by Thomas Kuhn (1996) in his analysis of the structural transformations involved in scientific revolutions.

the "reason" of secular capitalism, whose unwitting theoretical champions, as we have seen, focus on rhetorical unconsciousness to undermine the violence of over-identification, will lead?

In sum, when placing these various perspectives on political history and argumentation in dialogue, we have discovered several formal, universal, hence rational, dimensions of the historically contingent and particular dimensions of the reasonable. We have seen that philosophers from Schiller to Husserl were concerned about what they believed was the negative influence of technical rationality, or "synchronic" forms of field-specific rationality that accompany the ever increasing division of labor in capitalist society, on political reason. While argumentation theorists have long recognized the crucial importance of stepping back from one's "natural" position in order to grasp a meta-perspective on a given rhetorical situation, the notion of synchronic discursive repression or elision is something relatively new.

Derrida, Foucault, and Perelman, though in different ways, have pointed out other rational dimensions of the reasonable than the more specific unconscious limits synchronically imposed by technical rationalities. They have shown how *all* identities, and all structuring fictions that devolve from those identities, impose broadly unrecognized diachronic limits that do a certain "productive violence." Derrida, drawing upon Benjamin's work on the inevitable violence of law, argues for a meta-reflective stance on just such violence, just as Foucault argues for a meta-reflective stance on the limits imposed by identities in order for us to recognize and critique them. And Perelman, as Habermas noted, also sought to identify the universal principles at work within reason, particularly how the rational/universal/idea is in constant dialectical tension with the reasonable/particular/material.

Over at least the last two centuries, from Kant forward, philosophers and argumentation theorists have been concerned not only with the distinction between what they variously refer to as reason and rationality, they have been even more concerned with calling for greater meta-reflection on the power of language to construct humanly experienced reality. The arguments presented here suggest that all presumed political certainties are doomed not only by the unrecognized differences that haunt them all the time structurally, but as well by the future particulars that will inevitably modify them. Yet forms of rhetorical unconsciousness, in the form of unquestioned limits imposed by technical rationalities and essentialist assumptions, certainly exist. In fact, they are required for what passes for subjective normality and political stability. These unquestioning stances and their attendant repressed discursive fields, are the primary sources of political violence. For the vast majority of individuals, however, and for most of recorded history, humans have taken their language for granted, assuming that their culturally situated "truths" are in fact Truths. Sometimes these "Truths" are disciplinary, taking the form of various professions and their attendant forms of technical rationality; sometimes these "Truths" are the broader ideological fictions that structure society.

At the very least, we know that presumed certainties in the realm of the political are doomed to fail; that all law does a certain violence, particularly when it is not self-reflexive in applying the law to ever-changing circumstances; that when identities and structuring fictions are "working" their limits often become invisible to those who inhabit and benefit from those identities and fictions, creating zones of unconsciousness as repressed discursive fields; and that the tensions between presumed universals and concrete particulars will never cease. Such meta-reason, or such insights into the nature of the political and its transformation, provide argumentation theorists today with conceptual tools for more precisely dealing with the blindnesses of presumed political certainties, enabling us to map not only the surface of

arguments but their constituent silences, which in turn will enable us to consider more productive ways of defending systems of politics and law that do less violence.

To put the challenge to argumentation theorists otherwise, while we continue to work to gain distance of language, so that the violence of true belief and essentialism can be attenuated, it appears that the metaphysical comforts and benefits provided by presumed certainties overwhelms, for the vast majority, the ability to meta-reflect on language and its necessary violence. Furthermore, as has been observed, political action requires making concrete decisions in an ultimately undecideable terrain, so, no matter how much "self-distance" we gain, we still must certainly act moment to moment based on what we believe. This means that, even if the clash of human differences ultimately leads to greater human freedom, a la Hegel, we cannot ever hope to fully escape from the unconscious dimensions of presumed universals and their violence in the realm of the probable, the political, and the reasonable.

It is, then, a challenge for those who study argumentation and its political consequences to locate and utilize mechanisms for analyzing and critiquing arguments with these rational dimensions of the reasonable in mind, working to identify repressed discursive fields and their consequences, and in so doing to take properly into account both the conscious and unconscious dimensions of persuasion.

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**Argumentation and the Cybersphere**

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Abstract: Modern studies of personal, technical and public argument feature dialogue, conversation, composition, performance and public address. Internet digital exchanges offer strings of arguments that position information from conventional contexts, but platform and simulate exchange at a distance. Internet language games generate memes. Memes fold into popular genres: the quarrel, quibble, and bickering. The generative qualities of language-games, mimesis and homology underwrite pervasive contentious genres, even while communicative activism engages dissensus.

Key Words: argument, cybersphere, dissensus, genre, homology, Internet, memes.

William Gibson author of *Neuromancer* (1984) coined the term "cyberspace" in a punk science fiction novel "whose hero, Case, 'jacks' his nervous system into a 'consensual illusion' where the world is a computer simulation and humans live apart from bodies" (Edwards, 2000: 1). Science fiction was not far behind social fact. The first browser was Tim Berners-Lee's World Wide Web (WWW) developed at CERN in 1989. Mark Andresson's Mosaic, the initial graphical Web browser, followed at the University of Illinois, Champaign-Urbana. Together, these achievements furnish a take-off point for popular electronic networks. The Internet explosion was so significant that the American Council on Learned Society reports that by 2006 "the networks had become completely public in nature, and they are now thoroughly naturalized by the public" (2008). "The Internet, the World Wide Web, and their successors are evolving rapidly into a global digital network, a 'cybersphere,' interrelating people and their activities through robust, albeit ubiquitous, computers, networks, and intelligent hardware and software," Daniel Atkins *et al* (2002) conclude. PEW (2015) reports that despite some gaps "the internet has become an integral part of everyday life across diverse parts of society."

Giambattito Vico (1771/1996) believed that the rhetoric of a particular time was woven into the arguments available to advocates within a culture. The rhetorical and philosophical projects of argument studies, together, appear influenced by efforts to advance critical thinking and to marshal an informed response to the modern practices of print and mass media. State propaganda and consumer advertising furnish the discourses and visual images that necessitate "self-defense". The skills in informal logic preserve independent judgment. Conversations are analyzed as useful places for reaching a sound agreement. Critical discourse studies expose the semiotic practices coding power into social relationships. Rhetorical argument features the appreciation of spoken words or written texts. The performances of public culture address local fans. Questions of justice in the public sphere extend to a universal audience. The field of modern argumentation inquiry encompasses the broad range of social, institutional and public communicative reasoning constituting the modern cosmopolis (Toulmin ,1990).

The Internet is a technology that draws from traditional spheres of argument practices in ways that unsettle socio-cultural, moral, and experiential contexts. The homological simulation of good reasons induces vast populations to network, but good reasons displaced from their work in contexts evolve within distinctive styles and genre.

Spheres theory organizes the activities and products of conversation, critical thinking, informal logic, conversation, discourse, controversy, and public address. Spheres theories posit that personal interaction, professional exchange, and public transactions and performances exhibit argument qualities in common, but the communication activities of reason-giving and questioning also exhibit differences. Controversy persists at the boundaries of spheres. Rules, norms, and conditions for reasonableness sometimes get caught up when discussing, disputing, or evaluating claims in questions. That which is permissible, typical, or required to establish an asserted statement meaningfully becomes taken up in the dispute.

In Wayne Brockriede's view, argument broadly considered is a perspective taken by an interlocutor (Trapp & Schuetz, 2006). The Internet puts interlocutors in complicated, changing relationships with electronic signals and coded options, with variable processing shaping simulated encounters. Normative accountability decreases as exchange is freed from context, then guided by filters designed to meet user satisfactions and sponsor needs. From an Internet standpoint, a sphere is re-constituted by transforming practice into information that connects agents, agencies, activities and operations. Speakers and audience become networked as nodes and ties. The cybersphere translates, then aggregates, each argument homologically into the associated signs of stimulated, natural behaviors. Any given homology is a rhetorical trope, though often these are deployed literally as a representation of the natural world.

Spheres are translated daily into millions of connections and disconnections, thereby putting the socio-cultural texts, performance of practice, and argument communities into modes of circulation. Coding, platforms, and processing are matters of private ownership; access to user reasoning and debate, generally, is considered fair game by media industries and the state. A modern sphere becomes manifest when its boundaries are asserted, contested or modified; but often activities and events intersect in more or less informal, material arrangements driven by consensus and dissent. Spheres electrified onto the Internet become data formations that vacuum up, organize, and/or extend adjacent socio-cultural argument communities. The rules of non-digitalized exchange, norms of reasoning, and styles of argument now become replicated, varied, and merged in the vast simulations of exchange.

The modern spheres theory draws from and explicates field-grounded practices as well as media gambits of mass influence during the post-World War II era. The Cold War featured state propaganda and mass advertising; but, it also featured a turn to value practical reason from international, cosmopolitan, and interdisciplinary perspectives. Does the cybersphere invite a totally new way of thinking about modern argumentation projects? If so, how does argumentation inquiry invent models that anticipate and critique the post-modern, global contexts of Internet exchanges?

At each stage of the digital revolution, scholars have raced to map and claim the new territory. This chapter reads early theories that defined the Internet as a supplement to modern communications, with utopian or dystopian possibilities. I then examine the Internet with its postmodern differences, mimetic structures, and

emergent genre. I claim that our modern projects of argumentation need to take into account the odd postmodern communicative arrangements of digital, network society.

Specifically, I contend that modern argumentation theory brings into view dialogue, conversation, or news essays (editorials) as paradigms of practical reason and contests of practice. Internet exchange is different. The World Wide Web (WWW) is typified by novel strings of contention as well as renewal of older, less careful, loosely anchored argument genre: the quarrel, quibble, and bickering. The proliferation of genre on the Internet constitutes a time similar to the early Renaissance. This essay exposes the rapid flow of genre of Internet practices moving across portals, online communities, games, blogs and social media. The generative qualities of language-games, mimesis and homology re-popularizes early modern contentious genres, presently, even while the outcomes of vast networks of creative clash hold open the hope that more sophisticated genres of dissensus are emerging.

## 1. Utopia or Dystopia? The Internet as Supplement

In times of revolutions, paradigms do shift, but it takes a while for grounded theories to develop and the scope of change to be articulated. Change in communication structures, practices, and possibilities are multiplying rapidly on the Internet. The cybersphere invites and connects multitudes of traditional genres of argument so rapidly that the distinctions between networked simulations and real world activities continue to diminish. The Internet is "being incorporated into more routine aspects of daily social life, as virtual and physical activities become increasingly integrated" (Juris 2005: 191). On a typical day at the end of 2015, the Internet attracts some 215 million American adult users. Millions "logged into the Internet to use email, get news, access government information, check out health and medical information, participate in auctions, book travel reservations, research their genealogy, gamble, seek out romantic partners and engage in countless other activities (Rainie and Horrigan, 2005)." By November 2016, there will be over 3 billion Internet users throughout the world (World Internet Users, 2015). The 21st century is witnessing a global communications revolution.

## 1.1    Utopic Possibilities

A gaggle of theorists, across its quarter-century development, wick up explanations of the Internet phenomena. Views are mixed. Some devotees claim the new technology comprises a powerful supplement and improves traditional civil society, state, and public practices. For example, Brian D. Loader (1997) reports that: "Network technologies are also increasingly used in public and political debates and communications" (155). In the United States, and around the globe, the WEB is utilized by national and local government IT projects to 'improve efficiency' through extending tried and true means controlled by vetted, public institutions. Thus, the Internet is said to extend democratic spaces by organizing e-government and related projects such as the Democracy Network (democracynet.org), Project Vote Smart (vote-smart.org), and the California Online Voter (calvoter.org). As a supplement, the Internet becomes a means where a state can provide services more efficiently to clients, and citizens can participate in circulating opinion (Clift, 1999). These expectations have met with some success. According to the Pew Internet & American Life Project (2005), "the Internet

'creates new online town squares' and 'enhances the relationship of citizens to their government'."

The Internet offers a strong supplement; it is a harbinger of fundamental changes. Mass media democracy, for instance, offered citizens structures of gate-keeping, one-way communication, and expert-informed campaigns of advertising and persuasion. To the contrary, online communication features "decentralized social networks and user-produced content" that "are bypassing traditionally powerful communication gatekeepers" (Dutton & Peltu, 2007: 78).

The framing devices constituting traditional mass media news genre, for example, are now met with critical intervention. Network framing, cable narratives, newspaper opinions now invite contestation. Twitter feeds steel the headline buzz. Seeing the transition optimistically, one might say: "The advent of the Internet marks a shift from traditional mass media environments" to "multi media", hybrid spaces. Whereas mass media worked through channels, programs, and agendas, the Internet "does not direct individuals into a clear path," rather it solicits "construction and creation" and is "open to continuous reconstruction, re-symbolization and redetermination by its users, giving them the opportunity to appear and disappear in multitudes of different spaces, times, social roles and even bodies" (Ester & Vinken, 2003: 670). The result is that the cybersphere is the site of "new citizen media" with "bold experiments" in creating public space (Youngs, 2007: 27).

1.2    Dystopic Possibilities

Not all thinkers are optimistic. Some prophesy dystopia. Totalizing critique asserts that the cybersphere not only perpetuates power inequalities but that it also enhances barriers to informed democratic participation. Subject to hegemonic complicity, the cybersphere—like all media networks—is the product of oligopolistic interests that perpetuate and benefit from asymmetries of information, participation, and influence. From the outset, critics have fretted that a digital divide will "create new cleavages, between those who and do and those who do not have access to and command of" new communication resources (Brants, 2005: 143; Dutton & Peltu, 2007: 18). Cass Sunstein, for example, argues that in "cyberspace, people mostly choose alternatives that sharply limit their own horizons, and narrow the field of interests and concerns" (cited in Pajnik, 2005: 355). The result is that mass media campaign strategies—enacted for Internet environments—"are increasingly geared toward fragmenting the public sphere, either by sending particular message to particular people or by designing tools for citizens to encode their personal interests and sequester their consumption of news" (Howard, 2005: 169).

Niche participation creates conditions of fragmentation where "online deliberation appears to take place among like-minded people, which results in a fragmentation of cyber-discourse into mutually exclusive cyber-communities" (Dahlberg, 2001a cited by Polat, 2005: 449). Self-re-enforcement of biases is naturalized by "following" posts or tweets from "friends" ranging from intimates to celebrity authorities. Indeed, the Trump presidential campaign appears to avoid traditional advertising in favor of deploying Tweets, a postmodern distribution of sententiae. As genuine public debate and deliberation retreat, politicians resort to talking points declamations or roiling in the unseemly.

The fragmentation of the public sphere is perpetuated by the appropriation and development of network nodes and connections that constitute the platforms, servers and storage facilities owned by industry and surveilled by government, it is claimed. Mass media networks and cable giants seek to convert the Internet into sybaritic pleasures of consumption. Polat (2005) reports that "the Internet is already colonized by commercial interests largely because of potential for advertising revenue" (450). The result is a reduplication of the ubiquitous consumer appeals saturating the endless small-talking of networks.

"Much of the discourse" on the Internet, Dahlberg (2001a) claims, "simply consists of titillation, gossip and slander, superficial banter and other kinds of lowest common-denominator exchange." Admitting to some "critical discussion of controversial issues," he none the less concludes that "many participants simply seek out groups of like-minded others where member's interests, values and prejudices are reinforced rather than challenged" (618). The result Papacharissi (2002) claims is that "this public space facilitates, but does not ensure, the rejuvenation of a culturally drained public sphere" (22). Political argument under such conditions may become common, vulgar, coarse in the demagogic call to *vox populi*.

The rational public debate expected of a public sphere does not result because the Internet is not equally open, not free from institutional predispositions, occupied by diversions that suit the time-wasting activities of consumer interests. In point of fact, the Internet has become a huge dumping ground for banal messages promoting consumerism. According to Judy Foster (1999), "Businesses are increasingly flocking to the Internet for a variety of marketing purposes, including research, publicity, sales, and advertising" (81). Whatever the limits of mass-media in providing a forum for public discussion and debate, the composition, granularity, speed of distribution and global scope of the cybersphere alerts us to a whole new sphere of communications that invites critical study of argument practices.

Whether optimistic about extending the efficiency of current institutional arrangements or pessimistic about these outcomes, the two alternative views of the public do share a common premise. All activities of the new array of communication technology are regarded as constituting mere convergences with, or supplements to, traditional media and practices. Neither view is complete, however.

2. Dissensus: Virtual Argument

Debates over the essential nature of the Internet as a supplement to modern practices continues. In my judgment, such descriptions do not attend to the unique, emergent differences of the network, information structuring of modern personal, professional, public and media practice. Thus, we turn to regard the cybersphere, *not as an ontological way of being in the world, but as a hybridized or blended pragmatic space where both (1) the trained habits of consumption from the mass media age become recast, appropriated and exploited as well as (2) new challenges of production, audience acquisition, and critique become available.* The cybersphere produces dissensus. Its virtual exchanges of difference put arguments into processes of re-purposing, de-contextualization, distribution, circulation, and assembly. The feedback loops of exchange take on a non-linear dynamic. The Internet develops as network controversy.

The mobile lives of rising generations throughout the globe generate unpredictable and uncertain feedback loops that recast and vary modern genres of communication.

## 2.1 Cybersphere and Dissensus

The cybersphere now supports global networks of knowledge, exchange and association of people now caught up in the wider contexts of planetary living. Dissensus is its main product, with emergent objections, disagreement, deferrals and dissent blossoming. These are antagonisms and agonistic relationships that are rendered emergent by message spread with uncontained and unpredictable overlaps and chance encounters of accidental or unintended audiences. The cosmologies of people inhabiting diverse continents are becoming connected through exchange on a massive scale for the first time in human history. Modern institutions that depend on secrecy are subject to leaks. Audiences escape, subvert or turn back on merchandizing campaigns. At the same time as the diverse cultures of the globe become resources for digital data miners, the tests for the facticity, relevance, and genuineness of resulting communications become predictably more extensive, even with greater uncertainty to outcomes.

The convergent qualities of Internet communication offer a unique context for communicative exchange. Platforms code, simulate and store information that translate and assimilate signs and sign systems translating space, time, causality, and engagement into file arrangements, access, and storage. Networks of exchange spread. Modern argument studies are grounded personally in face-to-face interaction, professionally in transactions, and publically in address (Goodnight, 2012). The cybersphere is not a place where the truth of a communication—or the assurances of accountability requisite to correcting false and misleading arguments in face-to face-interactions—can be understood through contextual constraints, cues, or actions. Dissensus is the outcome.

## 2.2 Virtual Difference and Distance

The cybersphere offers spaces for anonymous, networks of connections that mimic legitimate institutions while pursuing ends ulterior to and neither anticipated nor approved by clients (inscribed as 'users'). The absence of privacy and strategies of control are discussed frequently, on the Internet and off. The new collective conditions of communication are brought to attention by journalists as well as scholars. Steven Ray Vedro (2000) concludes with a modest plea for civil regard when provoked by difference, "Our only defense in an interconnected cybersphere—where old notions of privacy are falling all around us—is to practice both courageous honesty and deep compassion for the lies we all tell each other" (1).

Unlike framed mass media products, the cybersphere does publicize exchange and encourages *'dividual* critical response. The "sharing economy" depends upon arguments by users who testify to product or experience quality. As a result, mass media advertising becomes ever more aggressive, to demand notice. Public address, too, is aggressively packaged by mass media through framing of situations, polling, and message campaigns. Tests of informal logic hold advocates—whether acting individuals or encapsulated in messages through mass media narratives—accountable to standards of cogency, coherence, and consistency. Routinely claims on the Internet are *not*

grounded by the fields of practice within which arguers have standing, by disciplined discourse structures, or by accountable forums with a legally empowered and historically situated audience. Media literacy is a value of modern education, but reading network messages require new, additional or different ways of thinking critically.

## 2.3    Assembly and Circulation

Internet communication is defined, monitored, and constrained by servers and platforms that make available participation and adapted by surveilling and adjusting to use patterns. Contexts are fluid. Like the pamphleteers of the Gutenberg era, advocates flock to the Internet because the costs of dissemination are low, the means of production simple, and the potential audience vast. Forming issue-based groups, the advocates are "not geographically bound" (Polat, 2005: 448); their "virtual communications" cross "all kinds of boundaries, national as well as international, as well as being contained by them" (Youngs, 2007: 24).

The speed with which groups can assemble and form redefines the crowd; passions gather among people interested in convergent ways of doing things, getting together, gathering information, and making interventions. "The online polity can mobilize mass support quickly…through email and mobile phone contacts to organize online lobbying or to form 'flash mobs' who assemble at short notice" (Dutton & Peltu, 2007: 7). The broadness and speed with which claims, and counter claims, can travel is unprecedented. Local and global controversies swirl and mix on a vast scale. As Paul Starrs (1997) puts it: "Boundaries of sovereignty once traditional and stolid, casting states in the shapes decreed by great colonial powers years ago, are ever more challenged: shot through like a colander by an information-moving system of unmitigated, unparalleled efficiency and redoubtable power" (1).

The results of the unique breadth and fluidity of Internet exchanges are assembled into a mix of traditional media framing strategies for notoriety, on the one hand. On the other, arguments advance critical observations targeted to dismantle frames, integrate on-going opinion, substitute expressive acts for analysis, and pursue novel forms of stretching or diverting attention. The result is the transformation of argument into the wider, ambiguous, and multi-valent assertions of public culture. Rohlinger (2007) reports that: "Political media outlets, which include independently owned newspapers and magazines, websites, art, poetry, storytelling, and film, are important to deliberative process because they provide particularistic groups a 'free space' for form and articulate their own values, interests, and visions of a common good away from more dominant or opposing groups" (123).

## 2.4    Non-linear Dynamics

Mass media persuasion campaigns depend upon strategic message creation, repetition, branding, and purchasing of print space and air time for effect. The Web is a site where arguments flow in lateral, nonlinear ways. According to Bennett, "what is changing in politics is not a decline in citizen engagement, but a shift away from old forms that is complemented by the emergence of new forms of political interest and engagement" (Bennett, 1998: 744). Writing of the Internet, Sinekopova (2006) concludes: "In a linear description, a small change in the dynamic of a phenomenon

produces a proportionate (predictable) outcome; in a nonlinear description, a small change can produce a big (unpredictably disproportionate) change" (514). In short, as the technologies become more accessible, the division between producer and receiver evaporates. As a result, "interactivity opens up unprecedented opportunities for more inclusive public engagement in the deliberation of policy" Coleman (2005: 13). Engagement is often defined by the work of programmers who platform exchange, however. Through blogs, virtual communities, social media and networked Web sites, citizens participate, criticize, and produce argument, albeit in restricted ways and under surveillance. Nevertheless, netizens give up the role of passive spectators.

2.5     Popularizing Disputation
        Reputations can rise or fall as obscurity and fame trade places. Traditional parties and social movements are aware of the power of critical public communication. Groups engage in "political 'hacktivism', by massively sending emails to political leaders, by using information technology for community building, by designing and maintaining political websites, by participating in political chat groups," by using websites and zines and political demonstrations (Ester & Vinkin, 2003: 663). Increasingly, digital technologies "are used to organize political information in the public sphere" but unlike those used in traditional media, "these interactive tools allow for both the production and consumption of political content" (Howard, 2005: 154).
        Clearly, novel forms of engagement supplement traditional ends of political organizing through public argument. Yet, control, repetition, analytic development, and dissemination are not the grounds upon which success can be built for these participatory media. The question of production calls attention to invention, ingenuity, and novelty. Ingenious ways are crafted to unbundle standing narratives, niche a community of interlocutors, and burnish causes with telling self-representation. Youngs (2007) imparts a clue to appreciating this unique form of public argument when he tells us that "the politics of virtual space is as much about what it means to 'be' and 'do' online as it is about the vast amount of information the Internet makes accessible" (24). De Vreese (2007) extends the insight in observing that "the young online consumer is also politically active," noting that "civic mindedness, digital political participation, consumption, and online social networking go hand in hand" (214). Instead of forming closed parties, lodges or communities, the Google Generation revels in multiplicity, construction, and shifts among weak ties that "connect citizens to numerous others" and invite people's lives to "become more dispersed across networks of interest, preference, and passion" whose interconnections await a capture claim of attention, framed as engaging controversy (Coleman, 2005: 208).

2.6     Conduits for Controversy
        In Internet exchange, the groundings of personal, technical and public argument are not discrete but interwoven and continuous. The spectacle of mass media presentations continues, independently as well as more closely integrated with online mobile services and applications. Media frames that discipline stories and events are critiqued and multiplied by the play of creative remix and production of images and symbols. Indeed, the circuits of consumer culture on the Internet become vehicles for public debate. As the Coleman Foundation discovered, a popular charity that supported

90

research in breast cancer could become engulfed in controversy for yielding to conservative pressures for lack of support on Planned Parenthood. The choice of consumption become sites for self-representation of advocates criticizing or defending the products or services of state, society, media or institutions bound together across multiple networks of communication, awaiting the triggering moments of unexpected controversy and debate.

In the modern frame of argumentation, critical thinking appears to have as its end a reasonable justification for a justified support of a proposition. A good proposition, well argued, produces an informed agreement. Such agreements work toward consensus. The Internet appears to sponsor through its qualities of distance, assembly, circulation, non-linear forms, and controversies a communicative activism that fosters display of difference. Dissensus is an equivocal goal. Just as the Internet reduces the entry costs of groups wishing to develop a genuine voice, so it provides access to manufactured controversies where special interests use fraudulent means to delay reasonably supported actions and snare publics into self-injuring schemes that justify ignorance (Ceccarelli, 2011). The Internet raises the stakes of argument.

3. Contagion and the Crowd

The post-modern condition of the cybersphere renders connection between servers, platforms, and private companies an argument generating machine. Network society's exchange operations feature neither the uninterrupted extension of traditional norms, practices and means of the critical-rational or mass mediated public sphere (Dahlberg, 2001b), nor the unqualified opportunity for rhizomic wondering. In fact, the apparent rootless, topic-surfing, Nomad user contributes to the self-feeding engines of surveillance, storage, and circulation. Nomads or *'dividuals* are entrapped in intrasubjective exchange reinforced by feedback filters that loop information into interest satisfying schema. An arms race results between corporate efforts to weave populations into the life-worlds of control societies and self-fashioned communicative activist efforts to hack, reroute, and turn the system—going into "dark space" or off the grid entirely. Thus, the cybersphere exists as a scene of "struggle" (Hauben & Hauben, 1997) between entrepreneurs who develop grounded strategies that secure and establish best or popular practices and publics and those communities who resist the purposes of automated production and extraction of their communicative labor. Communication has been a 21st century modern discipline that, oddly, now is being transformed, through media studies, into a resource to serve neo-liberal economic interests.

The sources of explanation of cybersphere activities are pulled by corporations from modern disciplines such as information sciences, economics, geography, and psychology. Socio-psychology and social biology provide resources for theorizing effects and building platforms. For example, Internet tendencies to generate memes are sometimes associated with the long-standing research traditions of contagion and crowd behavior. Power laws operate on the Internet such that the limited time and attention of individual users are blotted up by a changing, small distribution of producers (Kottke, 2015). Brief visits to well-connected sites constitute rule rather than exception. The result of a proliferation of sources for distribution ironically weakens

the variety of robust, genuine coverage of events. More commentary (about how people feel), less news (about actions in context). I take up 'contagion', and show how its understandings are coupled with "memes", a popular term for language games (visual/word hybrids, in this case) that are noticed, draw comment, and spread widely. The bio-social theory of mimetics is a useful way to understand through an example how theory and practice evolve. I counter this view by pulling memes back into the longer and richer rhetorical tradition that features on contested mimesis actions.

## 3.1    Contagion Theory

Contagion theory has its modern origins in Gustave LeBon's (1895) idea that crowd behavior was like a "contagion," but not easy to explain as in crowds people seemed to follow a "hypnotic" pattern. James Baldwin (1897) found contagion to be a social suggestion: "An emotion may sweep through a gathering of people with a strength altogether out of proportion to the occasion of it in the individual's ordinary thought or life" (254). Wilfred Trotter (1908) found imitation to be a powerful social inducement to group action and a legacy of the "herd instinct"; while I. W. Howerth (1916; 1919) deployed the "herd instinct" to explain collective susceptibility for participating in the slaughter of the First World War. William McDougall (1920) thought of contagion as the product of a "group mind" that was swept up in a "contagion of emotion" such as a panic. Contagion replaces orders or direct requests by virtue of a missing, suggestive part of the discourse, a replicating piece that induces an individual to see a notion as one's own idea—even while the idea itself is being spread like wildfire through a social network. The contagion metaphor transforms inducements to co-operate instinctively or at least without considered, analytic, reflective thought from the biological world at levels from human, to animal, to microbiological. Although the theories of causality vary, theorists across the twentieth century have attempted to explain a phenomena of social behavior where actions and opinion spread through imitation for non-rational reasons—even while the induced individual and collective behaviors result in good or bad outcomes, leading to extinction or survival.

Most recently, David Levy and Paul Nail strove to account for these "heterogeneous" groups of phenomena that they believe basically have a social basis. These scholars define social contagion "as the spread of affect, attitude, or behavior from Person A (the 'initiator') to Person B (the 'recipient'), where the recipient does not perceive an intentional influence attempt on the part of the initiator" (1993: 266). The results of social contagion are dis-inhibitory exchanges. Actions become licensed that would not otherwise be undertaken, when behavior is authorized by beliefs echoed from the perception of repetition of what appears to count as reasonable conduct for this communication. Contagion mutates events and norms in a special combination that authorizes beliefs, invites action, and varies with repetition. From the point of view of argument, thoughts function as authorizations for action by reconciling internal conflicts, authorize a style and range of repetition, enveloping moods that spiral thinking. Like rhetoric, social contagion is the art of influence where indirection colors thinking, invites action, and provokes self-spreading repetition and imitation. In the digital world, this quality of interaction is known as viral communication.

## 3.1    Going Viral

The viral metaphor emphasizes the self-generating and self-assembling nature of message sending, acquisition, and resending. "Like a software virus in a computer network or a physical virus in a city," Aaron Lynch (1996) argues, "thought contagions proliferate by effectively 'programming' for their own retransmission. Beliefs affect retransmission in so many ways that they set off a colorful, unplanned growth race among diverse 'epidemics' of ideas" (2). The spread of a belief is limited by its own success, however. "Proselytic thought contagion becomes self-limiting as host population becomes self-limiting as host population growth diminishes the supply of nonhosts" (1996: 6), a meme thereby growing dormant or absorbed into the mundanity of everyday life, "setting the stage for renewed outbreaks of old movements and initial outbreaks of new movements."

The equipment for self-replication—interest or satisfaction—carries along with it attack and defense mechanisms that position the meme not to be absorbed by competing strains and to undercut or attack competitors. The sin of idolatry, for instance, insulates the iconography of a religion from false gods; the image of false gods undercuts religious belief, whether Jesus as your home boy on TV or Allah in a Danish newsmagazine. According to Lynch, controversy is a key site for "contagions in conflict." "Some of the liveliest thought contagions live outside the strict headings of family, sex, religion, and health. These include memes on abortion, war, handguns, and other public issues. The tendency to ignite controversy unites these 'leftover' thought contagions. Competing beliefs in these areas move their adherents deeply, sometimes to risk everything in spreading or stopping an idea" (1996: 157).

## 3.2    Memes

Argumentation in the cybersphere may be cast as a contest among "memes," a term "derived the Greek word *mimea*, 'something imitated' [which] often refers to a piece of information passed from one mind to another (*Meme*, n.d.)." *Dictionary.com* identifies a meme as "a unit of cultural information, such as a cultural practice or idea, that is transmitted verbally or by repeated action form one mind to another" (n.d.). The conceptual framework for memes is based on a homologous comparison from the biological and information worlds. As a gene is to genetic reproduction, so a meme is to the reproduction of information. Just as organisms are self-assembling biological entities that reproduce through genetic instructions—with an occasional mutation, so a meme is a self-assembling information entity that reproduces through imitation, repetition, and variation. "Memes supposedly have, as their fundamental property, evolution via natural selection in a way very similar to Charles Darwin's idea concerning biological evolution, on the premise that replication, mutation, survival and competition influence them. For example, while one idea may become extinct, other will survive, spread and mutate—for better or worse—through modification" (*Meme*, n.d.). The term, idea, is used here loosely, for a meme assembles its audiences through a self-repeating patterning artifact—"thoughts, ideas, theories, practices," as well as "habits, songs, dances and moods." Whereas genes are transmitted vertically from generation to generation to a species that become selected to thrive in a habitat, memes are transferred laterally and form groups called "meme complexes" forming a "memeplex" such as that information taken in and disbursed by members of the Catholic church to the faithful. Thus, "a meme is nothing more than a pattern of information, one that

happens to have evolved a form which induces people to repeat that pattern. Typical memes include individual slogans, ideas, catch-phrases, melodies, icons, inventions, and fashions" (Grant, n.d.).

The meme has qualities similar to propaganda insofar as it attends to how "an idea gets replicated" in a useful way. "Memetics is vital to the understanding of cults, ideologies, and marketing campaigns of all kinds, and it can help to provide immunity from dangerous information-contagions. You should be aware, for instance, that you have just been exposed to the Meta-meme, the meme about memes" (Grant, n.d.). The site par excellence for the study of memes is the Internet. Across different segments of the cybersphere patterns travel at warp speed, whether accumulated by aggregators, reproduced by large media outlets, swirling among bloggers, or spread by private distribution lists. The spreading meme may not resemble an argument in the traditional sense of a claim backed by evidence. Indeed, memes are part of a swirl of comment attracting symbols for an "economy of attention" (Lanham, 2006). "An internet phenomenon is akin to a fad, in which something relatively unknown becomes increasingly popular, but usually for a short duration of time. It is nearly impossible to accurately measure the depth of a phenomenon's popularity, and different groups of the Internet may participate more than others. The Internet's lack of physical boundaries leads to a much faster and wider spread of information and ideas, especially when the subject is based around humor or curiosity" (*Internet Phenomenon*, n.d.). The Internet is also the place where the spread of controversy accelerates, as memes spread, clash, disappear.

3.3     Mimesis

The term meme of course is well known in the ambit of rhetorical studies as mimesis, a concept at the heart of classical rhetoric, perhaps the original technology of communication. Rhetoric certainly is a way of patterning information in ways that are memorable, repeatable, and mindfully engaging. Arguably, memes generate dramatic, contestatory, competitive linguistic enactment of argument (Bailie, 1995). It is sometimes forgotten that the aim of rhetorical argument is to play the overt words spoken or written against the covert words attributed or understood by the listener or reader. Rhetorical tropes or figures are useful forms to engage the mind in cultural activities; and the end of a good rhetorical encounter may not be simple persuasion but the provision of a useful, exciting or robust vocabulary, ways of putting things, that can be re-spoken as persuasion, like rumor, spreads but in self-organizing ways. Additionally, the constitution of the rhetorical arts, the working stuff of the handbook tradition, were topics and tropes picked up from practice, sheered for content or form, and then put back together in the technologies of public performance in the courts, assemblies or classrooms. Mimesis is an illusive term, but according to Aristotle, human beings enjoy imitating what they see or hear in others; mimetic art "not only functions to recreate existing objects or elements of nature, but also beautifies, improves upon, and universalizes them. Mimesis creates a fictional world of representation in which there is no capacity for a non-mediated relationship to reality" (*Mimesis*, n.d.). Rhetoric is a mimetic art par excellence, intervening in the natural process of thought with the artistic techniques of argumentative development. Just as the rhetorical tradition underwent a change in its mimetic conventions when moving from oral to written

discourse, and again from the work of the scribe to that of the printing press, so rhetoric is invited to make a similar move, critically investigating particular cases in order to discover the principles of self-assembling grammar of symbolic exchange and interaction. Thus, to the criticism of WEB 'memes' as arguments.

If the meme world is to be accepted on its face, a number of taken-for-granted assumptions about argumentation need to be bracketed or set aside when reading, interpreting and teaching argument. Initially, let's put on hold two key assumptions of linear argument, and then construct a model of an elliptical argument that I think may be appropriate to controversy-carrying memes that turn quarrels, quibbles, bickering, and loaded expressives (Like and Dislike) into widespread genre characteristic of the cybersphere. These arguments proceed in a pattern that put into play the tropes and figures of language games, working out the values of a proposition, a statement that is placed into contention. Shallow, short, swift, recursive, and varied are likely patterns of WEB spread and amplified arguments tying into networks of exchanges among nodes of interest; these may cue larger argument structures—patterns of legal reasoning, ideological belief, field grounded knowledge—but the WEB is parasitic upon knowledge bases, assimilating large volumes of information, its means of access 'key word searches' are designed to maneuver through breadth, not invite depth. Thus, WEB argument spreads not because of the power of orderly, thorough, detailed development in a linear, cumulative form, but by the mico-maneuvers of mimetic repetition and variation. The 'meme' may emerge from a localized situation and exchange but once released it is context free, a permanently overheard entity whose conventions are carried with it as a self-assembling argument-game. The fresh-spontaneity may be fixed in patterns by robots that orbit discourses, draw from popular rankings, and manufacture new associations and variations in the language game. The automated and simulated attention-getting argumentation should not be mistaken for natural behaviors.

3.4    Homology and Controversy

Information systems patterning, however, can adapt behavioral patterns of flocks, swarms, schools, armies, troupes and herds to map, follow, and re-pattern exchange. The homological structure of self-reproduction varies in mimetics between genetics with natural selection among 'ideas' argued to be a way of mapping 'cultural evolution,' and a discourse of host-parasite. Homology is the master trope of the cybersphere. Darwinist Richard Dawkins coined the word 'meme' in his 1976 bestseller *The Selfish Gene*. The word—which is ascribed to an idea, behavior or style that spreads from person to person within a culture has since been reappropriated by the internet" (Solon, 2013). The appropriate use is a homology where an information organizing natural structure is equated to information using simulations of communication.  As communication events, memes "are information that varies and is selectively copied. While genes compete to get replicated when plants and animals reproduce, memes compete to get stored in our memories (or books, tapes, and computers) and get passed on to someone else." In contrast to Dawkins, Do-It-Yourself net theorists explain that a meme is: "A contagious information pattern that replicates by parasitically infecting human minds and altering their behavior, causing them to propagate the pattern….Individual slogans, catch-phrases, melodies, icons, inventions, and fashions

are typical memes" (Glenn cited in Dvorak, Pirillo and Taylor, 2004: 387; Mimetic Lexicon, n.d.).

Whereas gene replication is genuine to what one becomes, viral memes thrive by supplying information that imitates valid instructions, in the case of communication winnowing their way into socially defined conventions that trigger reactions. Shopping, fashion, and politics connects memes to purchase. Not all networked offers are bargains, however. Fraud, theft, and piracy are an ever-present risk as is surveillance, unintended circulations, and institutional screening. User power relations are precarious to fads, schemes, and hustles.

Take *Phishing*, for instance, where an alarming message is sent by someone who claims to be in genuine need—that works toward your advantage. The offer is actually a big fraudulent exchange where the mark sends money and reveals financial information. Users are marks; senders, cheats' WEB platforms, the shill. A large population of users serves as an enticing promise to simulations-on-the-short-con. Hoaxes, frauds, and flim-flams are likely pay offs, even if only a tiny percentage bite. Internet habits resemble communication. Forget the difference is hazardous. Microsoft finds that solicitors from Nigeria identify the country where requests are located, routinely (Herley, n.d.). Security hacking and identity theft are widespread, but separate issues. The Internet is laced with rogue behaviors and outcomes.

Dawkins argues that religions pose similar power questions, Susan Blackmore observes. The lure: "They use threats (hell and damnation), promises (heaven, salvation, and God's love), and instructions to pass them on (teach your children, read the texts, pray and sing in public)," as well as using "tricks" to protect themselves from skepticism" (Blackmore 2000). The mixed metaphor quality suggests that mimetics, far from a science of human cognition, is a homologically argued structure—a naturalized figure—that purports to account for many of the phenomenon induced by trajectories within the WEB environment. The life of platforms is, arguably, like that of adaptive organisms. So, epidemiology and natural selection are imagined to join forces at the level of competition, both signified by successfully programmed reproduction, expanding populations, and adaptive change or mutation. Clearly, the symbolic, cognitive dimensions of this phenomenon can be organically cast, but not indigenously explained.

The spread of memes in controversy feature the self-replicating feature of those sorts of communication that spread quickly, over a wide-space. In Kantian terms, this is the stuff of "idle talk" and consigned to the underside of the public sphere as gossip. Such communications are arguments whose evidence diminishes in proportion to the notoriety of the claim—the very stuff of a tabloid dominant public sphere. In late capitalism, Jerry Springer took the place of Walter Cronkite. Once the exception, now the rule the news agitates only to calm with commercial sales of hygiene and big pharmaceutical products. Unsourced bids to hype, push, declare products find pseudo-fueling the Internet a set of ongoing enterprises.

Nevertheless, whereas gossip follows a private social circuit of word of mouth, the Internet takes the private to public so that not only are the claims of interest spread, but the debate sparked is also aired. Just as the news is shadowed by the blogosphere, writers who question the choice of frames, timing of the story, and fairness of coverage,

so, too, communities engage in criticism across the broad scope of social structures, representations of identity and relevant topics.

## 4. Quarrels, Quibbles, & Bickering

In times of media change, new genres emerge and old ones play different roles. Genre theory attends to social action (Miller, 1984). Memes fold into genres. The Internet brings attention to the transformation of minor genres in one sphere to occupy major pragmatic, literary or rhetorical places in another (Gilrow, 2009). Old forms of argument, too, become refreshed. Genre studies attend to the forms and uses of argumentation through attention to distinctive patterns of use to establish and contest validity, soundness, objection, correction, combination and difference are assembled into reasoning practices.

### 4.1    New and Old Argument Genres

The simulations of personal, professional and public communication on the Internet create mixed spaces for argumentation. Some novel forms of argument do supplement traditional means of communication and contestation (Schneider & Foot, 2004). Internet genres change, rapidly—driven by rewards for competitive success in attracting users and advertisers. Less than five years ago, blogs were novel. There was serious discussion whether citizen journalism—which both added facts to the public sphere and critiqued media and government frames—was serious. Soon after with cloud expansion there are, "millions of Web logs in which otherwise unknown citizens offer their perspectives on the world" (Coleman, 2005: 208). The genre on-line community was driven to extinction. The new figure of social media attracts capital, academic attention, and big data work. The dark net exists as a shadow counterpart to the post-modern waves of change.

In times of media change, new genres emerge. Old ones become refashioned. Genre theory attends to social action (Miller, 1984) that comes to characterize a way or manner of communicating. Internet developments bring attention to the transformation of minor genres in one sphere to occupy major pragmatic, literary or rhetorical places in another (Gilrow, 2009). Genre studies attend to the forms and uses of argumentation through analysis of the distinctive patterns of use. Use finds motion in the assertion and contestation of claims. Reflectively, the controversy moves up to drag into the mix the rules of the game: the sources for establishing validity, soundness, objection, correction, combination and difference. Contestation over the structures, meaning, and acts of argument are inserted, absorbed and assembled into ever-advancing digital practices.

### 4.2    Contentious Genre

Old genres of argument take on new importance. The social media memes of platformed exchange encourages chatter, gossip, and assertive expression. These sequence sententiae—affective/normative gestures—through touch buttons linked to like and disliking, emoticons, and reply strings. Simulated speech acts fold into the genres of quarrel, quibble and bickering. These genres achieved modern prominence and form with the advent of printing and pamphleteering in Europe. The forms descend commonly from the feuding class-based conflicts of honor culture and pastoral society. Agonistic exchange now constitutes signature streams of virtual public migrant

cultures. The ongoing back and forth appear to fulfill the expectations of contagion theory. The self-organizing mimetic organization uncertainly exploits the self-feeding qualities of language games in play. Just as contagion has moved from a minor theoretical explanation of influence to a more widespread role, so, too, the genres of quarrel, quibble, and bickering have ascended to occupy a prominent place among internet publics. Just as contagion theories change in the digital context, so too quarrels, quibbles, bickers (all assertives) need to be appreciated as genre of argumentation as interesting and instructive, in their own way, but different than in their tactical simulations of problem solving, dialogue, conversation, advertising or logical reasoning. Once conspiracy theorists were identified as marginal; these, too, have gone mainstream.

Older models of communicative argument and their dissemination of influence have become resources for extrapolation and extension to information cloning, modeling, simulation and reproduction, thereby extending coding into connections with and commodification of invested, ongoing, previously independent communication practices. There is a historical parallel here. Just as alchemists produced the amalgam of forces that promised to control materials prior to the industrial revolution, so on-the-come communication theorists plumb the mysteries of association among data files, leaving theoretical commitments, research constraints, and impacts on practice as questions to be cleaned up later.

4.3     Genres and Dissensus
The Internet expands the range of preferred genre into the practices of different argument networks. Controversy is a chief trade of the cybersphere; dissensus its currency; attention its measure of value, and difference its evolving movement. Quarrels, quibbles, bickering are not dignified genres, of course; nor are assertive self-expressions necessarily emancipatory or even meaningfully informative. Like-dislike offers binary choices. Emoticons stitch emphasis. Pushing buttons simulates virtual access to habitus. Big-data collects words and fronts these as windows into human behavior. Ancestry, DNA, friending, and everyday language use become a vast treasure trove of markers for extraction by big-science projects—conducted to discover associations, that in turn can be useful in constructing ever newer games, filters, and applications. Network subjectivity as play enfolds publics into the mechanisms of exchange, but playful enclosures discount routinely the traditional commitments of practice—even while calling users into the genres of asserting preference, quarrelling over rules for judgment, and quibbling over tastes. Controversy reigns. In its manifestations as an Internet process and product, argumentation needs to address the phenomena of objection, disputation, disagreement and dissent from a double point of view.

The controversy-elaborating memes are constituted in language games where tropes and figures are connected into lively and automated features of play. From a modern perspective, cybersphere argumentation generally appears to l. exhibit structure that figure exchange into a language game; 2. the games may mimic but are not bound by contextual expectations of defined spheres; 3. cybersphere arguing does not result typically in products that are linear in form or additive in inference; 4. the arguments have self-replicating features which invite duplication, appropriation

through variation, imitation, and use; 5. arguments have self-sealing features that allow affective symbols to compete for attention without being open to direct, discursive refutation; and, 6. critical extensions of objections are capable of unsettling conventions of production, interpretation, and analysis. Homologically, consider argument from a post-modern cybersphere vantage: l. Internet platforms figure an army of players into a simulation. 2. The arguments of such games are those of predators and prey who adapt, camouflage, and evolve tactics to avoid extinction. 3. Practical reason is coached by crowd-like non-linear forms of self-assertion that take off into flights of popularity or stampede into self-fulfilling wish-fulfillment. 4. Internet self-replicating features give rise to swarms of duplication, appropriation, and a broad range of equivocal human paribehaviors. 5. Schools of users flux together swimming within self-sealing currents of opinion circulation of shallow depths. 6. The self-organizing chaotic flow of networked-negations unsettle conventions of production, interpretation, and analysis— the expectations that regulate the uses of argument, tests of validity, and best-practices of construction.

Arguably, whether framed by modern conventions or post-modern homologies, controversy—like mimesis itself—may be said to be grounded ultimately in the mental shapes of personal preference. George Lakoff and Mark Johnson (1980) argue that metaphors are mental apparatus that shape the way the world is seen. Tropes are part of the rhetorical cognition that govern common sense, filter words, give terms aspect and meaning, I would add. Lakoff advises liberals distressed about the conservative election not to utilize the metaphors, the frames which anchor conservative thinking (Lakoff 2003). The problem is that the new communication technologies have mobilized the media's power to purchase and pass along micro-framed propaganda as well as to particularize and filter events, persons, and issues. The attributed 'unconscious' becomes a matter of network routinization. The surfeit of information, the deluge of materials—the speed, ubiquity, and serendipity of its transformation— cannot keep out (for long) materials that invade, mutate, counter, expectations— materials that are exploited in Internet challenges to the control of the public sphere. In this world of competing interpretation of facts, rumors and meme spread, perspective is difficult and secured, informed judgment remains in constant precarious standing.

Mimetics opens up a brave new world for studying the competition of spreading symbols that work in a "viral" manner to infect people with notions that are protected. ready to spread, with self-supplied motivation. Further, the analogies to contamination suggest that the more successful transfers are more capable of being replicated while the environment will eliminate most. Finally, the spread of memes is like the traffic of hot tropes, odd figures or colorful lines that get repeated only to become 'dormant' or part of everyday life. A dormant meme or trope, however, can be reanimated once the right conditions evolve or are manufactured.

The Internet goads communicative activism; that is, citizen-cum-users challenge norms that regulate Internet stringing of argument, tests of validity, and best-practices. Thus, controversy-generating memes course through and entangle personal, institutional, and political arguments while reshaping, twisting, evolving arguments designed to compete in the swirl of opinion about topics under discussion as well as the ways in which they are articulated. In hot pockets, dissensus may be capable of transforming vulnerable, fragile modern industrial-based systems of communication. It

may be that the quarrel, quibble and bicker are but growing pains to an operation that promises more wiki-like, knowledge sharing, convergence of expert and citizen activities dedicated to building extended, valid, informed personal, professional and public virtual spheres.

5. Cybersphere Argument

The cybersphere offers a novel media that is rapidly evolving global spaces for the publishing and circulation of argumentation. Modern studies in argumentation feature interaction between speaker and audience, conversations between interlocutors, discussions within institutions, civic address, and public performances. Consensus is the goal of informed reasoning and critically thinking its means. The cybersphere absorbs modern practices through digital conversation, platforming, distributing and circulating communications exchanges around the globe. The broad, changing constraints of context still parse human activities of reasoning and exchange; but, the Internet builds a parallel world from conversion of analog practices to new experimental spaces. Dissensus is an intrinsic feature of the cybersphere; difference not identity is its connecting work. Communicative activism potentially renders all practices, rules, and norms of practice controversial. On line activism feeds network change that serves the economic driven interests of the industry. Media oligopolies build out networks to reach audiences through filtering preferences that serve the ends of mass media.

The paper initiated studies of argument and the Internet in several ways. These deserve to be continued and expanded, including: *critique* of theoretical descriptions that do not account for dissensus as an intrinsic network feature, *description* of the hybrid spaces where arguments assemble and flow, *investigation* of memes and mimetics as sources to explain and invent network arguments; and, finally *identifying* the rise of old genre quarrels, quibbles and bickering to new prominence. Dissensus was developed in argumentation theory as an early take on reason and postmodernity (Willard, 1986). Other Internet genres grow, particularly those engaging elements of cosmological loci and knowledge transfers within and across fields. The problem with growing pains, of course, is that the simultaneous popularization and trivialization of communication now renders precarious the capacity for serious and meaningful discussion and debate—upon which the prospects of pluralistic society, fact-based professions, and the vital civic discourses depend.

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**Dialectics and Polylogues: The Case of Multi-party Deliberations**

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Abstract: The rationale behind dialectical procedures for argumentation lies in their capacity to decide on an issue by critically examining arguments "on both sides of an issue." What frequently happens in actual argumentation, however, is that more than "two sides of an issue" are debated simultaneously, such as when voters deliberate over three or more competing candidates with mutually exclusive political positions. How can dialectics apply to such multi-sided issues open to more than just two solutions? I discuss two practical possibilities reflecting broad theoretical orientations: *issue-based* and *role-based* dialectics. I argue that the role-based approach is more in line with the exigencies of actual argumentation, especially in competitive political discussions. Still, it is incapable of grasping the specificities of genuine multi-party discussions. As a remedy, I propose the notion of *argumentative polylogues* – discussions in which multiple (i.e., more than two) distinct, contrary positions are debated simultaneously. I illustrate how polylogues work by analysing four different argumentative strategies in political deliberations during the 2012 presidential elections in Egypt – an important episode in a series of political upheavals known as "The Arab Spring."

1. Dialectics, dialogue, and arguments

While the state of public discourse has been considered from the point of view of argumentation studies since antiquity, we constantly need to ask the question whether our theoretical notions are well suited to the analysis of such discourse. In this essay, I consider one way in which they fall short, and propose a way to overcome this shortcoming. Doing so will allow us to better understand the intricate relations between public dialogue and argumentation analysis, investigated from various angles throughout this volume.

It is the dialectical perspective on argumentation which specifically focuses on the relationship between arguments and dialogues. Dialecticians typically define arguments as reasons adduced in support of a thesis defended in a contentious discussion, whether actual or virtual (e.g., van Eemeren & Grootendorst, 2004; Hamblin, 1970; Johnson, 2000; Rescher, 1977; Walton, 1998). Arguments are meant to convince (rationally persuade) "the other discussant" – acting as a critic, or at least a sceptic – that the thesis is justifiable on the grounds that the critic/sceptic herself has accepted or is willing to accept. This basic dialectical framework further includes a normative claim that good (reasonable, rational, sound) arguments are best understood as contributions that follow the rules of good (again: reasonable, rational, critical) discussions. Good discussions are, in turn, organised two-party exchanges in which two dialogue partners-qua-opponents critically test their opposing

positions by going through rounds of arguments and critical reactions (reasons pro and con). Ideally, this is an activity of a high error correcting potential – intelligent and critically minded dialectical opponents will mutually eliminate "bad" reasons and arrive at the least objectionable conclusion. These assumptions, which tie arguments to discussions and good arguments to good discussions, have shaped the dialectical tradition in argumentation study ever since Aristotle (Spranzi, 2011).[1]

What merits closer scrutiny is, however, the very notion of discussion or dialogue.[2] *Dia-logues*, as opposed to mono-logues, comprise all interactive uses of language (to be precise: *actual* or *explicit* dialogues; *internal* or *implicit* dialogues are monological renderings of actual interactions; see Dascal, 2005). Depending on the number of interlocutors, dia-logues are a genus that can be easily divided into the species of: *di-logues* (2 interlocutors), *tri-logues* (3), *tetra-logues* (4), etc. Across different disciplines (e.g., Chen, 2010; Kerbrat-Orecchionni, 2004; Sylvan, 1985), it has become common to call a multi-party dialogue a *poly-logue* ('discourse between many'; *multi* or *many* means here 'more than two'). *Poly-logues* are thus all dia-logues which are not di-logues. It is only unfortunate that, despite such clear distinctions, the notions of dia-logues and di-logues are often confused. This happens for at least two reasons. First, the slight difference in Greek prefixes is easily overlooked (*dia*-logue: 'through' discourse; *di*-logue: discourse between 'two'). Second, both ordinary and academic vocabulary fall prey to the deeply entrenched practice of limiting a dia-logue to a di-logue: dialogue becomes basically an interaction between *two* speakers, and argumentative dialogue (or discussion) is characteristically theorised as an exchange of reasons and criticisms between only *two* arguers (proponent-opponent, protagonist-antagonist, arguer-critic).[3]

Quite expectedly, analysts of interaction are critical of such an extrapolation of the qualities of two-party discussions (*dilogues*) to the entire field of interactive verbal exchanges. They contend that many forms of multi-party discussions (*polylogues*) have unique properties that cannot be adequately captured in a dyadic scheme, which models interactions between two and only two speakers (Kerbrat-Orecchionni, 2004; Levinson, 1988). But do such complications of discursive reality affect in any way dialectical argumentation analysis? If so, in what sense? In what follows, I will argue that they do, and in both the descriptive and normative sense. In the first place, the simplest form of a polylogue – a three-party discussion – may require from arguers strategic management of discourse, which extends beyond simple one-on-one orientation of a two-party exchange. In

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[1] A set of very similar assumptions is held by the theorists of deliberative democracy whose "key proposition is that, in politics, it is not only power that counts, but good discussions and arguments too" (Steiner, 2012: i; see Bohman & Rehg, 1997; Dryzek, 2010). However, deliberative democrats do not systematically examine argumentative discourse in any way which contemporary *argumentation* theory would find satisfactory (Aakhus & Lewiński, 2011; Lewiński, 2010). Since it is precisely argumentation theory whose *raison d'etre* is a methodical study of "good discussions and arguments", some progress in the understanding of political deliberation can be reasonably expected once argumentation theory takes deliberation into scrutiny.

[2] This paragraph is based on Lewiński (2014). Note that I use these terms interchangeably, in the neutral sense of verbal interactions. Sometimes, *dialogue* or *discussion* are considered a special – constructive, respectful, open, and truth-oriented – form of interaction. For instance, Perelman & Olbrechts-Tyteca (1969: 37) distinguish between (heuristic) *dialogues=discussions* and (eristic) *debates*. For Dascal (2005), argumentative debates can take the form of either a (logical) *discussion*, or (dialectical) *controversy*, or (rhetorical) *dispute*.

[3] For the routine of limiting dia-logue to a di-logue in discourse and interaction analysis in general see esp. Kerbrat-Orecchionni (2004) and Levinson (1988). For a similar tendency in argumentation theory, see Lewiński (2012: 227ff.).

the second place, a good three-party discussion may be underwritten by rules of rationality that go beyond the dyadic "logic" of moves in a rational di-logue.

2.  "Is there a problem?" or "What is the problem?"

To start with, practical issues[4] that trigger deliberative discussions can be formulated as either yes/no questions ("Shall we park here?" "Should we declare an Islamic republic in Egypt?") or open Wh-questions ("Where to park the car?" "What is the best political system for Egypt?"). Polar yes/no questions allow for only two relevant answers: "We will park here" or "We will not park here." By contrast, in response to open Wh-questions, a genuine multiplicity of options may emerge: "Let's park in the little street behind the school," "Let's park in the open parking lot around the corner", "Let's park underground in the academic centre" (etc.). Such open Wh-questions can be *safe* when they are "demanding choices between specified finite sets of alternative statements" or *risky* when relevant answers constitute an open-ended set of alternatives (Hamblin, 1970: 216).

Here, I focus exclusively on practical issues that lead to *argumentative* exchanges over the possible options (that is, over the answers to the questions through which the issue is formulated). In the case of polar issues, only two contradictory *sides* can be discussed (*yes/pro* vs. *no/con*). By definition, if one of the sides holds, the other does not, and vice versa (see Lewiński, 2013; Jacquette, 2007).[5] Open issues, quite differently, may lead to a consideration of multiple *positions* (*a* vs. *b* vs. *c* vs. *d…*). Unless they are some versions of one another, such positions are contrary: if one of them holds, others are refuted (if we park in the street, we will park neither in the parking lot nor in the academic centre); however, if some of them are refuted, no definite conclusions about others can be drawn (if the street is full, we can still choose between the open parking and the academic centre).[6] Sides and positions are thus two distinct varieties of standpoints (options on an issue) on which deliberators have to decide via argumentative exchanges. Quite obviously, argumentation over two opposing sides can and ideally should develop along the lines of some dyadic dialectical models. Discussion over multiple contrary positions, instead, amounts to a polylogue. Moreover, in an argumentative analysis, *parties* to a debate can be seen as supporters of given sides or positions; that is, a party is defined by the unique answer it takes regarding the question of "Whether to do *x*?" or "What to do?". In the course of argumentation, a party supports its position through arguments and starting points building what should be a consistent *commitment set* (Hamblin, 1970; Walton & Krabbe, 1995). Eventually, a party can be defined as a defender of an individual *case*, that is, an ordered set comprising the party's side or position and its commitment set. Based on this: 1) two arguers

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[4] I use the term "practical" issues in analogy to "practical" reasoning aimed towards (a disposition / intention to some) action. Such issues are posed by a question of "Whether to do *x*?" or "What to do?" "Theoretical" issues and "theoretical" reasoning deal with the questions of truth ("Is *x* the case?" or "What is the case?").

[5] This applies to traditional bi-valued logic. Tri-valued logic (such as, e.g., used by pragma-dialecticians, see van Eemeren & Grootendorst, 2004) allows for a third option: 'X neither holds nor doesn't hold' (the 'I don't know' answer). Finally, proponents of para-consistent logics legitimise the fourth option: 'X both holds and doesn't hold' (see Sylvan, 1985). While I refrain from embracing para-consistencies, I only note that tri-valued logic does not generate a polylogue in the sense defined above: since one does not have to argue positively for doubt, it does not constitute a distinct *position*, as defined below.

[6] Note that in the case of *safe* questions, after having properly refuted all but one contrary position (proposal, hypothesis), the last one holds by elimination (via a valid disjunctive syllogism). In the case of *risky* questions, no such conclusion can be reached (the options might be all wrong).

supporting the same position (e.g., "The revolution must continue!") are different parties, so long as they express some incompatible arguments in its support ("Because it will allow us to build an Islamic state" vs. "Because it will allow us to build a secular state"); 2) a collectivity of participants (e.g., a political party) is taken to constitute one argumentative party so long as they consistently argue for a given position (Lewiński, 2010).

Following from this, an *argumentative polylogue* can be understood as a discussion that involves argumentation between multiple parties supporting distinct cases.

3. What is the future for Egypt?

Contrary to binary practical issues instigated by simple yes/no questions, open Wh-questions can give rise to multi-party deliberations in which a number of positions vis-à-vis the question are debated. Fascinating examples can be found in the public debates accompanying the upheavals in the Middle East and North Africa started in early 2011 and commonly known as "The Arab Spring." Due to all kinds of nuances and continuing developments across different Arab states in the region, one often cannot easily divide the political scene into clear-cut argumentative parties consistently defending their positions on crucial practical issues. However, certain sharp divisions have been quite vividly instantiated at some junctures of the on-going developments. For instance, in the Egyptian revolution, during the presidential elections in May-June 2012, three political options dominated political debates: the supporters of the old regime, Islamic parties, and secularists (liberals/leftists). Indeed, in the first round of elections in May, most votes were cast for candidates of the Muslim Brotherhood (Mohamed Morsi, 24.78%), pro-Mubarak elites (Ahmed Shafiq, 23.66%), and the secular post-Nasserist movement (Hamdeen Sabahy, 20.72%).[7] No fewer than nine other candidates officially ran for the office, each of them with a distinct agenda and position on the main political issues. Yet, as the voting had shown, these three options were at the centre of public debates back then: Muslim Brothers with their conservative Islamic discourse, the advocates of "peace and stability" of the good old Mubarak era, and the progressives calling for a genuinely democratic and secular republic in Egypt.[8] Following the procedures of a multi-party presidential race where no candidate reached outright majority in the first round, in the June 2012 run-off the choice was eventually limited to a dyadic clash between two winners of the first round: one of the Muslim Brothers (Morsi) and Mubarak's last Prime Minister (Shafiq). This, of course, at least temporarily swept away the secularist and progressive voices to the peripheries of public discussion and decision-making, and left them in a serious quandary – Whom to side with? This quandary resulted in arguments supporting what we may see as rather strange shifts of alliances, such as when urban liberals who spearheaded the anti-Mubarak revolution called for the support of Mubarak's party candidate so as to prevent the establishment of an Islamic republic in Egypt. The dominant secularist position, however, was to choose "the third way", that is, to boycott the run-off altogether (or at least spoil the ballot by casting an invalid vote; see Lewiński & Mohammed, 2012; Mohammed, 2014).

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[7] See, e.g.,: http://english.ahram.org.eg/NewsContent/36/122/43126/Presidential-elections-/Presidential-elections-news/BREAKING-Mursi,-Shafiq-officially-in-Egypts-presid.aspx .

[8] My focus on these three parties involves a certain simplification for the purposes of the analysis: there were more than just three parties, and the camps behind the three main contenders cannot be taken to be truly homogenous and free of any internal disagreements. My point is to show that even such a *simplified* account of public debates poses a serious challenge to a dyadic dialectical reconstruction and evaluation of argumentative discourse.

From an argumentation perspective, the crucial characteristic of such public deliberation is that each party has to craft its arguments against (at least) two political opponents who also disagree with one another. That is to say, the discursive dynamics of the debates cannot easily be grasped as a clash, or "dialectics", of two dominant forces (*ancien régime* vs. *new world order*). This poses a major theoretical and methodological challenge – while in many situations political discourse cannot be limited to a simple dyadic dialectic, dialectical models of good discussions and arguments are precisely dyadic (Lewiński & Aakhus, 2014). To address this possible problem, in the following, I will use examples of political statements of the three main contenders for Egypt's presidency in 2012 (Morsi, Shafiq, and Sabahy). They provide a simple yet telling illustration of the three-party dynamics of actual public deliberation in which arguments are traded on three, rather than just two, sides of an issue (see Lewiński & Mohammed, 2012; Mohammed, 2014).

A question arises as to how to analyse and evaluate such a "triangulated" debate. More precisely, how to carry out discourse analysis for the sake of appraisal of arguments? Critical argumentation analysts should be able to judge which of the three positions (Morsi, Shafiq, or Sabahy) ought to be selected by virtue of being supported by the "best" (most reasonable, critically-examined, plausible) arguments. Under felicitous conditions, Egyptian voters would be in a similar position – an informed, critically validated decision is the preferred outcome of their pre-election deliberation.[9] Admittedly, any such deliberation and its outcome would depend largely on the particular circumstances of actual argumentative activities. We can nevertheless consider two general ways in which a dialectical argumentation theory can grasp such multi-party deliberations. These options, while being largely theoretical inclinations, can also inform an "implicit theory" of actual practices and designs of deliberation (Aakhus & Jackson, 2005).

4. Two types of dialectics
*4.1 Issue-based dialectics*

The first dialectical approach to analyse a multi-party deliberation can be called *issue-based dialectics*: it is based upon the Protagorean (*et cætera*) conviction that on every issue there are two sides – *pro* and *con* – and that to properly examine or decide on an issue is thus to juxtapose opposing arguments for and against it (e.g., Schiappa, 2003: Ch. 5). Discussing many options on an issue amounts to pooling all possible pro and con arguments on each option. This form of analysis assumes that a deliberative discussion starts with an open problem (see Walton, 1998: Ch. 6; Atkinson, Bench-Capon, & Walton, 2013; McBurney, Hitchcock, & Parsons, 2007). The "openness" of the problem means that discussants do not enter deliberation with a defined position on it and that they do not defend the superiority of "their" position by making a case, that is, by advancing arguments that consistently support the position. Rather, each participant is supposed to give pro and con reasons on each possible solution to the open problem, and to welcome the final weighing of reasons without being committed to one "best" option all along.

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[9] Note that strategic political reasons (self-interest; possible political and economic gains and losses; regional, sectarian, and class loyalties and animosities) – and not just the idealised "common good" – are surely taken into account by actual political deliberators (see Mansbridge et al., 2010). Yet, they are *reasons*, and so an argumentative discussion not unlike the pragma-dialectical critical discussion (van Eemeren & Grootendorst, 2004) can develop between supporters of opposing parties.

In the spring of 2012 the chief practical issue for Egyptians was: "Which political leader to support in the presidential elections?" In issue-based dialectics, this *open* practical issue would be broken down into three *polar* issues: 1) "Shall we support Morsi?" 2) "Shall we support Shafiq?" 3) "Shall we support Sabahy?" In response to these polar questions, each deliberator would assemble arguments in the form: "On the one hand, 'yes' because (…) On the other hand, 'no' because (…)" A simple schematic representation of such a procedure where five participants (A-E) deliberate over the three choices is given in *Figure 1*. This representation is simple, if not simplistic, as it presupposes that each reason weights equally – while in practice various methods of differentially weighing or ordering reasons by preference are used (Karacapilidis & Papadias, 2001); some reasons may be better than other, and one good reason (a knock-down reason) may outweigh a number of weaker reasons.

*Figure 1: Issue-based weighing of pros and cons*

Which political leader to support in the presidential elections?

| Morsi | | Shafiq | | Sabahy | |
|---|---|---|---|---|---|
| + | - | + | - | + | - |
| + | - | + | - | + | - |
| + | | | - | + | - |
| + | | | | | |
| (+2) | | (-1) | | (0) | |

| A | B | C | D | E |
|---|---|---|---|---|

(Morsi, Shafiq, and Sabahy are the discussed candidates; + are pro reasons, - are con reasons; A-E are five deliberating voters who contribute their reasons pro and con the candidates without openly supporting any of them.)

It is possible to imagine that some groups of Egyptian voters engage in a polylogical deliberation in which the three options on the table (Morsi, Shafiq, Sabahy) are deliberated upon in this neutrality-preserving fashion. This, however, would be surprising for political discussions in a nascent, revolutionary public sphere, where divisions are clearly articulated and debated among opinionated politicians and voters.[10] An impartial voter (let alone an impartial politician!) is in a sense a contradiction (see Mansbridge et al., 2010; Mouffe, 1993). A different dialectical model may thus be needed to grasp the contentious nature of political deliberation without jettisoning the hope of defining it in terms of *argumentative* rationality.

## 4.2 Role-based dialectics

The second form of dialectical analysis (as well as organisation) of multi-party deliberations can be called *role-based dialectics*, since it would approach multi-party deliberation as a clash between arguers fulfilling their dialectical roles, or personae. One role (protagonist, proponent) amounts to consistently upholding a position against possible

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[10] Cf. Goodin & Niemeyer (2003: 629): "Ideals of deliberative democracy may require that we go into public discussions with an 'open mind', in the sense of a willingness to change our opinions in the light of subsequent evidence and argument. But if everyone came to the process with a completely open mind, to the extent that no one was prepared to take any position to start with, the deliberations would have nowhere to begin."

opposing positions and critical questioning of the bearers of the other role (antagonists, opponents). In this dialectical approach, arguments are thus co-defined with dialectical roles of argumentative parties, rather than with dialectical issues detached from any recognisable advocates. To use Atkinson et al.'s expression – in what they theorise as *persuasion dialogues over actions* – positions and arguments are "owned" or "championed" by discussants. By contrast, in *deliberation dialogues* – which exemplify an issue-based approach – "there should be no 'ownership' of options" (Atkinson, Bench-Capon, & Walton, 2013: 123; see Walton & Krabbe, 1995). Not unlike issue-based dialectic, however, a discussion is instigated by a problem that can be clearly split up into a series of yes/no questions ("Shall we support Morsi?" etc.). Argumentation starts because arguers take up positions vis-à-vis these questions (either "yes!" or "no!")[11] and they move on by making a "case" in the sense of marshalling arguments that support "their" position, doing away with doubts, and rebutting criticisms:

> It is a truism that argumentation always arises in response to, or in anticipation of, a difference of opinion, whether this difference of opinion is real or merely imaginary. When people *argue their case*, they are *defending an opinion*, or "standpoint," that they assume not to be shared by the addressee or by some third party the addressee might associate with – otherwise the argumentation would be pointless (…). The need for argumentation, the requirements of argumentation, and the structure of argumentation are all adapted to a context in which doubts, opposition, objections, and counterclaims arise. (van Eemeren, 2010: 1; emphasis added)

From this perspective, the whole point of engaging in dialectic is to play one of the dialectical roles by building a strong and consistent *case* (position plus supporting arguments; see above and Lewiński, 2013).

To schematically contrast this orientation with the issue-based approach discussed in the previous section, think again of five (A-E) arguers deliberating which of the three Egyptian leaders to support. To do so in the role-based fashion, they would need to find ways of discussing each of the presidential candidates one by one, so that in each case, some of the five discussants are for and some are against. For instance, A and B are for Morsi, and against both Shafiq and Sabahy; C argues for Shafiq and against the other two; D and E support Sabahy and criticise Morsi and Shafiq. Eventually, no less than three dialectical discussions between proponents and opponents would develop (see *Figure 2*).

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[11] As mentioned above (n. 6), the "I don't know" answer cannot be considered a distinct position, as defined here.

*Figure 2: Role-based pro and con discussion as a set of dual encounters*

**A+B**
*Morsi*

*Shafiq*
**C**

*Sabahy*
**D+E**

PROPONENT
(PROTAGONIST)

vs.

OPPONENT
(ANTAGONIST)

*A+B (Morsi)* ⟷ *C (Shafiq) & D+E (Sabahy)*
*C (Shafiq)* ⟷ *A+B (Morsi) & D+E (Sabahy)*
*D+E (Sabahy)* ⟷ *A+B (Morsi) & C (Shafiq)*
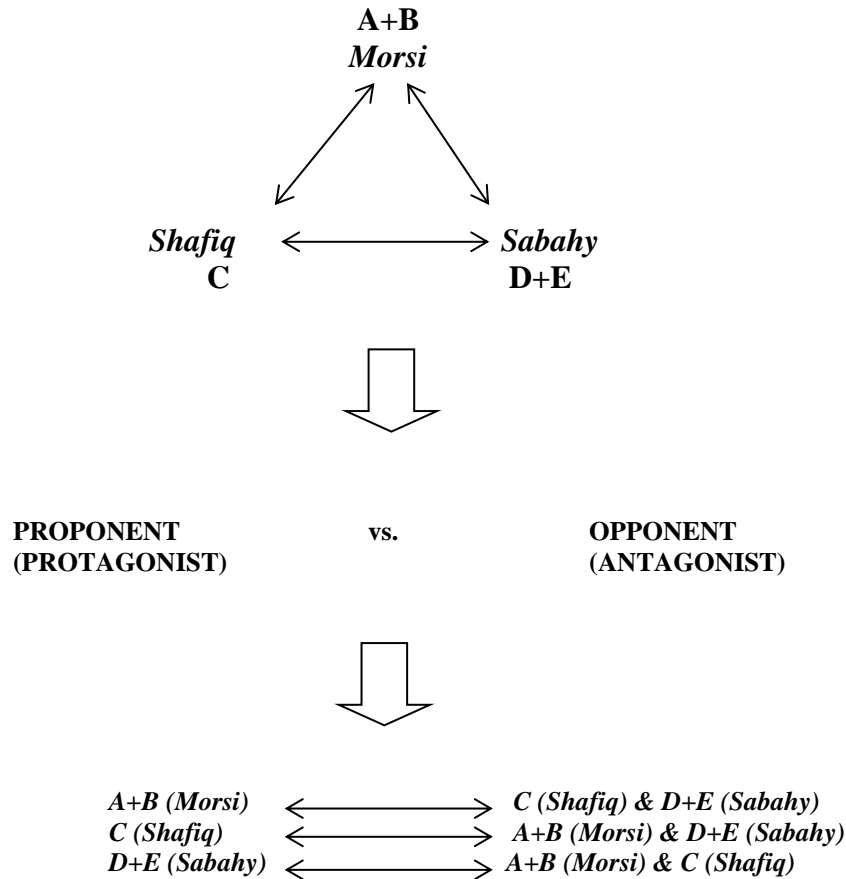
These two types of dialectic have been recognised, one way or another, since the beginning of Western argumentation studies in ancient Greece. In her analysis of the dialectical tradition from Antiquity to Renaissance, Spranzi contrasts *aporetic dialectic* which "consists of an open-ended examination of different views and does not necessarily involve more than one thinker" with *disputational dialectic* which instead "consists of a rule-bound and asymmetric debate between two interlocutors, a questioner and an answerer" (2011: 1). The latter, "asymmetric" debate is epitomised in Plato's Socratic dialogues, but does not cover the entire genus of dialectic. Many contrast it with other methods – such as Cicero's *argumentum in utramque partem* – which aim at a "balanced consideration of alternatives" rather than "conversion to the Socratic viewpoint" (Schofield, 2008: 64; see Cattani, 2005). Today, scholars such as Walton and Krabbe (1995) and Atkinson, Bench-Capon, and Walton (2013) similarly distinguish between open *deliberation* and position-bound (action) *persuasion dialogues*. Yet such distinctions often involve idealised assumptions and requirements – for instance that deliberators should be open-minded and do not favour any option – which are not always adequate to actual conditions for deliberation.

It is noticeable, then, that the role-based approach characterised here realistically assumes opinionated and self-interested arguers – a major advantage over such idealised

models of argumentation, often implicitly used in the theory of deliberation in the Habermasian and Rawlsian tradition (see Mansbridge et al., 2010). Deliberation understood as a role-based exchange is a decision-making activity in which positions are clearly defined and explicitly advocated by given parties, who need to be mindful all along to remain consistent in their argumentative commitments.[12] The goal is to select, upon critical examination, "the best" of these positions.[13] There are thus "winners" and "losers." This is most likely how our Egyptian voters would argue over the candidate to support in the elections. This is an important empirical reason for examining the role-based (rather than issue-based) version of analysing pros and cons in a multi-party deliberation. The theoretical reason is that most dialectical theories mentioned above in fact model argumentation in this role-based fashion.

## 5. Dyadic limitations of role-based dialectics

As said before, the basic way to reconstruct multi-party discourse, and thus make it ready for dialectical evaluation in the role-based model, is to approach it as some form of a dual encounter between the pro-party and the con-party. Various well-developed methods of analysing such encounters, such as *dialectical profiles* used in pragma-dialectics (van Eemeren, Houtlosser, & Snoeck Henkemans, 2008) or *profiles of dialogue* proposed by Walton (1999) and Krabbe (1999), can significantly support a dialectical analysis. Since these methods capture the step-by-step development of a discussion, they allow us to understand the strategic dynamics of argumentative exchanges.

To be sure, such a dyadic analysis is adequate for a large chunk of public discourse if only because many institutions shape discourse in dyadic terms, such as in court proceedings where two parties clash. This also happens in political deliberation. The British are so used to seeing politics as a bi-partisan business that whenever a third party enters parliament they call it a "hung parliament." In the U.S.A. politics is so much dominated by the Democratic and Republican Party that only few "third-party" or "independent" politicians ever succeed to hold an elected office.[14] However, crucially to our example of deliberation in the post-Mubarak Egypt, in most cases of multi-party presidential elections there occurs an institutional dichotomisation of the disagreement – from a number of participants competing in the first round, only two frontrunners are set against each other in the run-off. As mentioned above, in the 2012 presidential elections in Egypt, out of 12 candidates competing in the first round (23-24 May), only Morsi and Shafiq went through to the second round (16-17 June). Nonetheless, Shafiq beat the third-place-Sabahy by around 685,000 votes – a rather narrow margin in a country of 80 million. After this result was made official, the argumentative dynamics of political discourse did take a dyadic twist – there were basically two main alternatives left. However, many of those who were neither pro-Morsi nor pro-Shafiq – notably Sabahy and his supporters – tried to de-dichotomise the political

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[12] By contrast, in issue-based activities, participants can be inconsistent, as they are allowed to insert pluses and minuses here and there, change their mind, and reason equally strongly on both sides of each issue.
[13] In the longer perspective, argumentative testing of positions might also pave the way for (an) entirely new position(s) to emerge, through a dialectical synthesis of sorts.
[14] As I was reminded by one of the reviewers, this is partly counter-balanced by the fact that in the bi-partisan American political system party discipline and homogeneity is much looser than in the multi-party European systems. Both the Democratic and the Republican Party consist of a number of factions, which on particular occasions might line up with members of the other party in terms of a particular vote.

disagreement space and sustain an alternative third (as well as fourth) position to the dominating dyad (Lewiński & Mohammed, 2012).

Focussing on the discourse of the three main candidates of the first round (Morsi, Shafiq, Sabahy), we can ask how their tri-logues can be analysed and evaluated in a dualistic framework of role-based dialectics? There seem to be two main ways to do it.[15]

We might approach any multi-party discussion as discussion between two basic camps. The analysis would proceed by finding a certain defining issue being at stake. In the Arab Spring Egypt, such an issue may be: Shall we have a secular or religious rule? Shall we be pro- or contra-revolution? Shall we build a pluralistic open society or strong government led by one party? Depending on the issue, political discourse will divide two sides, to which different positions will belong. In the civil-religious state question, secularists and Mubarak supporters will be on one side confronting Muslim Brothers. In the pro- or contra-revolution question, secularists and Muslim Brothers will be on the same side of the barricade, facing those previously in power. Finally, in the open society versus strong government question, secularists will challenge both Mubarak loyalists and Muslim Brothers as having the same dictatorial inclinations. In each case, two-sided dialectics can be "read into" the actual discourse. Some other positions in the public sphere and the varied audiences of public discussions can be deemed inconsequential or secondary (e.g., van Eemeren, 2010: 109). However, despite clear analytic and evaluative advantages, such an approach may be seen as unjustifiably simplifying or even reducing the scope of political discourse. Many discussions are not easily reducible to two camps, especially when some seemingly insignificant or passive "third parties" do take positions and actively contribute to the on-going debates with their own unique voices that cannot be subsumed under one of the two main positions.

An alternative to analyse multi-party discussion is by understanding them as a multitude of dual encounters. An analyst would again start by splitting the overall deliberation into a network of dyadic discussions. The basic question Egyptian voters were dealing with – "Which political leader to support in the presidential elections?" – would thus be split into three yes/no questions – 1) Shall we support Morsi? 2) Shall we support Shafiq? 3) Shall we support Sabahy? – that one-by-one lend themselves well to a dialectical analysis and evaluation in the role-based fashion. This way requires extensive reconstructions into a possibly complicated set of dyadic discussions. The simplest reconstruction would break our committee meeting into 3 separate dyadic discussions (Morsi vs. Shafiq; Morsi vs. Sabahy; Sabahy vs. Shafiq; see *Figure 2*).

While commendable for its clarity and evaluative potential, this mode of dyadic analysis can be guilty of some more or less acute reductionism. First of all, while focusing on how arguments proceed *within* reconstructed dyadic discussions, it neglects what is happening *between* them (Mohammed, 2011). It can thus, in some cases at least, overlook some important concerns regarding argumentative strategies and even rationality behind multi-party encounters that do play a role in the entire deliberation. Some examples of these will be discussed below. Second, as is clear in the "opponent/antagonist" rubric at the bottom of *Figure 2* above, this role is dialectically inconsistent. The opponents of Morsi (that is, the supporters of either Shafiq or Sabahy) might have different, even opposing, reasons to challenge Morsi. For instance, for Shafiq, Morsi is objectionable as a radical revolutionary Islamist; for Sabahy, Morsi is no good for he has betrayed the main revolutionary ideas. Shortly, it is an unjustified simplification to put these different parties together in the same

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[15] See Lewiński & Aakhus (2014) for a thorough examination of these two solutions.

dialectical role (whether as an opponent or proponent). Finally, it is worth mentioning that the final evaluation of a multi-party deliberation in terms of dyadic encounters may face the problem of rationally deciding on the winner. In our dyadic discussions, Morsi may be supported by better arguments than Shafiq, Shafiq by better arguments Sabahy, and… Sabahy by better arguments than Morsi (Morsi > Shafiq > Sabahy but… Sabahy > Morsi!) This may happen as there is no simple transitivity in dialectical encounters, for instance due to the two opposing parties' agreeing on different common starting points in each dyadic encounter. A puzzling result can emerge: whose arguments are the strongest and whose position should prevail according to the rules of critical testing?

In this way, we reach the following problem: issue-based dialectics does not quite correspond to the actual demands of political deliberations and also to most of the theorising regarding argumentative discussions. At the same time, the more realistic and better-developed models of dyadic role-based dialectics fail on a different account: they cannot easily grasp the multiplicity of simultaneously defended contrary positions. Therefore, a need arises to carefully consider a "polylogical" model of a role-based dialectical discussion – a model that would allow one to adequately understand precisely these argumentative aspects of multi-party political deliberations that remain blind spots in the extant approaches. Below, I exemplify some of these aspects.

6.  Argumentative strategies of polylogues

The differences between multi-party argumentative discussions (argumentative polylogues) and standard di-logues used in dialectical models can be considered in terms of two basic factors: 1) the strategic choices participants in polylogues make and 2) the rationality of their argumentation. These two factors have ever since Aristotle (*Topics*, *Sophistical Refutations*, *Rhetoric*) constituted the two defining axes of the study of argumentative discussions in the role-based approach to dialectics. Today, they are systematically examined in the extended pragma-dialectical theory under the concept of *strategic manoeuvring* (van Eemeren & Houtlosser, 1999; van Eemeren, 2010). In a separate contribution, I have discussed the distinct constraints and opportunities for rational argumentation in a polylogical context, focussing on the problem of *polylogical fallacies* – unreasonable argumentative moves that cannot be adequately understood in a framework for evaluation based on a dyadic model of argumentative dialogues (Lewiński, 2014). Here, I focus on the problem of understanding the rationale behind strategic choices arguers make in multi-party discussions.

To start with, the gap between the ideal dialectical models and actual political deliberations has been widely recognised. Political argument is typically not "an argument between two friends or dialogue partners that happens to be about politics" (Zarefsky, 2008: 318); instead, it involves multiple audiences and multiple parties. As a result:

> If one were to imagine the audience as simulating the antagonist in a dialogue, then one would have to say that the antagonist is schizophrenic or has multiple personalities. Yet the arguer often tries to appeal to these multiple personalities at the same time. (Zarefsky, 2008: 320)

Such an appeal to "multiple personalities" (such as when Sabahy argues simultaneously against Morsi and his supporters and Shafiq and his supporters) requires special argumentative strategies to be put in place. One of them is to develop *multiple argumentation*

consisting of individual lines of reasoning designed for different opponents or audiences (Perelman & Olbrechts-Tyteca, 1969: 21–22; van Rees, 2003). Another is to argue as if appealing to a *universal audience* whose concerns rise above the particular points of current opponents (Perelman & Olbrechts-Tyteca, 1969: 31ff). Yet another – to prioritise one's goals and address mainly a *primary audience*, the chief target of the speaker's arguments, over the heads of *secondary audiences*, namely, other, less significant parties to a debate (van Eemeren, 2010: 108–109).

Apart from these strategies, I will briefly illustrate four other argumentative features of a polylogue: de-dichotomisation of a disagreement space, strategic ambiguity, redundant argumentation, and the predicament that sometimes arises when one must concede a point.

### 6.1 De-dichotomisation of a disagreement space

Dascal (2008) has described how arguers often attempt to *dichotomise* a debate by resorting to contradictions implying that the debate revolves only around two mutually exclusive and jointly exhaustive sides. Whenever more positions are present and should also be considered, such dichotomisation leads to a fallacy of *false dilemma* (Lewiński, 2014). To counter this fallacy, parties to a polylogue can attempt to *de-dichotomise* the debate by "showing that the opposition between the poles can be constructed as less logically binding than a contradiction, thus allowing for intermediate alternatives" and by "actually developing or exemplifying such alternatives" (Dascal, 2008: 35).

Strategies of dichotomisation and de-dichotomisation are very clear in the exchanges of arguments between Morsi, Shafiq and Sabahy between the first and second round of 2012 elections. At this stage, Morsi and Shafiq are facing each other in the final battle for presidency by appealing to supporters of the candidates who lost in the first round, notably Sabahy, who garnered massive support. Morsi pictures himself as the only legitimate candidate of the revolution and thus the only choice for Sabahy's supporters:

> If they do not support the candidate of the revolution in the way towards stability, freedom and truth, who else will they support? I am sure they'll support the revolution. (…) I will go on with the challenge of knocking down the corrupt regime. (…) I am the legitimate candidate, the candidate of the revolution and the revolutionaries. (http://elbadil.com/?p=48640)[16]

Shafiq, similarly, tries to co-opt the position held by Sabahy:

> I heard the call for change and I am going to answer clearly. My role will be to lead the change, towards a new Egypt, one that looks towards the future, not towards the reproduction of any regime that has ended. I promise the people of Egypt a modern, civil and fair state. (…) I represent the civil state and the Al Ikhwan [the Muslim Brotherhood, Morsi's party] represent the sectarian state. I represent moving forward and they represent going backward.
> (http://www.youtube.com/watch?v=JlNMigUvRfU)

Noticeably, both leaders attempt to define the differences between them in dyadic terms ("revolution vs. corrupt regime", "civil state vs. sectarian state") while appealing to third party voters. However, Sabahy's statements made it clear that his position differs significantly from both second-round candidates. In an argumentative text directed to the

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[16] All the sources are originally in Arabic. They were translated by D. Mohammed and used in Lewiński & Mohammed (2012) and Mohammed (2014).

supporters of Morsi ("Love letter to the Ikhwan youth", see Mohammed, 2014), Sabahy elaborately builds his case, concisely summarised in a Twitter message:

> My position concerning the second round is firm: I am not supporting the reproduction of the Mubarak regime nor am I supporting the continuation of the hegemony of the Islamic current. (https://twitter.com/HamdeenSabahy)

Sabahy's arguments show that his chief strategy is to dissociate himself from both Morsi's and Shafiq's position regarding the future for Egypt (see Mohammed, 2014 for a full analysis). His message is clear: if we want to deliberate, we need to have a tri-logue here since my position cannot be subsumed under one of the two sides in the dichotomy. The first argumentative strategy of a polylogue would then be precisely to claim "we have a polylogue here."[17]

### 6.2 Strategic ambiguity

While Sabahy tells us his "position concerning the second round is firm" since he supports neither Shafiq nor Morsi, we still do not quite know what his actual stance on "What to do in the elections?" is. As in any bi-partisan elections, there are four basic positions one can take here: 1) vote for X (here: Morsi); 2) vote for Y (Shafiq); 3) vote but spoil the ballot (e.g., tick both candidates or tear the voting card); 4) do not vote – boycott the elections altogether. 1) and 2) are plainly rejected by Sabahy. Options 3) and 4) were widely discussed in Egypt back in 2012, especially by the revolutionaries who did not vote for Shafiq or Morsi in the first round. These two options differ in an important detail. Spoiling a ballot amounts to conceding the legitimacy of the entire process while expressing discontent with the two candidates to choose from. Boycotting the elections amounts to pronouncing them illegitimate or otherwise significantly flawed. These two choices presented a serious quandary for Sabahy. If he had called for spoiling the ballot, he would have legitimised the elections and their final outcome. He is rather reluctant to do so based on "all the reservations we have concerning the electoral process" ("Love letter to the Ikhwan youth", see Mohammed, 2014). All the same, by openly boycotting the elections he would have dismissed the validity of the process he was just a part of. This might have been seen as a pragmatic inconsistency driven by the bitterness of the loser. Additionally, with different groups of dissatisfied voters arguing over these two options, openly advocating one of them might antagonise other groups, fracturing the unity of the revolutionary camp. That's another thing Sabahy would like to avoid. All these were strategic concerns of a main public figure involved in a multi-party/multi-position argument.

Sabahy's way out of the predicament was to resort to *strategic ambiguity* (Eisenberg, 1984). Rather than deliberating over the details of "the battle for presidency", Egyptians should lay on Sabahy the highly unspecific "responsibility to participate in continuing the revolution and in achieving its goals" ("Love letter…"). The need for, or at least the inevitability of, a radical systemic change in Egypt seems to have been the common starting point of all the parties at this stage. Even Shafiq, an ex-regime official no doubt supported by reactionary sections of the electorate, pronounces that his "role will be to lead the change, towards a new Egypt" (see above). However vague, the revolutionary call allows Sabahy to discursively ally himself with a greater number of revolutionaries than he would have had,

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[17] As discussed in Lewiński & Aakhus (2014) this would be a strategy belonging to "the confrontation stage" of a polylogue. See van Eemeren & Grootendorst (2004) for the division of a dialectical discussion into four stages: confrontation, opening, argumentation, and concluding.

had he expressed a clear position on his electoral choices. In this way, he can strategically manage the multiple parties he addresses and multiple goals he needs to reconcile. While such ambiguities might be taken to constitute a somewhat deflated, if not corrupt, version of the much lauded appeals to the *universal audience*, they might be seen as contextually rational solutions in a polylogical setting: "Particularly in turbulent environments, ambiguous communication is not a kind of fudging, but rather a rational method used by communicators to orient toward multiple goals" (Eisenberg, 1984: 238-239).

### 6.3 Seemingly redundant argumentation
As mentioned above, one of the strategic solutions to managing multiple opponents in an argumentative polylogue is to advance multiple argumentation, in which independent lines of support for a position are addressed to different opponents (Perelman & Olbrechts-Tyteca, 1969: 21-22; van Rees, 2003). A difficulty for an arguer arises whenever different parties s/he addresses have themselves opposing reasons for challenging or doubting the arguer. S/he may end up producing inconsistent or irrelevant lines of argumentation (Bonevac, 2003): a presidential candidate in Egypt trying to convince of his credentials both the Islamists and progressive leftists may indeed find contradicting himself while simultaneously addressing their concerns ("Islam will dictate our laws but we will build an open secular state").

This was clear in Egyptian elections. Shafiq, the ex-regime candidate, openly challenged Morsi for his religious narrow-mindedness and conservatism in a pluralist Egyptian society:

> I represent the civil state and the Al Ikhwan [the Muslim Brotherhood] represent the sectarian state. I represent moving forward and they represent going backward. (…) I represent Egypt, all of Egypt and they represent a reclusive group that does not accept others. (http://www.youtube.com/watch?v=JlNMigUvRfU)

Only two days earlier, Morsi's issued an anticipated rebuttal of these arguments:

> My program allows freedom for all, whether Christians or women. If I win presidency, I will not restrict the freedom of women. Every female citizen has the right to choose how to dress. I am not going to impose Hijab. (http://elbadil.com/?p=48640)

Such a rebuttal, under felicitous conditions, might have swung some of the voters leaning towards Shafiq into supporting Morsi as a tolerant and inclusive figure. However, Morsi did not stop at that. Attracting some of the voters moderately comfortable with Shafiq and the ways of the old regime was not his only task. He also needed to appeal to Sabahy's supporters left without their leader to vote for in the run-off. They would surely be happy with the message above, but they also doubted Morsi's allegiance to the aims of the revolution. Morsi was swift in addressing this third party to a debate:

> I will go on with the challenge of knocking down the corrupt regime. There is no space for corruption. (…) I am the legitimate candidate, the candidate of the revolution and the revolutionaries. (http://elbadil.com/?p=48640)

In this way, Morsi defends his revolutionary credentials and dedication to change. On a strict dialectical reading, in a discussion between Morsi and Shafiq – the main discussion in the presidential run-off – this would amount to advancing superfluous or redundant arguments. Why stress the zeal in "knocking down the corrupt regime" when the social and religious freedom argued for before made a cogent case for supporting Morsi? Moreover, Morsi's revolutionary arguments may be self-defeating: for reactionary voters being

staunchly on the side of the revolution may actually count as a strong disadvantage. What is then the relevance of these arguments in a strict dialectical sense? Quite clearly, Morsi uses them to defend his position in the dispute he is simultaneously having with the supporters of Sabahy. He is thus possibly running into an inconsistency: "Vote for me, I'm an inclusive politician, but I will knock you down." To avoid it in the electoral polylogue, he would need to better strategically manage his responses to different sources of disagreement, rather than simply focus on one dyadic encounter (with Shafiq or Sabahy) at a time.[18] To use a concept developed in pragma-dialectics, he would need to resort to *strategic manoeuvring* not only "within" one dialectical discussion, but also "between" or "across" such discussions – a possibility not fully considered by the originators of the concept (van Eemeren & Houtlosser, 1999; van Eemeren, 2010; see Mohammed, 2011). Simply put, what happens in one discussion (say, between Morsi and Shafiq) is significantly affected by what happens in another one (Morsi and Sabahy). And it is exactly the study of the intricate relations between these discussions, rather than within them, that is crucial to understanding such moves. Noticeably, they are elusive for dyadic analysis.

### 6.4 Giving up a conceded point

For the last illustration of polylogical complications in argumentation, I will use an example, which is constructed, yet based on actual political discussions in Egyptian elections of 2012. Let us assume that five discussants argue over whom to vote for in the *first* round of elections. Arguers A and B lean towards supporting Morsi (the chairman of the Muslim Brotherhood's Freedom and Justice Party), C favours Shafiq (ex-Mubarak official), and D and E support Sabahy (a progressive secularist) (see *Figure 2*). Consider the following possible exchange in which A and B try to convince C of Morsi's political experience. C objects to most arguments, but eventually A with B find what seems to be a strong point:

A+B:  Well, but you have to agree that he is now the chairman of the Muslim Brotherhood's powerful Freedom and Justice Party?
C:   Right, he is the chairman, one cannot deny that.

C's speech act can be quite straightforwardly reconstructed in argumentative terms as a concession, one of the three main types of commitments distinguished by Walton & Krabbe (1995). C's concession allows A+B to continue building their position from what C (the opponent) has admitted. Such *ex concessu* argumentation is a classic move in the Socratic dialogue and in general a specimen of dialectical method. Yet, consider that after C's turn, D+E take the floor:

D+E:  Hold on a second, he's just a figurehead in the hands of a secretive clique  of Muslim clerics.
A+B:  How do you know?!
D+E:  He's nothing but a Muslim Brothers' "substitution candidate" quickly nominated after the real candidate – Khairat El-Shater – was disqualified from officially running for presidency. He's simply following the orders   of the most powerful among the Muslim Brothers.

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[18] Naturally, one can object that Morsi does not really address any of the potential Shafiq voters and instead appeals exclusively to the revolutionary side of the barricade. Even if this were the case, one can easily imagine three-party discussions in which such strategic and seemingly redundant third-party arguments do play a central role (see Lewiński & Aakhus, 2014).

<div style="padding-left: 2em;">

A+B:   Hhmm, you may be right on that... But even if he's possibly just a figurehead now you have to admit he had some standing among the Brothers as the member of parliament between 2000 and 2005!

</div>

Now, consider that in a dyadic dialectical reconstruction, the exchange between A+B and C would look more or less like this:

<div style="padding-left: 2em;">

A+B:   Well, but you have to agree that he is now the chairman of the Muslim Brotherhood's powerful Freedom and Justice Party?

C:       Right, he is the chairman, one cannot deny that. [some interfering   discourse]

A+B:   Hhmm, he's possibly just a figurehead now.

</div>

In this example, C concedes A+B's point, but D+E do not, and so they keep questioning the point. Eventually, A+B cannot but give up their point upon D+E's critique. As a result, in a dialectically reconstructed A+B vs. C discussion, A+B rather inexplicably abandon a point conceded by an opponent, which amounts to an own goal scored for no apparent reason. That is to say, we would find it very hard to account for such a move in terms of a dialectical strategy: why did A+B give up the conceded point with no critical pressure? Mind you, it is not necessarily a fallacious move; some dialectical theories such as pragma-dialectics leave the unconditional right to retract commitments (van Eemeren & Grootendorst, 2004: 153), others only under special conditions in particular types of dialectical dialogues (Krabbe, 2001; Walton & Krabbe, 1995). The point that needs special attention here is that on the basis of the dyadically reconstructed common ground between A+B and C, C is correct to concede the point about Morsi's party leadership, whereas on the basis of the common ground between A+B and D+E, A+B are correct to give the point up (he's a leader on paper, but not in deed). Hence, while the standing of this point is clear in each di-logue, at this stage (before C also retracts his concession) we cannot be sure if it is a starting point in the entire polylogue. This may cause some confusion, as described above.

## 7.  Conclusion

The examples analysed here are merely an illustration of a great number of argumentative moves in polylogues that become hardly comprehensible when submitted to strictly dyadic dialectical reconstruction. In the (simplified) polylogues of Egyptian electoral disputes, each proponent defending his political position faces disagreement from (at least) two distinct parties who in turn also disagree with one another. As a result, the opponent of my opponent is not necessarily my ally, but possibly yet another opponent to engage – a common situation in multi-party political deliberations. In Egypt, secularist supporters of the revolution may strongly criticise Muslim Brothers for their religious agenda. This does not mean, however, that they support the secularist pro-Mubarak or pro-army position. To the contrary, they may be bringing up certain similarities between the Muslim Brotherhood and Mubarak or army apologists – for instance the claims to a strong and undivided mono-party rule – that they staunchly oppose.

Such constraints and opportunities of polylogical encounters tend to be glossed over in role-based dialectical analysis of deliberations where a proponent of a given position faces the opponent of that position in a dyadic exchange. I have argued here that the concept of argumentative polylogues would complement the dialectical theories of argumentative dialogues and serve as an adequate basis for thorough empirical investigations of multi-lateral argumentation. Such investigations can refine our notions of dialogue and argument as well as improve our understanding of the argumentative features of public discourse.

## Acknowledgements

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2) Ahmed Shafiq's press conference, 3 June 2012: http://www.youtube.com/watch?v=JlNMigUvRfU
3) Hamdeen Sabahy's "Love letter to the Ikhwan youth", 3 June 2013: http://hamdeensabahy.com (English translation from: Mohammed, 2014: 108-110)
4) Hamdeen Sabahy's Tweet, 6 June 2012: https://twitter.com/HamdeenSaba

**"It is true that security and Schengen go hand in hand": Strategic manoeuvring in the multi-layered activity type of European Parliamentary debates**

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Abstract: In this essay, I highlight the strategic discursive choices made by a politician who is arguing in pursuit of several goals. As a case in point, I examine an argumentative exchange from the European Parliament (EP), a venue where it is typical that politicians attempt to achieve several institutional goals. In analysing the exchange, which is part of the debate on the Conclusions of the European Summit of March 2012, I identify the positions taken, reconstruct the standpoints and arguments advanced, and analyse the discursive choices made in light of the different goals pursued. In the analysis, I am guided by the findings of an earlier examination of another EP debate, a debate on immigration in early 2011 (Mohammed, 2013). The arguers' discursive choices are analysed using the pragma-dialectical concepts of strategic manoeuvring and activity types (van Eemeren, 2010). The analysis enhances the understanding of the argumentative practice in EP debates as a multi-layered activity type in which several initial disagreements are discussed simultaneously and shows that the reconstruction of the argumentative exchanges as a series of several simultaneous discussions is necessary in order to capture the strategic design of argumentative moves.

Key words: Argumentative activity type, European Parliamentary debate, goal, multiple dispute, simultaneous discussions, strategic manoeuvring

1.      Goals and strategies in public political arguments
        When speaking publically, a politician typically attempts to achieve several goals and to address several issues. Whether in an interview, in a rally or in a Parliamentary session, whenever a politician is speaking publically the politician needs to respond to multiple demands: the responsibility of a politician is rarely one-dimensional and public political discourse is open to individuals and groups that have different interests and needs as well as different commitments and positions. So, for example, it is typical for a politician speaking in Parliament to criticise or praise the government, advocate a certain plan, policy or action and promote the interests of his or her constituents. In doing that, the politician can be expected to address issues ranging from the latest statement made by the Prime Minister to the condition of the educational system and some initiatives conducted by a small association in his constituency. In order to cope with the limited time they have, politicians craft their arguments strategically to support their case in relation to the several issues they address simultaneously. In this essay, I highlight the strategic discursive choices made by a politician who is arguing in pursuit of several goals.
        Parliamentary discourse is a particularly interesting venue for pursuing multiple institutional goals. In parliamentary debates, the goals that discussants pursue are to a large extent defined by the roles they play and the functions they are expected to fulfill in Parliament. Today, parliamentary practices are investigated from interestingly diverse

perspectives. Studies range from political examinations of parliamentary procedures and their efficiency for achieving institutional goals (Corbet et al., 2011; Judge & Earnshaw, 2008) to linguistic investigations in which the different discursive patterns in parliamentary practices are examined in order to gain insights into the different political and social attitudes they reflect (Bayley, 2010; Ilie, 2010). Even though the analysis of parliamentary discourse in terms of reasonable arguments and their opposite – fallacies – started with the very beginnings of modern European parliamentarianism (Bentham, 1824), there is still a need for studies that examine the nature and quality of argumentation in parliamentary practices. Significant contributions came in the last few years to examine argumentative discourse in different European parliaments (van Dijk, 2010; Ilie, 2010, van Eemeren & Garssen, 2010; Mohammed, 2008, 2013). These studies highlight the complexity of parliamentary discourse and identify interesting discursive strategies that members of parliaments use in order to balance the different goals they pursue and to respond to the often-conflicting demands they face. In this essay, I contribute to the study of argumentation in parliamentary practices by examining the way in which the multitude of goals pursued in parliamentary practices influences the discursive choices made by parliamentarians.

In line with the research investigating the link between participants' goals and the discourse choice they make, I assume that the strategic aspects of discourse can be explained by appealing to the multiple goals[1] that underlie the discourse (Craig, 1990; Jacobs et al., 1991; Tracy, 1984; Tracy & Coupland, 1990). I am particularly interested in the influence of the different institutional goals that politicians attempt to achieve on the discursive choices they make. Institutional goals are those goals that can be attributed to arguers on the basis of the type of activity they are engaged in.[2] They can be considered a subtype of what Clark and Delia (1979) distinguish as instrumental goals, which are goals that are related to "a specific obstacle or problem defining the task of the communicative situation" (200).

In order to highlight the multi-purposive nature of EP debates, I have in an earlier work analysed a plenary debate on immigration (Mohammed, 2013). The analysis identified the different types of institutional goals that are typically pursued by Members of the European Parliament (MEPs) in EP debates and characterised general ways in which such goals shape the argumentative exchanges. The types of institutional goals identified can be considered typical of this type of debate: goals dictated by the occasion of the debate, goals related to the powers of Parliament, and goals associated with the different identities they assume in Parliament. While the pursuit of the occasion-related and powers-related goals gave rise to multiple issues that were discussed simultaneously, the pursuit of the identity-related goals guided the MEPs' choices and formulations as they addressed the different issues.

In this essay, I further investigate the link between the multiple goals pursued by MEPs and the discursive choices they make, by examining in detail how MEPs manoeuvre strategically (van Eemeren, 2010) in their attempt to achieve their several

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[1] Following Craig (1986, 1990), I consider not only goals, which are intentional, formal, and directly responsible for a certain discourse choice, but also goals, which are functional, strategic, and only indirectly responsible for discourse choices.

[2] Unlike the dialectical and rhetorical goals identified by van Eemeren and Houtlosser (2003), which are intrinsic to argumentation and independent of any specific argumentative practice, institutional goals are extrinsic and context-dependent (Mohammed, 2007).

institutional goals. As a case in point, I examine a debate from the European Parliament (EP), the (relatively) young and fast-growing institution whose complicated structure and responsibility sharing is a good expression of the complexities of European politics. In particular, I focus on those argumentative moves that contribute to the discussion of several issues simultaneously. I argue that in order to capture the strategic design of such moves it is important to reconstruct multi-issue discourse as a series of *simultaneous discussions* (Mohammed, 2011, 2013). The concept of strategic manoeuvring and the proposal to reconstruct multi-issue discourse as a series of *simultaneous discussions* are discussed in section 2. In section 3, I introduce the case in point, reconstruct the positions taken in it, and discuss them in view of the different goals that can be attributed to the MEPs in this case. In section 4, I focus on one particular move and examine how it is strategically crafted in order to bring about favourable outcomes in relation to several issues at the same time. The analysis makes it clear that the reconstruction of the discourse as a series of several *simultaneous discussions* is necessary in order to account for the several favourable outcomes pursued by means of a single move and the strategic choices made as part of this pursuit.

2.      Strategic manoeuvring in multi-purposive discourses

In order to investigate the link between the multiple goals pursued by MEPs in EP debates and the discursive choices the MEPs make in their contributions, the concept of strategic manoeuvring is instrumental. The concept describes arguers' efforts to get their points of view accepted within the boundaries of reasonableness (van Eemeren & Houtlosser, 1999, 2003). In principle, arguers can be expected to try to argue reasonably. Reasonableness, according to the pragma-dialectical ideal of a critical discussion (van Eemeren & Grootendorst, 1984, 2003), is a dialectical norm that requires discussants to engage in the critical testing of the standpoints about which there is disagreement. But, as van Eemeren and Houtlosser rightly observe, discussants in actual argumentative practice are usually not concerned only with finding out whether their standpoints are capable of withstanding criticism or not. Discussants are usually concerned also with being rhetorically effective and getting these standpoints accepted. Accordingly, arguers manoeuvre strategically in an attempt to strike a balance between their dialectical obligation to test standpoints critically and their rhetorical aim to get their own standpoints accepted (van Eemeren & Houtlosser, 2003).[3]

Analysing public political arguments using the concept of strategic manoeuvring is particularly beneficial. In the political domain, maybe more than in any other domain, arguers are rarely interested in being reasonable only. In fact, one may even say that in the political arena, arguers are generally not interested in subjecting their points of view to critical scrutiny but rather in getting others to accept such points of view. Nevertheless, arguers engaged in a public political argument would certainly not want to appear unreasonable in the eyes of their public, at least because this will undermine their

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[3] Van Eemeren (2010) emphasises that the assumption that argumentation is aimed at the critical testing of standpoints can be made even "when people argue with each other without really wanting to convince each other but are in the first place out to win over an audience of onlookers ("the gallery"), as is the case when two political rivals are debating each other on television in election time" (1). Even in such cases, arguers "still have to conduct their argumentative discourse with each other as if it is aimed at resolving a difference of opinion on the merits in order to maintain decorum and to appear reasonable to the viewers who are their intended audience" (ibid).

credibility in general. Arguers engaged in a public argument will always try to maintain their attempts to persuade their audience within the boundaries of reasonableness, or at least within what seems like the boundaries of reasonableness. In order to achieve that, they need to manoeuvre strategically. Indeed, in the political domain, strategic manoeuvring may be considered a necessity (Zarefsky, 2008: 1).

Furthermore, the examination of public political arguments using the concept of strategic manoeuvring allows for a critical approach to political discourse. Assuming that arguers manoeuvre strategically presumes that arguers ought to act in accordance with the ideal of critical testing. Even though argumentative exchanges in the political context often fall short of this dialectical ideal, the ideal of critical testing remains an important standard in relation to which the quality of political arguments can be assessed. As van Eemeren (2010) argues, applying the dialectical ideal of a critical discussion to argumentation in the political context is not a utopian endeavour, but rather a critical one (4). After all, as he reminds us, the ideal of a critical discussion is by definition not a description of any kind of reality. It is rather a theoretical standard that can be used to protect the quality of the discussion (ibid).

Looking at argumentative moves from the perspective of strategic manoeuvring can be particularly helpful for highlighting the link between the multiple institutional goals pursued by arguers and the discursive choices they make. This is mainly possible because, as van Eemeren and Houtlosser suggest, the analysis of arguers' strategic manoeuvring needs to be situated in the context of the activity (type) in which argumentative exchanges occur. Argumentative activity types characterise the more or less institutionalised[4] communicative practices in which argumentation plays a central role (van Eemeren & Houtlosser, 2005, 2009). The goals that are pursued in conventionalised argumentative practices play an important role in characterising the different argumentative activity types. Together with the rules and conventions that govern the practice, they constitute the basis for the characterisation (van Eemeren, 2010: 144). Activity types that represent argumentative practices in which typically multiple institutional goals are pursued can be expected to be *multi-functional* and *multi-layered* (Mohammed, 2009: 51-79). An activity type can be described as *multi-layered* when several interrelated differences of opinion are typically discussed by means of the argumentative exchanges that occur as part of the practice. Each of the goals that are associated with the argumentative practice can give rise to an initial disagreement to be discussed in the course of the exchange.

Given the multitude of goals pursued in EP debates, the activity type can be expected to be multi-layered. In this activity type, one can expect several initial disagreements as a result of the several goals typically pursued by the MEPs. For example, one can expect initial disagreements about the particular EU policies, plans or measures to be taken as well as disagreements about the conduct of the executive. The former can be associated with the political power of the EP and the consequent goal of the MEPs to influence the EU policy-making. The latter can be associated with the supervisory power of the EP and the consequent goal of the MEPs to scrutinise the

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[4] Van Eemeren and Houtlosser use the term institutional in a very broad sense, to cover not only formally established organisations but also "socially and culturally established macro-contexts (…) in which certain (formally or informally) conventionalized communicative practices have developed" (van Eemeren, 2010: 129).

conduct of the executive.[5] Typically, MEPs craft their contributions in such a way that their cases in relation to each of the disagreements are supported, often using the same argumentative moves.

In order to analyse the strategic manoeuvring that occurs as part of multi-layered activity types, the reconstruction of the argumentative exchanges in which the manoeuvring occurs should allow for capturing the role that an argumentative move plays in relation to *all* the initial disagreements to which the move is relevant. Unfortunately, existing methods of dealing with multi-issue discourses do not allow for that.

Traditionally, the discourse where multiple issues are addressed has been reconstructed as a case of multiple dispute (van Eemeren & Grootendorst, 1992: 16-22). Multiple disputes typically arise when an arguer brings up two or more issues at the same time. As van Eemeren, Houtlosser and Snoeck Henkemans (2007: 22) explain:

> A dispute may also become (…) complex if, rather than one issue, several issues become subject of discussion. If for each of these issues a standpoint is taken which is not accepted, each standpoint necessitates an obligation to defend it, this way creating a multiple dispute.

In analysing argumentative exchanges in which the dispute is multiple, van Eemeren et al. recommend the analyst breaks the multiple dispute into a series of single ones (van Eemeren & Grootendorst, 1992: 20; van Eemeren, Grootendorst & Snoeck Henkemans, 2002: 8; van Eemeren, Houtlosser & Snoeck Henkemans, 2007: 22). Breaking a multiple dispute into elementary ones helps the analyst get a clear idea of what positions the different arguers take and what obligations are incurred on them in view of the positions taken. However, for the analysis of the strategic aspects of argumentative discourse, it is necessary to consider the relationship between these elementary disputes. Especially in this type of discourse, it is often the case that an argumentative move is strategically designed to contribute to several issues simultaneously. As the analysis in sections 3 and 4 will show, so much of the strategic manoeuvring involved would go unnoticed if elementary disputes that constitute a multiple one were analysed in isolation.

In order to capture the strategic aspect of argumentative moves that are meant to contribute to the discussion of several issues simultaneously, I have, in previous work, proposed that an argumentative exchange in which several issues are addressed be reconstructed as a series of several *simultaneous discussions*, each of which is about one of the issues (Mohammed, 2011, 2013). A discussion, in this proposal, is of course not to be understood in the actual sense of a real life discussion that takes place at a specific time and place. It is rather a dialectical analytic reconstruction of a real life discussion, defined in terms of a standpoint and the argumentation advanced in support of it. Two discussions are simultaneous if there is at least one argument, or one argumentative move, that plays a role in both discussions without any of the discussions being subordinate to the other. In multiple disputes, when arguers employ moves to contribute to the discussion of several issues simultaneously, arguers manoeuvre strategically *between simultaneous discussions*. The examination of the manoeuvring that occurs *between* the *simultaneous discussions* is necessary for an adequate account of the strategic aspects of the discourse. The excerpt from the EP debate on the Summit conclusion analysed here is a good example.

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[5] For another example of a multi-layered activity type, namely the Prime Minister's Question Time in the British House of Commons, see Mohammed (2009) where the different institutional goals and the consequent initial disagreement for this interesting practice are discussed.

3.      The European Parliamentary debate on the March 2012 Summit conclusions
        The EP debate on the conclusions of the March 2012 European Council meeting (hereafter the Summit) started with a statement made by the President of the Council, the just-re-elected Herman Van Rompuy, followed by a statement made by the President of the Commission, José Manuel Barroso, both concerning the conclusions of the Summit. In the Summit, the Council discussed a number of topical issues, the most important of which was the economic policy of the European Union. It also discussed the EU position concerning the participation in international conferences and some other foreign policy issues. Additionally, the status of the Schengen Agreement and the enlargement of the Schengen Area[6] were the subject of some heated exchanges. The fragment analysed is about this in particular.
        Debates on statements are a common practice in the EP. These debates constituted 24.12% of the total debates conducted in the 6th parliamentary term, i.e., 2004-2009 (Corbett et al., 2011: 196). In line with Rule 110 of the parliament's rules of procedure, Members of the Council, Members of the Commission as well as Members of the Council can ask for permission to make statements in Parliament. The President of Parliament decides when statements may be made and also whether statements are to be followed by debates or by brief and concise questions from MEPs instead (European Parliament, 2012).
        Just like other EP debates on statements, debates on the conclusions of Summits can be seen as an important means through which Parliament exercises its supervisory power over the work of the Council and the Commission. The European Council, which meets four times a year, is the top EU political institution. It is responsible for setting the EU's goals as well as the course for achieving these goals. It provides the impetus for the EU's main policy initiatives and takes decisions on thorny issues that other EU institutions have not been able to agree on (Europa, 2013: 20-27). The Council consists of the heads of states or governments, i.e. the presidents or prime ministers, of all the EU member states, as well as an elected President of the Council and the President of the European Commission (ibid). The Commission, which is represented in the Council by its president, is composed of 27 Commissioners each responsible for a particular portfolio on the EU level. As the executive arm of the EU, it is responsible for proposing new laws and for seeing to it that EU laws and policies are implemented in the member states (Europa, 2011; Leonard, 2010: 58; Staab, 2011: 51).
        The debate on the March 2012 Summit conclusions went as it is usual for this kind of debate. Following the statements of the President of the Council and of the President of the Commission, there were contributions by representatives of political

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[6] The Schengen Agreement, signed in 1985 in the town of Schengen, Luxembourg, led to the creation of Europe's borderless Schengen Area in 1995. According to the agreement, countries in the Schengen Area abolish passport and immigration controls at their common borders. The agreement is meant to provide EU citizens with the right to travel, work and live in any EU country without special formalities. Furthermore, the Schengen Area functions as a single country for international travel purposes, with a common visa policy. The creation of the Schengen Area is considered as "one of the most tangible, popular and successful achievements of the EU" (European Commission, 2013). At the time of the debate analysed, the Schengen Area encompassed most EU States (except for Bulgaria, Cyprus, Ireland, Romania and the United Kingdom), as well as Iceland, Norway, Switzerland and Liechtenstein, which are not EU member states (ibid).

groups[7] and then contributions by other MEPs, who spoke under the catch-the-eye procedure.[8] In the fragment analysed (see the Appendix), Hannes Swoboda, the President of The Progressive Alliance of Socialists and Democrats (S&D) Group,[9] spoke on behalf of his group.

Mr Swoboda started by expressing his group's position concerning the conclusions of the Summit, focusing mainly on the issue of the Schengen Area. He said:

> I would like to congratulate the Council on its decision regarding Serbia. I believe that it is the right option for Serbia, for the region and also for Kosovo. Unfortunately, no positive decisions were made about Schengen, in particular, with regard to Bulgaria and Romania. The people of these countries deserve to have the Schengen Area enlarged. I hope that this will happen soon.

He continued by criticising Nicolas Sarkozy, the French president and a member of the Council at the time, for a statement the latter had made concerning the Schengen Agreement. The MEP said:

> what shocked me was the statement by Mr Sarkozy after the Council meeting in which he said that Schengen should possibly be suspended.

The MEP defended his group's stance concerning the Schengen Agreement, denying that the group is preventing reforms of the agreement as a spokesperson of Mr Sarkozy had claimed. Mr Swoboda went on criticising Mr Sarkozy for not "committing to Europe", predicting that he will be losing in the upcoming presidential elections in France. It was not surprising that at the end of Mr Swoboda's contribution, a French MEP from the rival European People's Party (EPP),[10] Jean-Pierre Audy, raised a blue card asking for permission to pose a question to Mr Swoboda. Mr Audy, who is a fellow of Mr Sarkozy in the French Union for a Popular Movement (UMP), did as expected from him and defended Mr Sarkozy. He argued that the French president wanted to strengthen the Schengen Agreement and tried to get Mr Swoboda to admit that the management of the Schengen Area was not satisfactory. In his response to the question, Mr Swoboda continued to criticise Mr Sarkozy and the French authorities under his right wing leadership. In particular, he criticised the French role in obstructing the enlargement of the Schengen Area, which he argued undermined their commitment to what he called "Europe's major achievement". In his answer, the political rivalry between the S&D and the EPP became very prominent. The MEP contrasted the positions of Mr Sarkozy with that of François Hollande, Mr Sarkozy's socialist competitor. He said:

> I am standing up for Europe. If Mr Sarkozy does not do this, then that is his problem, but I and, above all, François Hollande and the French Socialists are standing up for this. For security and freedom!

The exchange between Mr Swoboda and Mr Audy ended there, in line with the blue-card procedure, which does not allow the MEP who posed a question to pose another one.

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[7] In the EP, MEPs sit in cross-national political groups or remain non-affiliated. At the time of the debate analysed, there were 7 political groups and 27 MEPs remained non-attached (Corbet et al., 2011: 78-128; Leonard, 2010: 72).

[8] Under the catch-the-eye procedure, MEPs can try to catch the eye of the Speaker in order to be called to speak. The procedure is meant to provide a chance to speak for those MEPs who were not allocated speaking time in advance (European Parliament, 2012: Rule 149).

[9] The S&D Group is centre-left and was the second largest political group at the time of the debate (Corbet et al., 2011: 93).

[10] The EPP Group is a centre-right political group (Corbet et al., 2011: 88). It was the largest political group at the time of the debate.

Despite its being short, the exchange provides a good example of a political discourse which is crafted to address several issues in the simultaneous pursuit of multiple goals.

Mr Swoboda's attempt to achieve several goals was reflected in his contribution. The contribution started by an assessment of the conclusion reached in the Summit: praising the Summit's decision to grant Serbia the status of a candidate member and criticising the decision to postpone taking a decision concerning extending the Schengen Area to include Bulgaria and Romania. This could be viewed as an attempt to exercise his supervisory power as an MEP by assessing the conclusions of the Summit. Also in his first turn, the MEP openly called for the Schengen Area to be enlarged to include Romania and Bulgaria, which could be seen as an attempt to influence the EU policy-making. Mr Swoboda was also clearly trying to promote the interests of his political group (S&D Group) and the interests of socialists in general. This was particularly clear in his defence of the group and attack on Mr Sarkozy, a representative of the rival Christian Democrats. It is important, however, to note that the criticism of Mr Sarkozy was presented in the context of supervising the Council and assessing its conduct. Sarkozy is a member of the Council and was criticised in relation to an issue that was addressed in the Summit. This, as it will be shown in the next section, is an interesting strategic manoeuvre.

The goals above are in line with the general characteristics of the activity type of EP debates on statements (Mohammed, 2013). MEPs in the debate on the Summit conclusions were in fact expected to assess the conclusions of the Summit (occasion-related goal), to influence the EU policy-making in what concerns the issues addressed in the Summit (powers-related goal), and to promote the interests of their political parties and groups as well as national interests and the interests of the EU citizens in general (identity-related goal). Furthermore, also like in other EP debates on statements, the pursuit of the different goals shaped the argumentative choices in different ways. The goals of assessing the conclusions of the Summit and of influencing the EU policy-making gave rise to several issues in relation to which standpoints were advanced and supported, and the goal of promoting the interests of one's political group guided the choice and formulation of the standpoints and arguments. Moreover, MEPs employed argumentative moves that contribute to the discussion of the multiple issues raised at the same time. A good example of such moves is the concession Mr Swoboda granted his opponent in his answer to the blue-card question.

In his blue-card question, Mr Audy asked Mr Swoboda ,"Do you know that in truth, freedom cannot be exercised without security?" Against Mr Audy's intention, the question proved beneficial to Mr Swoboda who responded by saying: "Mr Audy, it is true that security and Schengen go hand in hand" and used the concession as an argument to defend his positions in relation to all the issues that he addressed. In the next section, the strategic manoeuvre in the move is analysed, focusing on the favourable outcomes that can be achieved by the move. As the analysis will show, very interesting instances of strategic manoeuvring occur *in between* the discussions of the different issues that are at stake. The strategic design of these moves cannot be captured without reconstructing the discourse as a series of *simultaneous discussions* and examining the strategic manoeuvring that occurs *between* these discussions.

4.      Strategic manoeuvring in the debate on the Summit Conclusions

Overall, Mr Swoboda's contribution addressed five main issues: (i) the Schengen agreement, (ii) the conduct of the Council, (iii) the conduct of the S&D Group, (iv) the conduct of Sarkozy, and (v) the French elections. It is important to note here that not all of these issues were necessarily related to the occasion of the debate or to the powers he acquires as an MEP. The issue of French elections was certainly not. Interestingly, however, only the standpoint that was directly occasion-related was eventually made explicit. Other standpoints remained unexpressed. This choice of formulation is in line with the institutional constraints imposed in the activity type of EP debates on statements. In this activity type, institutional constraints precondition the allowable issues about which differences of opinion can arise and be discussed. MEPs who wish to address other issues will have to manoeuvre strategically in order to do that. Typically, the manoeuvring involves employing argumentative moves that can play a role in the defence of more than one standpoint at the same time, making explicit only the standpoint which addresses the issue that is institutionally allowable and leaving the other standpoints unexpressed. This strategic manoeuvre allows the arguer to defend standpoints without necessarily making them explicit. The concession that Mr Swoboda granted to his opponent did exactly this.

In the discussion about the Schengen agreement (issue i), the concession supported the standpoint that *The Schengen Area should be enlarged soon to include Romania and Bulgaria*, as Figure 1 below shows:
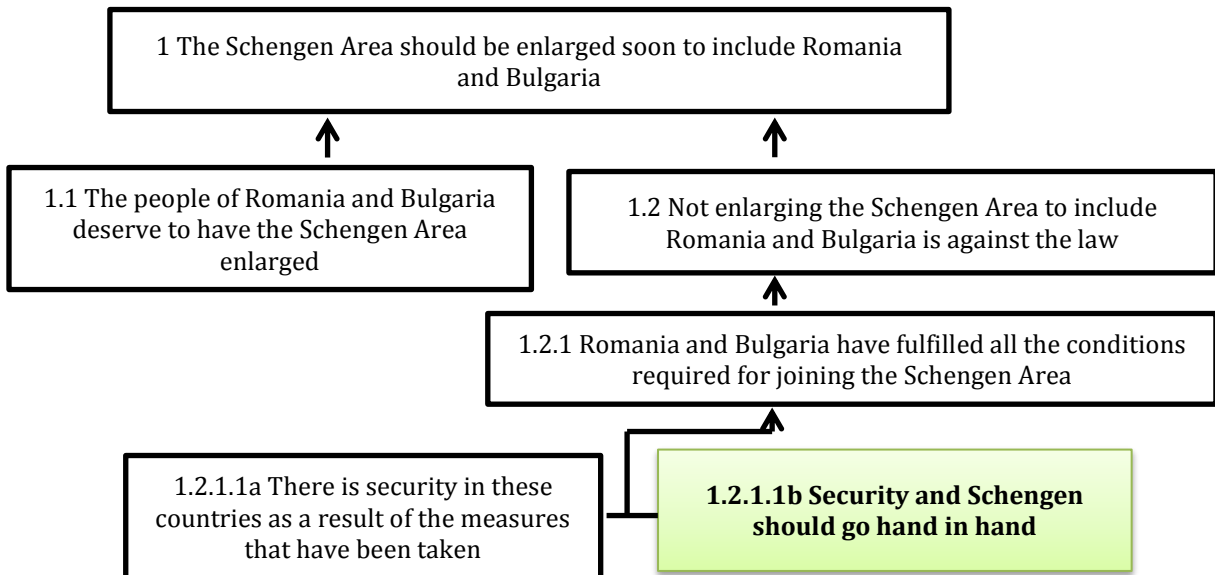


Figure 1

In debates on statements, initial disagreements concerning the issues raised in the statements are to be expected given the institutional rules and conventions of this type of

debates. The difference of opinion concerning the Schengen Area and a standpoint about it were therefore to be expected. The standpoint was explicitly advanced, and so were all the arguments that defend it. In employing the argument that *Security and Schengen should go hand in hand* (1.2.1.1b) to defend the standpoint that *The Schengen Area should be enlarged soon to include Romania and Bulgaria*, Mr Swoboda made expedient choices from the topical potential available to him, adapted optimally to his opponent, and used an effective presentational device. The argument is based on a concession requested by the opponent himself, which makes it more likely to be accepted by this opponent or at least those watching the debate could assume that. But the concession is granted in a formulation that is also very opportune for the arguer: "freedom" in the concession required was replaced by "Schengen" in the concession granted, which allowed the concession to act as a strong argument in support of the standpoint that the Schengen Area should be enlarged. Had the opponent been given the chance to respond, he might have challenged the formulation, but Mr Swoboda was spared this challenge by the institutional constraints.

In the discussion about the conduct of the Council (issue ii), the concession supported the standpoint that *The conduct of the European Council in relation to Schengen is not up to standard*, as Figure 2, below shows:
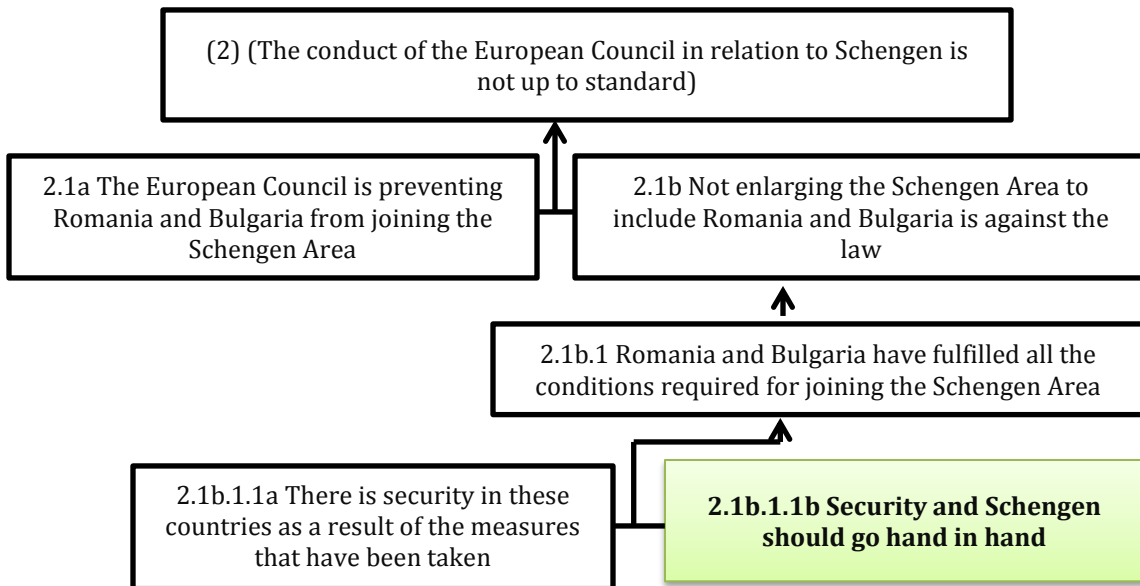


Figure 2

The standpoint was not explicitly expressed, but can be easily inferred from the arguments expressed interpreted, especially if one takes into account the context of the exchange and the roles and functions of the EP. In the multi-layered activity type of EP debates on statements, a disagreement concerning this issue is in fact a preconditioned

disagreement. The discussion of the different positions related to the *conduct of the Council* is one way through which the EP exercises the supervisory power over the executives. Given that MEPs and the representatives of the Council know their institutional roles and powers, the message gets through even when standpoints related to this issue are not made explicit.

Furthermore, the MEP's critical stance of the conduct of the Council is supported by an explicit argument (2.1a *The European Council is preventing Romania and Bulgaria from joining the Schengen Area*). The argument is complemented by the argument that *Not enlarging the Schengen Area to include Romania and Bulgaria is against the law*, which is the same argument that was also used to defend the standpoint that *The Schengen Area should be enlarged soon to include Romania and Bulgaria* (standpoint of issue i). Given the time limits imposed on MEPs speaking in such debates, making an argumentative move that can defend several standpoints is very strategic. Like the case above shows, defending the second standpoint (issue ii) could be done by merely adding one more argumentative move to the arguments that support the first standpoint (adding only argument 2.1a, in this case).

Mr Swoboda's concession about the link between *"Security and Schengen"* supported his case in relation to the issue of the conduct of the S&D Group as well (issue iii). The concession was part of a coordinatively compound argument that supported a positive assessment of the conduct of the political group. The standpoint was not explicitly expressed, but needs to be reconstructed in order to make sense of Mr Swoboda's argument that *It is not true that the S&D group is preventing the reform of the Schengen Agreement (argument 3.1)*. Argumentation in support of this standpoint can be reconstructed as in Figure 3, below:
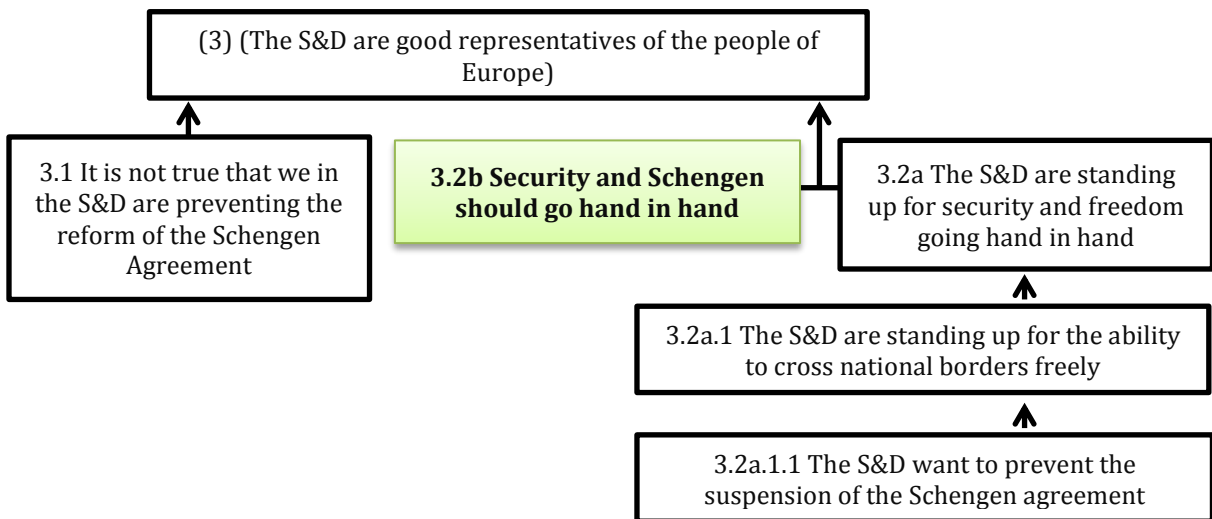


Figure 3

Maintaining a standpoint that defends the general conduct of one's own political group implicitly was clearly a strategic choice. It is in line with an understanding that is

shared in public political life that explicit self-defence backfires. Making an explicit self-defence standpoint could make the doubts about the conduct of the group even more present, and this is something that is obviously undesirable. However, as we get to know from Mr Swoboda's speech, the S&D group had been accused of preventing the reform of the Schengen Agreement. The accusation casts doubt on the conduct of the group, and one could surely expect that this would not be ignored. Mr Swoboda was in a sense expected to defend his political group, and the issue of the conduct of the S&D group was present anyway. Expressing the arguments and leaving the standpoint implicit was in sense a good way of addressing the issue while avoiding a backfire. Furthermore, it is important to keep in mind that the issue of the conduct of the S&D political group is not one of the institutionally allowable initial disagreements in this type of debate. That may also explain why the main standpoint related to this issue remained not directly expressed. Keeping that in mind, Mr Swoboda left the standpoint unexpressed and explicitly expressed only the arguments that support it. The arguments made the S&D's position regarding the Schengen Agreement clear, thereby addressing one of the disputes that are allowable in the activity type (an occasion-related dispute). By deciding which moves to make explicitly and which moves to leave implicit, Mr Swoboda manoeuvred strategically in order to support his case in relation to issues that are not typically addressed in the activity type without going against its institutional constraints.

Finally, the concession granted by Mr Swoboda to his opponent was used also to support Mr Swoboda's position concerning the conduct of Mr Sarkozy (issue iv) and the French elections (issue v). The concession that *Security and Schengen should go hand in hand* supported the criticism of Mr Sarkozy, as Figure 4 shows:
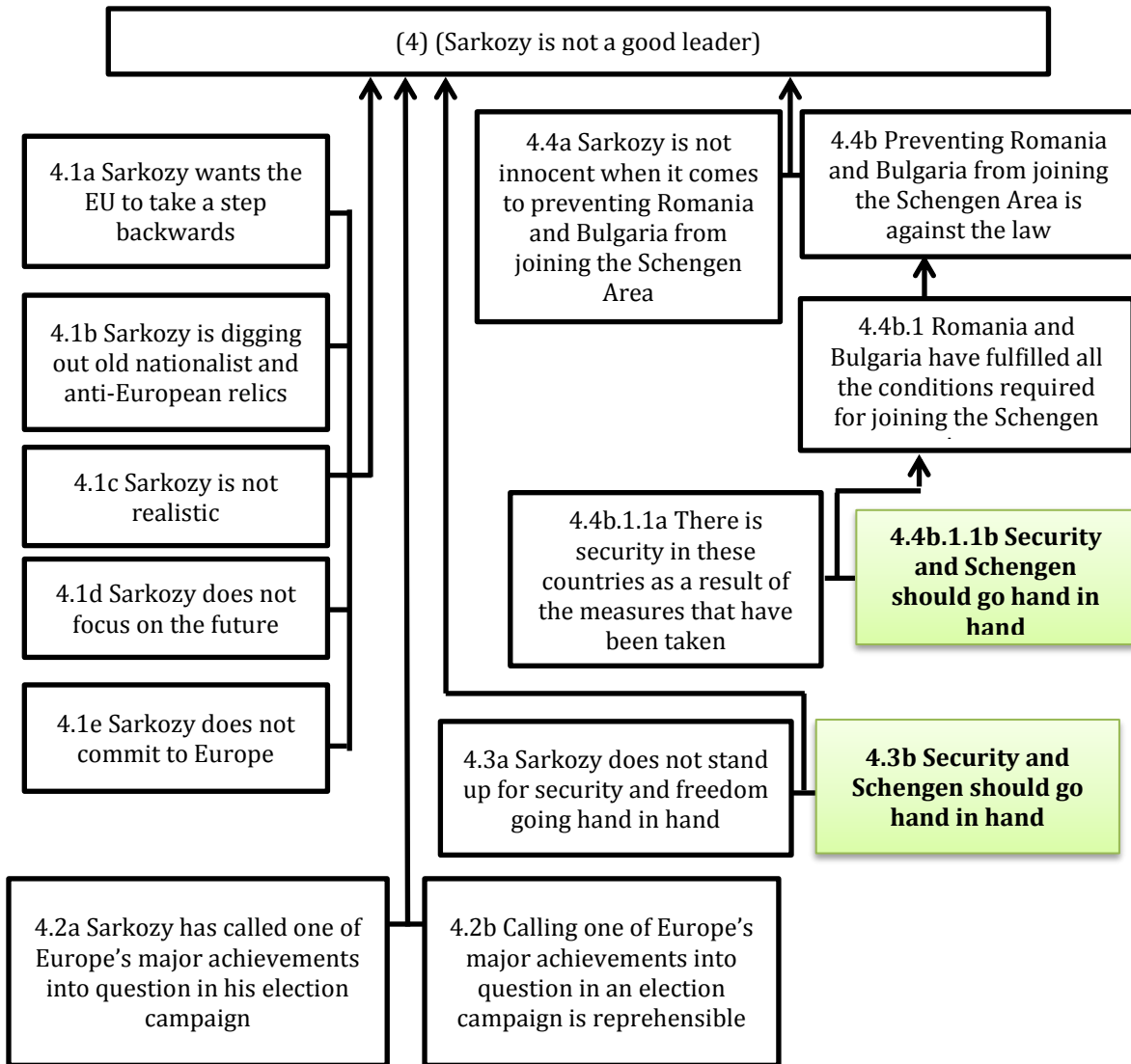
Figure 4

And it also supported his praise of Mr Hollande, as the Figure 5 below shows:



Figure 5

The conduct of Mr Sarkozy was undoubtedly an issue of discussion in the exchange between Mr Swoboda and Mr Audy. The two MEPs devoted a good deal of their contributions attacking and defending him. In principle, the conduct of Sarkozy is an issue about which initial disagreements in this type of debate may arise. As the French head of state, he is a member of the Council. The conduct of members of the Council can definitely be an issue of discussion in EP debates on Summit conclusions. However, not all aspects of Sarkozy's conduct are relevant to the discussion of the conduct of the Council. Unlike Sarkozy's positions in relation to the issues addressed in the Summit, which are legitimate issues of debate in this venue, his merits in the upcoming elections are not. This could explain why Mr Swoboda's left his standpoint concerning Sarkozy's conduct implicit. Possibly, the MEP was trying to avoid making an explicit claim that concerns the conduct of Sarkozy beyond the capacity of the latter as a member of the Council, in order to keep his contribution within what is allowable in this activity type. But the arguments that relate to Sarkozy's position as a French president can certainly not be missed.

Moreover, Mr Swoboda was clearly eager to address the issue of the upcoming French elections and promote the interests of Francois Hollande, the Socialist candidate and Sarkozy's rival. But this could not be done without explicitly expressing arguments that relate to the French elections (e.g. arguments 5.1a and 5.2a). In order to remain as much as possible within the boundaries of institutional relevance, he kept most of his arguments about security and the importance of the Schengen Agreement, which are issues that matter to all the citizens of the EU. The MEP made sure that there are many

more explicit arguments that express his commitment to the European project rather than arguments that reflect only his political rivalry with Sarkozy and his group. In other words, he tried to maintain a balance between promoting the interests of his political group and promoting the interests of the EU citizens in general, which is a concern that is typical of the EP.

Mr Swoboda's concession, analysed above, is a good example of argumentative moves that are crafted by politicians to address several issues and achieve multiple institutional goals at the same time. As the analysis shows, in making the concession, Mr Swoboda made opportune choices from topical potential, stylistic devices and adapted to his opponent in order to craft an argument that has the potential of defending several standpoints, some of which were left implicit to avoid undesirable institutional commitments.[11] The discursive choices of Mr Swoboda were strategically made in order to achieve favourable outcomes in relation to the several issues he addressed. In order to capture the strategic aspects in the design of these kind of moves, the moves need to be analysed as part of what can be reconstructed as several *simultaneous discussions*. That is to say that the analysis should cover the contribution of such moves to the discussion of all of the different issues at stake. Such a reconstruction is necessary in order to account for the several favourable outcomes pursued by means of such moves and the strategic choices made as part of this pursuit.

5.    Concluding remarks

In this essay, I examined the strategic manoeuvring of an MEP in the EP debate on the conclusions of the European Summit of March 2012. My goal was to throw more light on the multi-purposive nature of EP debates on statements as well as on the strategic choices made by arguers in the context of these debates. In the analysis, I was guided by the findings of my earlier analysis of another EP debate on a statement, namely the debate on immigration in the wake of the crisis in Lampedusa in early 2011. One of the main findings of the examination of that debate was that some of the institutional goals pursued gave rise to initial disagreements that could be considered typical in this type of parliamentary session and that these disagreements were discussed simultaneously: MEPs designed their contributions in such a way that they defended their case in relation to the different issues at the same time. In this essay, the analysis of the link between MEPs' goals and their discursive choices in EP debates on statements was taken one step further, in order to shed light on the strategic design of exactly those moves which contribute to the discussion of several issues simultaneously.

In analysing the debate on the Summit conclusions, I focused on a concession that was granted by an MEP to his opponent during the debate. The concession was not just a strategic move in the defence of the MEP's position in relation to the main issue of the debate, namely the Summit conclusions concerning the enlargement of the Schengen

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[11] The standpoints that were left implicit were reconstructed on the basis of two main considerations. First, these standpoints were to be expected because the disagreements related to them were already there, either as a result of the institutional roles and powers (e.g. the disagreement about the conduct of the executives, which is central to the supervisory power of the EP) or as a result of a previously taken position (e.g. the disagreement about the conduct of the S&D, which was initiated by the criticism expressed towards the S&D). Second, the standpoints could be reconstructed because the arguments that support them were explicitly expressed. Reconstructing the unexpressed standpoints is necessary for seeing the relevance of these explicit arguments.

Area. The concession was crafted skillfully in order to possibly defend also the MEP's positions in relation to issues that were less central to the debate. By means of the concession, the MEP could address issues that he would be interested in addressing but which were not necessarily institutionally relevant in the context of the debate. In other words, the concession was a strategic manoeuvre *across* or *between* the several issues discussed.

The concession analysed in this essay is a strategic manoeuvre that is typical of public political arguments. Public political arguments are typically multi-purposive activities in which multiple issues are addressed. In order to cope with the multiple issues present in any public debate, arguers resort to argumentative moves that play a role in the discussion of more than one issue at the same time. These moves, such as the concession analysed here, are designed to bring about favourable outcomes in relation to more than one standpoint at the time. Furthermore, the strategic choices made and the outcomes achieved in relation to one standpoint are not independent from those choices and outcomes that relate to the other standpoints addressed. In this essay, I argue that in order to arrive at an adequate account of the strategic design of this kind of move, it is necessary that the connections between the different issues are captured. It is in that sense that existing methods of dealing with multi-issue discourses are not satisfactory and that the traditional advice of breaking multiple disputes into elementary ones needs to be revised. In order to capture the strategic design of argumentative moves that are strategic across the several issues discussed, multi-issue discourses need to be reconstructed as a series of simultaneous discussions and the strategic manoeuvring that occurs *between* these simultaneous discussions needs to be analysed.

In addition to its contribution to the study of strategic manoeuvring of these type of moves, the examination in this essay also contributes to the characterisation of EP debates on statements as an argumentative activity type. In particular, the examination highlights important institutional preconditions that relate to the initial disagreements that can give rise to argumentation in this type of communicative practice. Consequently, it elaborates on the understanding that the activity type of EP debates on statements is a *multi-layered* activity type in which several institutional goals are pursued and where several initial disagreements are discussed simultaneously. Two central preconditioned disagreements are the disagreement concerning proposed EU policies as well as the disagreement concerning the conduct of the executives. The two issues are discussed simultaneously as arguers employ argumentative moves that contribute to the discussion of the two at the same time. This understanding is important for it highlights the argumentative interplay between two important political processes: policy-making and accountability. The former is discursively conducted by means of the argumentative discussion of disagreements concerning policies and the latter is discursively achieved through the argumentative discussion of disagreements concerning the conduct of the executives. The two are intertwined. Moreover, a better understanding of the *multi-layered* activity types of EP debates on statements will hopefully be useful also for the examination of argumentation in other multi-layered activity types. The public sphere is fortunately full of these.

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141

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**Appendix**


EP debate on the Conclusions of the European Council meeting, 13 March 2012 (a fragment)


     *Hannes Swoboda:*
Mr President, firstly, I would like to congratulate Mr Van Rompuy on his re-election. There are a lot of discussions ahead of us and some controversial issues to be dealt with. We still have a great deal to do. Secondly, I would like to congratulate the Council on its decision regarding Serbia. I believe that it is the right option for Serbia, for the region and also for Kosovo. Unfortunately, no positive decisions were made about Schengen, in particular, with regard to Bulgaria and Romania. The people of these countries deserve to have the Schengen Area enlarged. I hope that this will happen soon.
However, what shocked me was the statement by Mr Sarkozy after the Council meeting in which he said that Schengen should possibly be suspended. Will we have to bring our passports again when we come to Strasbourg? Are the many absent members of the Group of the European People's Party (Christian Democrats) already looking for their passports ready for their next trip to Strasbourg? This surely cannot be meant seriously. Now, Mr Sarkozy's spokesperson is saying that the Group of the Progressive Alliance of Socialists and Democrats in the European Parliament is preventing the reform of Schengen. This is not true. We are not preventing reform; we simply do not want to take a step backwards. We need to move forwards in Europe and not back. Therefore, I am calling on Mr Sarkozy, in the light of his possible election defeat, not to dig out all the old nationalist and anti-European relics. Let us remain realistic and continue focusing on the future. Let us commit to Europe. That would be a good thing for Mr Sarkozy to do.


     *Jean-Pierre Audy:*
Mr Swoboda, you brandished your passport and talked of Nicolas Sarkozy. Do you know that Nicolas Sarkozy has always argued in favour of the Schengen agreements? Do you know that Nicolas Sarkozy does not want to get rid of Schengen, but, instead, to strengthen it? Do you know how the border between Greece and Turkey operates? Do you know that in truth, freedom cannot be exercised without security? Mr Swoboda, I have a question to put to you: do you believe that the Schengen provisions are properly managed – yes or no?


     *Hannes Swoboda:*
Mr President, firstly, Mr Audy, I always think of Mr Sarkozy when I pull out my passport. I will think of him particularly when he has retired and can no longer pursue the policy that he is currently pursuing.
Secondly, Mr Audy, it is true that security and Schengen go hand in hand. However, I would like to ask you why the Council – and the French Government is not entirely innocent in this respect – is continuing to prevent Bulgaria and Romania from joining the Schengen Area, despite the fact that they have fulfilled all the conditions? I would very

much like to ask you this, because now there is security in these countries as a result of the measures that have been taken. Our failure to enlarge the Schengen Area is actually against the law. I am very much in favour of it, but calling it into question in an election campaign, as Mr Sarkozy has done, is reprehensible in my view. Schengen is one of Europe's major achievements. An achievement of this kind should not be called into question. Instead, it should be supported because it means that we Europeans are able to cross national borders freely without passports. That is what I am standing up for in Europe. If Mr Sarkozy does not do this, then that is his problem, but I and, above all, François Hollande and the French Socialists are standing up for this. For security and freedom!

**The United States Supreme Court, Abortion Policy, and the Intersection of Deliberative and Forensic Rhetoric**

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Abstract: This analysis supports the notion that the modern United States Supreme Court is a "political" institution. Further, the written opinions from the Court blend traditional features of both deliberative and forensic genres of discourse. The essay analyzes ten texts associated with the landmark U.S. Supreme Court abortion case, *Planned Parenthood of Southeastern PA vs. Casey*. The ten texts include the five written opinions from the Court and five support (*amicus*) briefs, three supporting the right to an abortion and two supporting the Pennsylvania statute on abortion. The *amicus* briefs, like the Court's written opinions, combine deliberative and forensic rhetorical principles. The written opinions and the *amicus* briefs differ, however. The audience and intent of the *amicus* briefs (to influence the Court's decision-making) are clear, while Supreme Court written opinions, as blended rhetorical genres, can confuse immediate and future audiences and generate ambiguity regarding policy decisions.

Key Words: Supreme Court, rhetoric, *Casey*, abortion

1. Overview

Traditionally, U. S. Supreme Court written opinions were consistent in both form and tone.  The majority opinion was the written version of the Court's consensus. Concurring opinions agreed with the conclusion reached by the majority, but disagreed with the reasoning behind the majority's result.  Further, dissenting opinions disagreed with both the result reached by the majority and the reasoning or principles upon which the conclusion was based (Black & Black, 1992: 1092).  For most of its history, the opinions reflected a norm of consensus and fostered a perception of "unanimity."  The Chief Justices, especially, controlled the extent of internal debate and conflict and, in turn, the external perceptions of consensus (Haynie, 1992: 1158-1169).  Debate was behind closed doors, and not through written opinions.  The opinions were civil and focused on legal reasoning.  Even though there were highly contentious debates surrounding the abortion issue during the *Roe v. Wade* case in the early 1970s, and Justice William O. Douglas threatened to publish a memorandum disparaging his colleagues for putting their own views ahead of the revered institution, the opinions were civil with virtually no indication of the monumental clashes behind the scenes.  Justice Douglas did not publish his memo so not to undermine the Court's credibility (Woodward & Armstrong, 1979:  187-188).

The substance and tone of Supreme Court argumentation has changed since *Roe v. Wade*.  Not only are the Court's conflicts more apparent in written opinions, it is also fairly common to identify and chastise a colleague for faulty reasoning or inconsistent voting.  A recent study examined Supreme Court written opinions from 1791-2008.  The researchers conclude that modern opinions are "more long winded" and "much less

145

friendly" than those written over the vast history of the Supreme Court (*Bloomberg Business Week*, 2015: 35).  The challenge for argumentation scholars is to better understand modern Supreme Court written opinions.  Why are they more confrontational?  Why have they strayed from formulaic forensic rhetoric?  And finally, do different styles of written opinions impact the perceived legitimacy of the Court or its role, if any, in public policy?

In an editorial in 2004, *The Wall Street Journal*, stated the following: "The Founders may have thought they were creating three equal branches of government, but the modern judiciary has taken a more exalted view of itself. There is hardly an area of modern American life (…) into which the Supreme Court has not asserted itself as the ultimate authority" (*Wall Street Journal*, 2004: A16). The assertive role of the modern U.S. Supreme Court seems particularly evident in the debate over abortion policy. The importance of the Supreme Court in determining abortion policy took center stage during the confirmation hearings on the nominations of John G. Roberts Jr. for Chief Justice and Samuel A. Alito Jr. for Supreme Court Justice. Those involved in the confirmation processes for Roberts and Alito clearly realized that these two individuals might very well determine the future of United States abortion policy. The debate during the confirmation processes focused on a major Supreme Court ruling on abortion, the *Casey* decision from 1992. That landmark ruling on abortion policy will serve as the object of inquiry for this chapter. This analysis explores the Supreme Court's role in policy interpretation and formation by examining *amicus* briefs and written opinions from the *Casey* Court. This small slice from the abortion debate illustrates how the traditional genres of discourse (in this case forensic and deliberative) overlap in the public policy arena. The intersecting genres not only challenge our traditional notions of categories of discourse, but the language fostered by the intersection impacts public policy. The *Casey* opinion, arguably, has contributed more to the confused state of abortion policy in the United States than any other written or oral communication.

I describe this Supreme Court case as an intersection because partisan, political rhetoric in the form of supporting briefs was submitted to influence the judicial decision-making, and the Court's written opinions combine elements of both political and legal discourse. What is at stake through this study is an understanding of the multiple influences on the formulation of public policy. More specifically, "Does deliberative rhetoric shape judicial decision-making?" And, "Are both precedent-based and value-laden arguments present in formal court opinions?" I explore the use of precedents and values because values are generally associated with political discourse and arguments from precedent are a hallmark of legal rhetoric. The presence of both types of arguments in a discourse suggests a blended genre.

In *Evidence, Argument and Persuasion in the Policy Process*, Giandomenico Majone (1992) discusses the intersection of arguments across communication spheres and types of discourse. Majone notes, "When science, technology, and public policy intersect, different attitudes, perspectives, and rules of argument come into sharp conflicts. Scientific criteria of truth clash with legal standards of evidence and with political notions of what constitutes sufficient ground for action" (1992). This study helps explain how the Supreme Court may mitigate conflicts in policy disputes, while its rulings may contribute to ongoing disagreements. Further, legal scholars such as Erwin Chermerinsky (2002) believe that Supreme Court opinions are "written to make it seem that there is one

146

correct result and that it was derived in a formalistic fashion that excludes individual value choices" (2012). Through close textual analysis, however, this essay supports a fundamental concept from *The New Rhetoric*, that values are woven into the fabric of political and legal argumentation (see Perelman and Olbrechts-Tyteca, 1969: 75).

As mentioned previously, I focus on arguments based on precedents and those based on values. As a central feature of legal discourse, the guiding principle for arguing from precedent is the doctrine of *stare decisis et non quieta*, or stand by the precedents and do not disturb the calm. This doctrine is applied throughout the *Casey* decision. The Justices arguing for the majority believe that they are applying the doctrine correctly, while the minority concludes that the guiding principle is inappropriately interpreted.

Looking for arguments from values in Supreme Court opinions is not easy. As Malcolm O. Sillars (1995) points out, even in "a radical clash of values as in the legalized abortion debate" value disputes are "not as clear as it would appear on the surface" (2). To better understand value-based arguments in Supreme Court argumentation, I differentiate between value choices and value hierarchies.

I distinguish value choices from value hierarchies as follows: A value choice is an affirmation of a particular value that does not require a linkage with another value. If there is a linkage, it is based on absolutes. One value is desirable, while the other is undesirable. For instance, if I value capitalism, I may or may not connect my belief in capitalism to socialism. If I do connect the two, it would probably involve my expression of the desirability of capitalism and the undesirability of socialism. On the other hand, value hierarchies require explicit or implicit connections of values. A rhetor may consider two values to be desirable, but when linked together, one is more desirable than the other. For instance, I may value both individual rights and collective rights. In the course of my argument, however, I may make a hierarchical connection between the two by suggesting that one value is more desirable than the other.

A value choice, or statement of the preferable, can also become part of a value hierarchy. For instance, if a rhetor's value choice is at odds with another person's value choice, that rhetor may bolster his/her argument by debating the hierarchical arrangement of the competing values. According to Perelman and Olbrechts-Tyteca (1969), value hierarchies may be "more important to the structure of an argument than actual values" (81). In the textual analysis section, I elaborate on the significance of value hierarchies in the arguments from both the *Casey* opinions and the briefs submitted to the Court.

2. A Landmark Abortion Case

The United States Supreme Court case, *Planned Parenthood of Southeastern PA v. Casey* (1992), is one of the most analyzed judicial decisions in the history of the United States Supreme Court. *Casey* involved a challenge to a set of restrictions on abortion known as the Pennsylvania Control Act. From both historical and public policy perspectives, *Planned Parenthood of Southeastern PA v. Casey* is a major Supreme Court case since it reaffirmed the central holding of *Roe v. Wade*, that state governments cannot prevent a woman from having an abortion in the early stages of pregnancy when the fetus is nonviable. It did not reaffirm *Roe* in its entirety, however, as the ruling eliminated *Roe's* trimester framework "by explicitly extending the state's interest in protecting potential life in maternal health to apply throughout pregnancy" (Center for Reproductive Rights, 2003: 47). In essence, *Casey* upheld a basic right to an abortion, but provided a

different legal rationale than *Roe.* The *Casey* ruling also upheld four of the five provisions from the Abortion Control Act, and thus enabled states to enact regulations with the intent of reducing the number of abortions.

This study analyzes ten texts associated with the *Casey* decision. Five of the ten were generated by the Court. The *Casey* decision was a 5-4 ruling on June 29, 1992, and produced the following five opinions: Justices O'Connor, Kennedy, and Souter wrote the majority opinion. Justices Blackmun and Stevens wrote opinions concurring that *Roe* should be reaffirmed, but dissenting from the adoption of the undue burden standard and the use of that standard to uphold the majority of the Pennsylvania law. Chief Justice Rehnquist and Justice Scalia wrote opinions, both of which were joined by Justices White and Thomas, dissenting from the majority's reaffirmation of *Roe*, and concurring with the joint opinion upholding the Pennsylvania Abortion Control Act.

Prior to the ruling, there were several briefs filed on behalf of the petitioners and respondents involved in *Casey*. This essay examines five supporting (*amicus*) briefs including those filed in support of the right to an abortion by the American College of Obstetricians, the National Association for the Advancement of Colored People (NAACP), and 250 American historians. I also examine two briefs supporting the Pennsylvania statute on abortion, which were filed by the United States Catholic Conference and the National Right to Life, Inc. These five briefs are analyzed because they represent a cross-section of the most involved and passionate participants in the abortion debate and are the ones most accessible to lay audiences (these five briefs are reprinted in Friedman, 1993).

3. Textual Analysis

I begin textual analysis by examining the majority opinion in *Casey* and how it reflects the briefs. Justices Kennedy, O'Connor, and Souter wrote the majority opinion. Even a cursory examination of the text indicates that the briefs and the deliberative rhetoric surrounding abortion policy influenced the majority. First, it is one of the lengthiest Court opinions ever written and the only one to list three Justices as authors. The length can be attributed to the complexity of the issues and the authors' willingness to discuss abortion in legal, historical, medical, moral, and societal terms. The listing of the Justices as authors accomplished two rhetorical objectives. One, it suggested that there was broad support for the majority view. Secondly, listing Justice Kennedy, a devout Catholic, as an author made it more difficult for critics of the decision to charge the Court with insensitivity to religious perspectives on abortion policy. The Catholic Church had been leading the charge to overturn *Roe.*

The majority also explicitly acknowledged different points of view on abortion. A few examples from their opinion include, "Although *Roe* has engendered opposition, it has in no sense proven 'unworkable'" (*Planned Parenthood of Southeastern Pennsylvania v. Casey,* 1992: 855) and "While we appreciate the weight of the arguments on behalf of the State in the cases before us (…) the reservations any of us may have in reaffirming the central holding of *Roe* are outweighed by the explication of individual liberty we have given combined with the force of *stare decisis*" (853).

Justices Kennedy, O'Connor, and Souter devote an extraordinary amount of their argument explaining the guiding principle of *precedent*. They say, "when this Court reexamines a prior holding, its judgment is customarily informed by a series of prudential

and pragmatic considerations designed to test the consistency of overruling a prior decision with the ideal of the rule of law, and to gauge the respective costs of reaffirming or overruling a prior case" (854). They elaborate, "Indeed, the very concept of the rule of law underlying our own Constitution requires such continuity over time that a respect for precedent is, by definition, indispensable." With the exception of a prior judicial ruling that came to be viewed as a clear error, the Court is obligated to follow precedent. According to the majority, the *Roe* decision was not an error, has not been proven "unworkable," and is a "rule of law" that cannot be renounced (871).

Similar arguments from precedent are present in the briefs. The brief for The American College of Obstetricians, for instance, states that *stare decisis* is "compelling" in the *Casey* decision. The medical professionals argue, "*Roe* provides a workable standard that is consistent with constitutional precedent. *Roe* is therefore not a case that is proven 'unsound in principle and unworkable in practice'" (Friedman, 1993: 94).

The majority draws on a previous Supreme Court opinion for the basis of their argument. They cite Justice Harlan in *Poe v. Ullman* (1961), as follows: "The full scope of liberty guaranteed by the due process clause cannot be found in or limited by the precise terms of the specific guarantees elsewhere provided in the Constitution" (543). This utterance is similar to the argument put forth by the majority. Justice Harlan's opinion was also quoted extensively in the brief filed by the 250 American Historians (Friedman, 1993: 139).

The following paragraph from the majority opinion summarizes the primary finding in *Casey*, and these words continue to define present day abortion policy in the United States:

> (…) we are led to conclude this: the essential holding of *Roe v. Wade* should be retained and once again reaffirmed. It must be stated at the outset and with clarity that *Roe's* essential holding, the holding we reaffirm, has three parts. First is recognition of the right of the woman to choose to have an abortion before viability and to obtain it without undue interference from the State. Before viability, the State's interests are not strong enough to support a prohibition of abortion or the imposition of a substantial obstacle to the woman's effective right to elect the procedure. Second is a confirmation of the State's power to restrict abortions after fetal viability, if the law contains exceptions for pregnancies, which endanger a woman's life or health. And third is the principle that the State has legitimate interests from the outset of the pregnancy in protecting the health of the woman and the life of the fetus that may become a child. These principles do not contradict one another, and we adhere to each. (505 U.S. 833)

This core argument can be summarized in three value hierarchies. First, a woman's right to an abortion is superior to states' interests before fetus viability. Second, states' interests are valued more highly than a woman's right to choose an abortion after fetus viability, except when pregnancies "endanger a woman's life or health." Third, states' rights are superior to a woman's right to choose an abortion in the earliest phase of pregnancy, except when state interests place "undue burden" on a woman's rights. The key phrase in this argument is "undue burden," a concept introduced by Justice O'Connor in pervious abortion cases. It can be defined as "a state regulation [that] has the purpose

or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus" (*Planned Parenthood of Southeastern Pennsylvania v. Casey*, 1992: 877). This is a significant point of divergence from the majority opinion and the brief submitted by the health care professionals. The health care *amici curiae* provide multiple reasons why the undue burden standard should not be adopted (Friedman, 1993: 93-94). They argue that the court of appeals for *Casey* "erroneously required a high threshold showing of an undue burden and ignored uncontroverted factual findings that each provision [of the Pennsylvania Abortion Control Act] will cause substantial harm to women's health" (Friedman, 1993: 95). Furthermore, arguing that these provisions are necessary to preserve the life of the fetus is "inadequate" because "the woman's life and health must always prevail over the fetus' life and health when they conflict" (Friedman, 1993: 95). The latter is a value hierarchy: the value of the woman's life and health is superior to the life and health of the fetus. Aside from pointing to different value hierarchies embedded in the arguments, this is an example of the deliberative argument from the medical community failing to influence the majority Justices. While the majority opinion struck down the part of the Pennsylvania statute requiring spousal notification, it upheld the other provisions including "requirements that physicians deliver anti-abortion information to patients, that patients undergo a 24-hour delay before having an abortion, and that teens obtain consent for the procedure from a parent or a court" (Center for Reproductive Rights, 2003: 100).

The medical professionals believed that they were arguing from a privileged position. In the introduction of the brief, they note, "As individuals *amici* members hold differing views on the religious and philosophical issues that abortion raises. They agree, however, that when a patient seeks medical care and treatment, such as abortion, state laws should not interfere with a health care provider's ability to exercise his or her medical judgment in treating that patient" (Friedman, 1993: 82). Put simply, they believe abortion is, above all else, a medical issue. Their expertise in health care ensures a substantial amount of credibility in the abortion policy arena, but they were unable to leverage that expertise and influence a major Supreme Court decision to the fullest extent.

There are other noteworthy textual similarities among the majority opinion and the briefs from the American historians and the NAACP. The academics highlighted the history of abortion law in the United States, and the *amici curiae* in the NAACP's brief focus on the needs of the poor and women of color. In addition to describing the history of abortion as "tolerated" practice, the historians point to the role of history as a source of authority for judicial decision-making. They note, "Since the beginning of the Republic, no Justice of the Supreme Court has seriously disputed that the meaning of our Constitution is to be determined by interpreting its words in light of our nation's history and traditions" (Friedman, 1993: 137). They quote Justice White's view of the Supreme Court's role in interpreting the Constitution. According to Justice White, the Court "does not subscribe to the simplistic view that constitutional interpretation can possibly be limited to the 'plain meaning' of the Constitution's text or to the subjective intention of the Framers. The Constitution is not a deed setting forth the precise metes and bounds of its subject matter; rather it is a document announcing fundamental principles in value-laden terms that leave ample scope for the exercise of normative judgment by those charged with interpreting and applying it" (Friedman, 1993: 138). Therefore, in the

arguments put forth by the historians is the notion that while history is a source of authority in judicial decision-making, these decisions are also time-bound. The majority in *Casey* describes the role of the Court in interpreting history in similar terms. Like the historians, the majority uses the *Plessy v. Ferguson* (1896) segregation case as an example of a ruling that "may have been wrong the day it was decided," but "the *Plessy* Court's explanation for its decision was so clearly at odds with the facts apparent to the Court in 1954 that the decision to reexamine *Plessy* was on this ground alone not only justified but required" (*Planned Parenthood of Southeastern Pennsylvania v Casey*, 1992: 863). There is a value choice implicit in these interpretations of the Court's role. Both the majority and the historians seem to value a Court that does the following: Uses history as a guide; recognizes changes in relevant facts over time; appreciates the interpretative latitude necessary for Justices to be effective in resolving policy conflicts.

The key argument in the brief submitted by the NAACP is that any change to abortion policy must reflect the potential impact on poor women and women of color. Large numbers of poor women and women of color lack access to quality health care and have been historically more likely to die from illegal abortions than affluent or white women. Like the medical professionals, the NAACP *amici curiae* focus on the *undue burden* standard. Their argument can be summarized as follows: "In assessing whether a constitutionally protected right is burdened by state law, the Court must consider the practical impact of the law on the ability of the individual to exercise the protected right. In this case, the Pennsylvania Abortion Control Act would so severely restrict the ability of poor women to obtain abortions that it would render illusory the right to make private, procreative choice without state interference" (Friedman, 1993: 118). For the majority in *Casey,* however, only one provision would cause an undue burden. Justices Kennedy, O'Connor, and Souter declare, "The spousal notification requirement is thus likely to prevent a significant number of women from obtaining an abortion. It does not merely make abortions a little more difficult or expensive to obtain; for many women, it will impose a substantial obstacle" (*Planned Parenthood of Southeastern Pennsylvania v Casey*, 1992: 893-894).

The other four opinions also have an array of connections to the five briefs. Although Justices Stevens and Blackmun voted with the majority, both issued separate opinions. The Stevens opinion contains significant value hierarchies. He believes a woman's right to abort a nonviable fetus is superior to the State's interest in potential human life. He says it is "not a 'contradiction' to recognize that the State may have a legitimate interest in potential human life and, at the same time, to conclude that that interest does not justify the regulation of abortion before viability" (*Planned Parenthood of Southeastern Pennsylvania v Casey*, 1992: 914). As mentioned previously, the brief from the health care professionals contains similar language. Stevens elaborates on his value hierarchy by linking abortion policy to immigration policy. He notes, "While the state interest in population control might be sufficient to justify strict enforcement of the immigration laws, that interest would not be sufficient to overcome a woman's liberty interest. Thus, a state interest in population control could not justify a state-imposed limit on family size or, for that matter, state-mandated abortions" (*Planned Parenthood of Southeastern Pennsylvania v Casey*, 1992: 915).

Justice Blackmun, like Stevens, disagreed with the joint opinion "failing to invalidate" the entire Pennsylvania statute. He also expresses surprise and delight that

*Roe* was not overturned. Blackmun's opinion is primarily an expression of legal philosophy, a re-statement of his various past opinions on abortion, and a caution against future attempts to dismantle the *Roe* decision (*Planned Parenthood of Southeastern Pennsylvania v Casey*, 1992: 922).

Chief Justice Rehnquist's opinion on *Casey* includes strong language in his descriptions of the joint opinion. He challenges the majority's argument from precedent and calls their interpretation of previous cases a "newly-minted variation on s*tare decisis.*" Rehnquist argues that *Roe* should be "overruled consistently with our traditional approach to *stare decisis* in constitutional cases" (*Planned Parenthood of Southeastern Pennsylvania v Casey*, 1992: 944). He says that the three Justices purported "to adhere to precedent," but based their opinion on "generalized assertions about the national psyche" (*Planned Parenthood of Southeastern Pennsylvania v Casey*, 1992: 957). The majority created an undue burden standard which is no more workable than the trimester framework from *Roe*. The Chief Justice concludes, "Under the guise of the Constitution, this Court will impart its own preferences on states in the form of a complex abortion code" (*Planned Parenthood of Southeastern Pennsylvania v Casey*, 1992: 966). He also suggests a significant value hierarchy. Rehnquist acknowledges a "woman's interest in having an abortion is a form of liberty protected by the Due Process Clause," but argues that interest is surpassed by a State's ability to "regulate abortion procedures in ways rationally related to legitimate state interests" (*Planned Parenthood of Southeastern Pennsylvania v Casey*, 1992: 966).

Justice Scalia takes a broad view of the abortion controversy. His argument is characterized by value choices rather than by value hierarchies. For instance, his comments suggest a strong belief in democratic decision-making. He argues that states, "may, if they wish, permit abortion-on-demand, but the Constitution does not *require* them to do so. The permissibility of abortion, and the limitations upon it, are to be resolved like most important decisions in our democracy: by citizens trying to persuade one another and voting" (*Planned Parenthood of Southeastern Pennsylvania v Casey*, 1992: 979). He argues that abortion is "not" a liberty protected by the Constitution because the Constitution "says absolutely nothing about it" and "the longstanding traditions of American society have permitted it to be legally proscribed" (*Planned Parenthood of Southeastern Pennsylvania v Casey*, 1992: 980). Like Rehnquist, Scalia is also critical of the majority opinion. He says the undue burden standard is "inherently manipulable and will prove hopelessly unworkable in practice" (*Planned Parenthood of Southeastern Pennsylvania v Casey*, 1992: 986).

The opinions of Rehnquist and Scalia are linked to the arguments in the *amicus* briefs from the United States Catholic Conference and the National Right to Life Committee. The *amici curiae* representing the Unites States Catholic Conference believe that *Roe* "must be reconsidered and should, on reflection, be abandoned" (Friedman, 1993: 238). They also argue that precedents prior to *Roe* must guide the Court. These precedents show "proper balance of individual and societal interests—allowance for personal liberty within a framework that protects human life, represents family relationships, promotes the common good, and preserves our free society" (Friedman, 1993: 241). The brief submitted on behalf of the National Right to Life Committee supports abortion policy that reflects the State's interests in protecting life. They believe that deferring to states' rights is necessary for the undue burden test to be workable. The

*amicus curiae* declare, "This Court has recognized that the states have compelling interests in unborn life and maternal health which exist throughout pregnancy. This needs to be established in a single, majority opinion, if the undue burden test is to be workable" (Friedman, 1993: 277). They also refer to the "weighting" of values that are present in the *Casey* opinions. They argue, "The critical legal issue to be determined here is how judges and legislators are to assign a constitutional "weight" to state and paternal interest in preservation of 'the individual fetus.' Without such guidance, the 'undue burden' test is unworkable" (Friedman, 1993: 278).

4. Deliberative and Forensic Genres

As a way of discussing the implications of *Casey* on the formation of public policy, the next section of this chapter explores the research questions introduced in the beginning of this analysis. The *Casey* abortion ruling suggests that deliberative rhetoric influences Supreme Court decision-making, and ultimately public policy. There are strong connections among the themes present in the briefs and the lengthy majority opinion. Justices Kennedy, O'Connor, and Souter were extremely aware and sensitive to the differing perspectives on abortion. Chief Justice Rehnquist and Justice Scalia, in their written opinions, even criticize the majority for incorporating public opinion into their legal analysis. One legal scholar, John G. Wilson, believes that public opinion has been incorporated into legal decision-making for two centuries, and he calls *Casey* the "most dramatic recent example" of "public opinion's relevance to constitutional adjudication" (Wilson, 1993: 1043). Public opinion is associated with the deliberative arena. It is expressed in elections, public hearings, support and passage of legislation, and through various forms of rhetoric, including *amicus* briefs. Supreme Court Justices are arbitrators of public policy and must be sensitive to public opinion to fully contextualize constitutional issues. *Amicus* briefs are a manifestation of public opinion. According to studies by Epstein and Knight, these texts serve an informational role to the Justices similar to data supplied by lobbyists to members of Congress (Clayton & Gillman, 1999: 215).

The intersection of deliberative and forensic rhetoric is inevitable. Politics is part of legal decision-making. Both the briefs and the opinions provide slightly different frames to perceive policy formulation. According to Martin Rein and Donald Schön, participants in policy disputes construct frames "in which facts, values, theories, and interests are integrated" (Rein & Schön, 1993: 145). So while the building blocks for the construction of the frames are similar, their arrangement may vary. For instance, while both *amicus* briefs and written opinions contain precedent-based as well as value-laden arguments, precedent-based arguments provide the foundation for the judicial opinions, and arguments based on value choices, judgments, and hierarchies are more prominent in briefs and other forms of deliberative rhetoric.

This study supports Thomas Goodnight's notion that "To debate the public good or public policy presupposes that arguers and audiences have a sense of before and after, of that which leads to debate and that which may extend beyond it" (Goodnight, 1982: 251). Legal argumentation requires a sense of before and after, and the *amicus* briefs serve as examples of rhetoric that incorporate historical and precedent-related data while exhorting Justices to decide issues based on probable, future impact.

Just as *amicus* briefs are a blend of the deliberative and forensic rhetorical genres, so are the written opinions. Supreme Court Justices write opinions for multiple audiences including the legal community, media, general public, executive and legislative branches of government, future generations of scholars and citizens, and other Justices. Along with multiple audiences, Justices have multiple rhetorical objectives. It would be inaccurate to label their discourse as solely forensic rhetoric. Goodnight (1982) defines deliberative rhetoric as "a form of argumentation through which citizens test and create social knowledge in order to uncover, assess, and resolve shared problems" (251). Justices not only make policy decisions, but their language around those opinions creates social knowledge. For instance, the majority in *Casey* made a policy decision when they stated, "the essential holding of *Roe v. Wade* should be retained and once again reaffirmed" (*Planned Parenthood of Southeastern Pennsylvania v Casey*, 1992: 846). Their goal was also to create social knowledge that could serve as a guide for other abortion policy-makers. They declare, "State and federal courts as well as legislatures throughout the Union must have guidance as they seek to address this subject [abortion] in conformance with the Constitution. (…) we find it imperative to review once more the principles that define the rights of the woman and the legitimate authority of the State respecting the termination of pregnancies by abortion procedures" (*Planned Parenthood of Southeastern Pennsylvania v Casey*, 1992: 845). Blended rhetorical genres are significant from a policy-making perspective because the objectives of any particular discourse and the intended guidance for policy makers may be unclear. The discourse may be difficult to categorize and to follow. The *Casey* majority opinion serves as an example. The majority settled a policy dispute, but their argument has holes. The opinion is lengthy, confusing (especially the *undue burden* standard), and contradictory (upholding *Roe* as well as four of the five Pennsylvania restrictions). In the words of a former law clerk to Justice Blackmun, the decision is "the opposite of coherent, principled decision making to which the court should regularly aspire" (Lazarus, 1999: 1485).

5. Conclusion

Deliberative rhetoric, legal argumentation, policy-making, and Supreme Court decisions have never been more intertwined. The scope of the modern Supreme Court's decision-making is extremely far-reaching. The Court has become a potent force in the policy-making process and its rules and procedures influence rhetorical strategies. Giandomenico Majone (1992) believes that "public deliberation has been carefully institutionalized in all modern democracies" (3). Even the type of briefs analyzed in this study must adhere to certain criteria. For instance, since 1980, briefs have been limited to 50 pages, and according to Number 24.6 of the Rules of the United States Supreme Court, briefs "shall be concise, logically arranged with proper headings, and free of irrelevant, immaterial, or scandalous matter" (Paddock, 2002: 46). Supreme Court Rule 37 establishes guidelines for *amicus curiae* participation. Private interest groups must receive permission from both parties involved in the litigation to participate in the process, but "representatives of federal and state governments are not required to obtain permission from the parties to file *amicus* briefs" (Collins, 2004: 809). Therefore, legislative bodies from the state and federal levels have an open door to participate in the judicial process.

It's difficult to separate the formal and informal rules governing Supreme Court argumentation from rhetorical strategies. Justices are bound to follow precedent; the interpretations of precedent often vary widely. These variations are evident in the interpretations of privacy law and the due process rulings incorporated into the *Casey* written opinions. Majone believes, "Justificatory arguments play an even larger role in policy-making. To decide, even to decide correctly, is never enough in politics. Decisions must be legitimated, accepted, and carried out. After the moment of choice comes the process of justification" (Majone, 1992: 31). This description is especially accurate for the Supreme Court. As Roger Stahl observes, the Supreme Court faces the dilemma of "having to make political decisions and arguments while appearing apolitical and arhetorical" (Stahl, 2002: 442). I think this study supports Majone's notions regarding the importance of argumentation and persuasion in policy-making, as well as the importance of justificatory arguments. Arguing from precedent is a primary strategy the *Casey* majority employed to justify the essential right to an abortion that had been in place since *Roe v. Wade.* The rhetorical role of *precedent* in justificatory argumentation can be problematic for other policy makers. Non-legal audiences may not be familiar with the precedents cited by the Justices, and may not share the same frame for the discourse. For example, while the role of *precedent* is the primary source of authority for Supreme Court Justices, the 250 American historians who submitted the brief argue that the role of history is the central component of legal analysis. These frames are closely related but not identical. The historians may be more influenced by common law rather than case law, for instance.

It's not surprising that we spin our wheels on abortion policy in the United States. Policy decisions are vulnerable to political agendas. State legislatures pass abortion-related legislation, there are subsequent court challenges, and every few years a major case is argued before the Supreme Court. The *Casey* majority had hoped that their ruling would offer clear guidance, but abortion policy still seems to be surrounded by ambiguity and uncertainty. The intersection of deliberative and forensic rhetoric is a tricky one, and policy-makers have much to learn about navigating through its twists and turns. Perhaps we should acknowledge that policy decisions represent, at best, provisional consensus. Over time, public opinion changes, political agendas change, and, in turn, laws change.

Thomas Goodnight (1982) points to an evolution of deliberative rhetoric in different "forums" and "practices," and concludes, "if practices evolve uncritiqued, deliberative argument may become a lost art" (252). The role of *amicus* briefs in the policy-making process is an evolution of partisan discourse that was traditionally found in legislative bodies. The numbers of briefs have increased dramatically (see Collins, 2004), and to understand and critique how these texts blend deliberative and forensic genres and influence Supreme Court argumentation, I suggest additional studies of *amicus* briefs and their relationship to judicial decision-making and the Court's written opinions.

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**Visual Argument, National Apologies, and Reconciliation**[*]

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Abstract: While the prevalence of apologies around the globe has prompted a number of argumentation scholars to identify various taxonomies of verbal strategies that are either field invariant or context dependent, virtually no attention has focused on the role of visual argument in the discourse of apologia. With evolutionary changes in the contemporary communication environment heightening both the dependence on and impact of visual images, this study argues that argumentation theory offers important insights for ascertaining which offending images are more likely to re-circulate and which should prompt consideration of the discourse of apologia. Based on an analysis of list of apologies delivered over four decades by national leaders around the globe, it concludes that images of reconciliation, rather than apologia, produce a more productive, lasting argumentative presence in the online environment.

Key Words:  visual argument, apologia, reconciliation, national apologies, recirculation

Arguments occur in many forms. While generally recognized as a critical and recurring component of verbal discourse, arguments are also prevalent in visual or other multi-mediated formats. The rapid expansion and widening reach of the communication within the online environment positions non-discursive arguments (e.g. photographic images, videos, music, etc.) as critical components of the contemporary public sphere. In view of such developments, argumentation scholars have analyzed the functions, constraints, and opportunities of visual argument for more than twenty years (e.g., see Birdsell & Groarke, 1996, 2007; Kjeldsen, 2015; Palczewski, 2002).

This essay will add to these earlier efforts by analyzing how visual argumentation works in situations of apologia. Political, corporate, and other community leaders entangled in publicly salient transgressions often depend on apologies or other forms of self-defense strategies to restore their credibility. On September 23, 1952, for example, U.S. Vice Presidential candidate Richard Nixon resurrected his floundering political career by giving a nationally televised act of apologia.  His so-called "Checkers" speech was a response to viewers who believed the Vice President had exchanged political favors for a gift of eighteen thousand dollars from his political contributors. Likewise in the corporate arena, Johnson & Johnson restored its public image, in part, through a national campaign of public apologies by CEO Peter Biljur and other company officials. The series of apologies following the 1982 deaths of seven people from cyanide-laced, tampered bottles of Extra-Strength Tylenol. On the global level, national leaders have similarly relied on apologia to revive strained alliances, to moderate inflamed

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adversaries, to counter their own country's domestic pressures, and to restore their credibility around the world.

For some time, the discursive argumentative strategies of public apologies have captured the interest of argumentation scholars. Ware and Linkugel's (1973) seminal essay both defines the concept of apologia and identifies denial, bolstering, differentiation, and transcendence as the four most common approaches speakers use to defend themselves. The same essay contends that various combinations of those four strategies produce four sub-genres of apologia: absolution, vindication, explanation, and justification. Benoit (1995) adds denial, evasion of responsibility, reduction of the offensiveness of the act, the promise of corrective action, and mortification as the five image restoration strategies appropriate for self-defense.

Drawing from case studies of various political actors, many argumentation scholars identify and explain the strategies available to strengthen the effectiveness of the discourse of apologia. Towner (2010), for example, espouses the value of using ideographs to help foster the strategy of transcendence. Wakefield (2007) argues that critics need to understand both apologia and stasis to avoid overlooking key aspects of the context of arguers' strategies of apologia. Theye (2008) emphasizes that the framing and identification components of societal narratives are useful for facilitating speaker credibility in effective apologia. Finally, King demonstrates how apologists can use the metaphor of tragedy to both remove the self and one's self motivations from the scene, while simultaneously positioning the transgressor into an "active agent with an admirable *ethos*" (1985: 290).

Increasingly, those examining apologia have focused on the role of the situational context in defining the argumentative parameters of apologia. Ryan (1982) explains that the appropriateness of certain argumentative strategies depends on whether speakers are responding to accusations about policy or accusations of character. Rowland and Jerome distinguish between situations calling for image maintenance and image restoration. They identify field invariant strategies for apologists seeking image maintenance that include: "demonstrating concern for those harmed, bolstering organizational values, denying intent to create harm, and preventing recurrence by seeking the cause of the problem" (2004: 207-08). They resist field invariant argumentative typologies for those striving for image repair due to the wide range of situational exigencies speakers face. Koesten and Rowland (2004) maintain that particularly during acts of atonement (i.e., when guilt is high), speakers must acknowledge wrongdoing and ask forgiveness, demonstrate a change in attitude, describe a series of steps to present a different type of present and future, demonstrate authenticity, and conduct such acts in public. Nobles (2008) posits that legal, bureaucratic, administrative and political contexts each constrain the productive argumentative strategies available for those wishing to issue public apologies. Finally, Suzuki and van Eemeren distinguish between "the speech act of apologizing and the more encompassing action type of apologia...[which] generally entails a verbal defense" (2004: 103). They do so to stress the need for scholars of apologia to consider culture, given the distinctions in east-west audience expectations for those issuing apologies.

Taken together, the previous studies of apologia share a common, exclusive focus on the verbal aspects of the discourse. Typically, most argumentation scholars limit their studies of public apologies to either a single speech or a series of speech acts designed to

restore the credibility of the transgressor (e.g., Doxtader, 2009; Tavuchis, 1991). Others focus on better understanding the broader argumentative strategies of apologia appropriate for verbal defense (e.g. Ware and Linkugel, 1973; Benoit, 1995). Those who examine cross-cultural apologies similarly utilize verbal texts in their studies' methodologies, as Rentelin (2008) does when she limits her analysis to sets of linguistic terms, connotations of words or phrases, and complements.

Visual argument, by sharp contrast, remains virtually ignored in the available scholarship on apologia. Such an oversight is unfortunate, as images do serve as a powerful source of both verbal and visual argumentative claims, as will be discussed more below. Accordingly, this essay examines the relationship between visual argumentation and apologia through the lens of re-circulated visual images associated with national apologies by political leaders.

This study relies on artifacts drawn from the University of Pennsylvania's extensive list of apologies that global leaders have offered historically (Political Apologies, 2003), as well as more recent apologies that U.S. leaders offered in reaction to conduct of members of the military fighting in Afghanistan to ensure relevance in today's media environment. For each national apology, I entered key terms from the list's entries into the Google search engine, identified which entries yielded accompanying visual images, limited the group of images to those that re-circulated across media outlets, and analyzed the resulting subset of images for argumentative patterns.

Based on this examination of visual images associated with national apologies delivered around the globe over the past four decades, I will argue that images linked to acts of reconciliation have more lasting circulation in the online environment. As offending online images serve as a reminder, if not an ongoing affront, to certain audiences across time and space, the process of visual reconciliation emerges as the preferable response for maintaining an oft needed, continuing online presence. To explain, the following sections will highlight multiple factors that justify the need for understanding the role visual argument in national apologies, identify four characteristics of visual argument that contribute to image recirculation, and illustrate how resilient images of national apologies in the online environment tend to align with theories of reconciliation rather than apologia.

## 1. Visual Argument and Apologia

The increasing role of visual argument in apologia is emergent for a number of reasons. First, visual images are often integral to understanding the argumentative functions of contemporary public discourse. Based on a review of the argumentation community's scholarship on the functions of visual images, Palczewski (2001) makes the case that the nondiscursive functions in four ways:  as an argument, as part of an argument, as a response to an argument, or as an element that can participate in an argument. Gronbeck adds, "Roughly speaking, a representationist conception of image makes them evidence for claims, while a cultural conception constructs images as the influential bases of claims" (2005: 492). Images can function both as ideographs that sum up the propositional logic of communities (Edwards and Winkler, 1997) and as good reasons to counter prevailing societal narratives (Winkler, 2001).

Second, visual images also have strong audience appeal. Experimental studies of images used in broadcast news programs and political campaigns, for example,

demonstrate that images draw viewer attention (Drew and Grimes, 1987), bolster credibility and trust (Sundar and Limperos, 2013), and help produce audience recall of both the image and its surrounding messages (Basil, 1994; Fox, 2004; Lang, 1995; Lang, et al., 2003). Visual images also function to cue themes or societal narratives in ways similar to how argumentation theorists understand the workings of enthymemes (Griffin, 2004; Zelizer, 2004; Lister and Wells, 2001). Finally, viewers can more easily and simultaneously process visual images as opposed to the sequential processing of verbal argument that requires heightened cognitive effort (Graber, 1990; Pfau, et al., 2006; Sundar, 2000).

Third, visual images have increasing importance for argumentation scholars due to the rapid changes underway in the global communication environment. Online media outlets are proliferating (Abdullah, et al., 2005), with an accompanying expanded role for visual images in how media outlets portray national and global news (Greer and Mensing, 2006). With more than three billion current internet users constituting approximately forty percent of the world's population (Internet Live Stats, 2014), audience news consumption patterns have shifted from traditional broadcast and print mediums to digital platforms (Pew Research Center, 2014). A majority of viewers now prefer photographs or video to text-based news (Pew Research Center for the People and the Press, 2004), with the result that audiences are increasingly consuming news through photographs and videos posted on the media company's online sites.

Further, information on the Internet provides the public easy access to sources of information far beyond the stories that traditional media conglomerates provide. In such a diffuse environment, visual argument takes on particular importance as unexpectedly large audiences can "witness" transgressions by individuals or groups. The YouTube video posted anonymously on January 10, 2012, with the caption "Scout sniper team 4 with 3rd battalion 2nd marines out of camp lejeune peeing on dead talibans" offers an illustration of how offending images can go viral. Within four months of the video's first posting, more than 20,000 follow-up posts of the image garnered tens of millions of views on the YouTube site alone. Even in instances where images do not go viral, offending visual arguments can still inspire violent reactions as the example of *Jyllands-Posten's* twelve cartoons of the Prophet Mohammed makes clear. When re-circulated across time and place in the online environment, offending images do more than simply prompt recall of past bad acts; they also function as de-contextualized re-enactments of the offending behaviors. Future viewers can witness the affronts repeatedly online with less understanding of mitigating contextual factors that may have occurred at the time of the initial offending behaviors.

2. Recirculation of Offending Images

The vast expanse and reach of the online environment creates challenges for identifying which particular offending images will go viral and which will have lasting currency with audiences. While scholars working in the field of communication studies have begun to analyze why certain images go viral, explanations readily available from argumentation studies generally remain obscured or outside the parameters of those examinations altogether. As a starting point for understanding how argumentation theory helps inform online image circulation, the following will examine four avenues for detecting offending online images that could predictably have a lasting resonance.

2.1 Subjunctive Voice

One of the most extensive published studies of recirculation of visual images to date is Zelizer's *About to Die: How News Images Move the American Public*. Examining historical American news images that continue to circulate in American media outlets, she borrows the concept of the subjunctive voice from linguistics to explain why such images emerge as resonant over time. She draws a distinction between images that merely document "what is" from those which employ "as if" or "what could or should be." (2010: 14) She concludes that "as if" images (i.e. the ones using the subjunctive voice) have a more lasting influence on culture.

When Zelizer explains why "as-if" images have elevated importance, she introduces three characteristic aspects of such images that are well familiar to scholars of argumentation studies: contingency, imagination, and emotion. Within the field of argumentation studies, Zelizer's notion of contingency, whereby the meaning of images changes over time, is steeped in *kairos*, the ancient Greek word for right time, arising circumstances, or contingency (Sutton, 2001). Her concept of imagination, where viewers fill in the moments before and after the frozen frame, draws from Aristotle's concept of the enthymeme. Finally, her focus on emotional responses, where viewers experience a wide and unpredictable variety of expressive reactions based the context of the image, connects explicitly to both classical and contemporary examinations of pathos.

One image that illustrates Zelizer's use of subjunctive voice is the widely circulated photograph of the hooded man standing on a box with electrical cords attached to his hands at Abu Ghraib prison. The meaning of the image is contingent, as some consider the photograph to be clear evidence of U.S. torture of Iraqi civilians, while others view it as proof of the U.S. commander's lack of control at the prison. Viewers' imaginations fill in whether the man participated in acts of terrorism prior to his placement on the box, whether he subsequently endured electrocution, whether he tired to the point of falling from the box, or whether he died. Emotional reactions to the image include horror, glee, satisfaction, discomfort, or anger (among others) depending on how viewers fill in the events before and after the frozen frame. The photograph's evident reliance on subjunctive voice portends that it will continue to circulate in the online environment for years to come.



US DoD via Wikimedia

The "man on box" photographed by US soldiers at Abu Ghraib illustrates Zelizer's concept of the subjunctive voice (Photograph courtesy of Wikimedia, 2003).

2.2 Argumentative Amplification

Another way visual arguments potentially extend their longevity through online circulation is through amplification.

162

Argumentation theorists Perelman & Olbrechts-Tyteca explain the process of amplification by noting:

> Except where argumentation develops within a previously established frame, the premises [of an argument] can always be advantageously buttressed by integrating them with other accepted theses. Similarly, unless the point at issue is very definite, conclusions can be bound up with certain of their consequences, which makes it possible to prolong the argumentation by changing the subject of the discussion (1969: 474).

In the case of visual argument, interactions between the image's substance and its compositional elements often function as complementary premises that can amplify a claim.  In brief, both the form and content of the image work together to bolster the claim and its consequences.

The widely circulated image of Baghdad resident Ali Abbas snapped at the start of the U.S. war on Iraq in 2003 illustrates the point. The photograph shows Ali Abbas, a 12-year old boy burned and maimed when U.S. bombs hit his Baghdad home on the first day of the Iraq War. On a substantive level, the image documents the claim that U.S. military attacks harm innocent civilians. The compositional elements of the photograph, however, reinforce the same conclusion in ways that other images of civilian casualties snapped during the same war do not. The positioning of the photographed body places the child at close, personal distance to the viewer with his head in the lower left quadrant of the screen, a stance that mimics that of an infant immediately prior to breastfeeding. Ali's bandaged, amputated arms in the photo render his head disproportionately large in comparison to his other body parts, again evoking the image of a newborn. The handle of the Ali's stretcher resembles that of infant carrier, and the hand entering the frame from the top left corner is suggestive of a mother's hand preparing to wipe drool from her young child's face. Together, the compositional elements and substance of the photo work together to amplify the claim that U.S. actions harm the most vulnerable members of the Iraqi community.



Reuters

Compositional and substantive elements work together in the photograph of Ali Ismail Abbas to emphasize the claim that US forces harmed the most vulnerable members of Iraqi society (Thomi, 2010).

## 2.2 Argumentative Convergence

A third factor that contributes to whether offending images are likely to continue circulating in the online environment is convergence. Perelman and Olbrechts-Tyteca explain why convergence magnifies the argumentative potential of individual claims

when they write, ". . . If several distinct arguments lead to a single conclusion, be it general or partial, final or provisional, the value attributed to the conclusion and to each separate argument will be augmented, for the likelihood that several entirely erroneous arguments would reach the same conclusion is very small" (1969: 471). Within the context of the visual, convergence can occur when an image combines with other images that bolster the same claim. Previous studies of consumer marketing and political advertising, while not directly on point to the subject of argumentative claims, nevertheless document that moderate repetition leads to more audience familiarity, recall, and perceived credibility of messages (Cacioppo & Petty, 1979; Fernandez, 2013; "Repetition and Truth," 2012).

The Abbas photograph described and shown above contributes to argumentative convergence through its paired association with other offending images that function as similar data, warrants, and claims within online communication. One such pairing that al-Qaeda's production companies presented, for example, involved an iconic image of another 12-year old boy, Mohammed al-Dura, filmed by Talal abu Rahmah for France2.[1] The frozen frame shows a scared boy crouching behind his father during an Israeli Defense Forces-Palestinian gun battle. Later in the videotaped footage, the boy lies across his father's lap allegedly the casualty of Israeli forces according to the story that France2 originally produced. While French courts have adjudicated conflicting claims about the veracity of the France2 story, the image, nevertheless, has come to symbolize the second intifada for much of the public in the Middle East. The quick cut between the Abbas and al-Dura images visually invites the inference that collusion exists between the United States and Israel to target Muslim populations, as the actions of both nations' militaries appear to harm young Muslim civilians unable to defend themselves or to fight back in any way.


2.3 Political Identity Markers

A third group of images re-circulate across time and place in the online environment are cultural identifiers. Edwards and Winkler (1997) maintain that members of the political elite and the rank-and-file citizenry alike widely recognize a small subset of images with adaptive, flexible meanings as readily identifiable, political markers of culture that embody the propositional logic that defines the boundaries of inclusion. Hariman and Lucaites agree, maintaining that specific iconic images that avoid rigid interpretation or meaning "can foster social connectedness, political identity and cultural continuity" (2007: 111). By transcending particularized meanings embedded in specific contexts, such images do not lose their resilience and ongoing currency. Instead, they come to function as identifying markers of the cultures in which they circulate.

Five sources of rhetorical power intersect to create political markers of a culture. These include the ability to reproduce ideology, to communicate social knowledge, to shape collective memory, to model citizenship, and to become the figural resources for communicative action (Hariman and Lucaites, 2007). Examples of photographs of individuals that have become positive indicators of collective identity for the American culture include Joe Rosenthal's Iwo Jima photograph, Dorethea Lange's "Migrant

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[1] Cited image of Mohammed al-Dura, available from *www.//972mag.com/a-child-is-dead-charles-enderlin-on-the-al-durrah-incident-10-years-later/3382/* .

Mother," and Alfred Eisenstaedt's Time Square "Kiss on V-E Day." Markers of political culture, however, can also evoke negative emotions, such as Nick Ut's "Accidental Napalm" photograph from the Vietnam War. Once an image emerges as a political marker demarcating who belongs and who falls outside of the culture, expansions and contractions of the images' meaning over time reveal shifts in cultural definitions (Edwards and Winkler, 1997).

3. Reconciliation as Visual Response Strategy

Recognizing that offending images continue to re-circulate in the online environment, those who have transgressed often choose to offer apologies. Scholars who have examined how national leaders historically craft public speeches in response to accusations of offensive words or deeds conclude that such officials generally rely upon one of two recurrent strategic approaches. The first of these is apologia, which Benoit and Brinson define as "a recurring type of discourse designed to restore face, image, or reputation after an alleged or suspected wrongdoing" (1994: 75). The second is reconciliation, which Hatch defines as "a dialogic rhetorical process of healing between the parties" (2006: 187). For both apologia and reconciliation, public acts of apology often function as a key step in the process needed for image restoration or healing processes.

The following sections will explain four key differences between reconciliation and apologia, as well as demonstrate how images of reconciliation have comparatively sustained currency for online viewers. My use of the term "apology" will mean the tactical use of actual words and images within specific situations to express regret and remorse for prior offending acts without regard for the speakers' strategic choices. I will follow the lead of Benoit and Brinson to employ the term "apologia" as "a recurring type of discourse designed to restore face, image, or reputation after an alleged or suspected wrongdoing" (1994: 75).

3.1 Forgiveness vs. Face-Saving

One distinguishing feature between apologia and reconciliation involves the desired goal the speaker intends to achieve with the audience. Speakers using apologia strive to restore their own credibility and remove the perception they might be guilty of involvement in the transgression (McClearey, 1983). Speakers seeking reconciliation are interested in restoring dialogue, instead of pursuing the purposes of shifting blame, denying charges, or some other form of blame avoidance or image repair (Hatch, 2006). The dialogue function of reconciliation affords the injured party an ongoing opportunity to either accept or refuse to accept the offered apology, or even to accept, but still demand future apologies in the interests of restorative, rather than punitive, justice.

The most frequent visual strategy deployed in images of national apologies involves a headshot of a designated national leader or other representative apologizing for inappropriate words or deeds before a television camera. The approach, frequently accompanied by a speaker's face-saving verbal appeals, rarely results in an image that has lasting circulation in the online environment. An exclusive use of a headshot visually removes the option of reconciliation, as the approach crops out one party in the dialogue.

For example, the January 12, 2012, headshot of U.S. Secretary of State Hillary Clinton speaking from behind a podium as she condemned video images of Marines pictured desecrating dead members of the Taliban illustrates the point. The head-shot positions her as speaking to all television viewers without designating who has the right to accept her words or who can demand more from the United States by way of continued apologies.



US Department of State

A headshot of the individual apologizing visually removes the option of reconciliation because a party to the dialogue is missing. (Photograph courtesy of U.S. Department of State).

By contrast, circulating images clipped from the February 24, 2012, news video of Acting Assistant Secretary of Defense Peter Lavoy apologizing for U.S. military members burning Qur'ans provides visual documentation that the U.S. government sought reconciliation with members of the Muslim community.[2] The physical site of the apology was the All Dulles Area Muslim Society, one of the largest mosques in the United States. The location, evident in each frozen frame of the event on the Internet, documents that aggrieved Muslims are willing to listen to the apology by the U.S. military leader. The backs of individual congregation members' heads, coupled with Imam Mohamed Magid flanking Assistant Secretary Lavoy and nodding at times during his apology, provide visual evidence that some Muslims wish to continue the dialogue with the United States, rather than reject the appeal outright and pursue more violent responses. Further, Assistant Secretary Lavoy's public vulnerability, whereby his apology might have elicited a negative reaction from the congregation, the Imam, or both, helps elevate the stature of the Muslim members of his dialogue in accordance with the norms of reconciliation.

Images can also function as arguments for reconciliation even when those apologizing do not speak directly to those aggrieved. On June 15, 2010, for example, British Prime Minister David Cameron apologized before the House of Commons for the 1972 Bloody Sunday killings, where British authorities killed 14 unarmed protesters who had criticized the British government for detaining suspected IRA terrorists without trial.[3] The most widely re-circulated image of the event, however, does not occur inside the House of Commons chamber at the Palace of Westminster itself; instead, it is a still image taken from the video of the families and friends of the dead taped outside the chamber. The individuals captured in the screen shot had come to London to publicly pronounce the innocence of those the British government had killed as they watched the speech. The still image of the audience, cheering in response to Prime Minister

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[2] Cited image of Peter Lavoy, available from *www.cbsnews.com/8301-202_162-57385035/pentagon-official-apologizes-for-koran-burning/* .

[3] Cited image of David Cameron, available from *www.time.com/time/specials/packages/article/0,28804,1997272_1997273_1997274,00.html* .

Cameron's apology, supports the conclusion that the British government was making progress in reconciling with the injured parties for the slain members of their community.

3.2 Reflection versus Preservation

Besides having distinctive goals for their audiences, speakers delivering national apologies have differential goals for themselves based on whether they seek to employ apologia or reconciliation. Speakers relying on apologia speak in defense of themselves to order to change the perceptions of others (Benoit, 1995; Ware and Linkugel, 1973). Speakers attempting to reconcile with aggrieved parties, by contrast, focus on self-reflection as a necessary step for preventing the offense from recurring in the future (Janseen, 2012). The process of self-reflection, if genuinely and properly implemented, helps restore the dignity of those injured by the previous bad acts. The circulating online images examined here provide evidence that the leaders are engaging in moments of self-reflection consistent with the goal of reconciliation. In rare cases moments of self-reflection can even serve as the complete argument, shedding any need for an accompanying verbal speech of apology.

The image most known for demonstrating self-reflection at moments of national apology involves West German Chancellor Willy Brandt visiting a Jewish war memorial in a Warsaw ghetto on December 7, 1970.[4] Chancellor Brandt's state visit to Warsaw was an attempt to improve relations between Poland and the Soviet Union, with a planned side trip to commemorate the victims of the Warsaw Ghetto uprising of 1943. Overcome by emotion as he approached the memorial, Brandt fell to his knees in an act of repentance. He offered no words of apology. Later, he would explain that he felt he "had to do something to express the particularity of the commemoration at the ghetto monument. On the abyss of German history and carrying the burden of the millions who were murdered, I did what people do when words fail them" (1994: 214). Many academic studies and related press coverage of the incident consider the image of Chancellor Brandt's powerful act of self-reflection on the past wrong acts of Germany as iconic.

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[4] Cited image of Willy Brandt, available from https://iconicphotos.wordpress.com/2009/05/25/warschauer-kniefall/ .

Brandt's image, however, is far from alone as a photographed act of self-reflection during times of national apology. At times, such images focus on leaders surveying the consequences of their own prior acts, as when Russian President Vladamir Putin made a hospital visit to some of the 100 hostage casualties that had resulted from his October 23, 2002 order to gas the Dubrovka Theatre held by Chechen separatists.

Reconciliation images also document leaders examining the prior bad acts of their predecessors, as a photograph of U.S. President George W. Bush and First Lady Laura Bush during their visit to Goree Island off the coast of Senegal, illustrates. While President Bush did not formally apologize during his trip to the previous center of the West African slave trade, he did describe slavery as one of history's greatest crimes. The archetypal image of the President and First Lady moving both literally and figuratively through the darkness into the light as they walk through the slave quarters makes the visual argument that the President engaged in a process of self-reflection.[5]



President of the Russian Federation

Vladimir Putin visits hostage casualties following his decision to gas the Dubrovka Theater (Photograph courtesy of the Kremlin, 2002).

Other re-circulated images of national apology infer that the offender has already reflected, recognized wrongdoing, and chosen to take some redemptive action. One example involves the image of the United States flying its embassy flag at half-mast in Belgrade, Serbia. The event occurred



US Department of

The image of the US flag flying at half mast in Hong Kong recognizes the consequences of the U.S. error in bombing the Chinese Embassy (Photograph courtesy of US Department of State, 1999).



Presidencia de la Nación Argentina

Argentine Pres. Nestor Kirchner, after a process of self-reflection, removed official portraits of junta military leaders (Photograph courtesy of Wikimedia, 2013).

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[5] Cited image can be found at http://www.tribuneindia.com/2003/20030709/w6.jpg

during U.S. Ambassador Thomas Pickering's trip to apologize to the Chinese after a B-2 bomber mistakenly struck the Chinese Embassy in Belgrade on May 7, 1999, killing three Chinese journalists and injuring more than 20 others. A photograph of Argentine President Nestor Kirchner removing the official portraits of military leaders who, during the junta's 7-year reign, killed more than 30,000 people considered sympathetic to the communists' message, offers another example of redemption sought after many steps of the process of self-reflection.

Images of self-reflection during national apologies can utilize a wide range of representatives to disavow wrongful acts of the past. Most frequently, the photographed spokesperson is a head of state or some other organizational leader responsible for those who committed the offending act. U.S. General John Allen, for example, publicly apologized in his military fatigues to the Afghan President, government, and people for the burning of the Qur'ans that occurred under his personal command of the International Security Force in Afghanistan. Images of community leaders participating in public processes of self-reflection can also help heighten the call for contemplation to prevent future harmful acts. One notable image of community leaders, snapped at the interfaith vigil in the National Cathedral after the



US Department of Defense

General Allen apologized in public for the burnings of Qur'ans by soldiers under his command (Photograph courtesy of US Department of Defense, 2012).



Washington National Cathedral

Dressed to represent their faiths, religious leaders sat together in solidarity during the 9/11 Day of Prayer (Photograph courtesy of Washington National Cathedral, 2001).

attacks of September 11, 2001, displayed religious leaders dressed to display many faiths sitting together in hopes of moving toward a better future built on mercy, rather than further violent acts by individuals in the name of religion. Finally, images of self-reflection by rank-and-file community members can also facilitate the goals of reconciliation, as when 250,000 Australians crossed the Sydney Bridge to symbolize their denunciation of their nation's prior bad acts against that nation's aborigines. The image's inclusion of the word "SORRY," displayed in skywriting above the bridge, creates an iconic reminder of the outcome of

Australia's non-aboriginal citizens' process of self-reflection.[6]

3.3 Open vs. Closed Argument

A third key distinction between apologia and reconciliation deals with the process associated with issuing national apologies. Apologia is an argumentative form that seeks closure or, put another way, completed conflict resolution for past acts of wrongdoing. Those who apologize strive to inhibit future discourse about their transgressions and to move on to other matters (Janseen, 2012). Reconciliation, by contrast, is a long-term process of restoring dignity to the wronged party. Those participating in attempts at reconciliation show a continued willingness to engage in dialogue that recalls memories of the past and recognizes both the differences and differential power between the two parties involved in the dispute (Janseen, 2012; Hatch, 2006). A number of online images of national apology demonstrate that some transgressors do treat the recovery process from their past misdeeds as an ongoing process.



Courtesy Jorge Pujo

The statement written on the lawn of the Australian Parliament acknowledges that an apology alone is insufficient for reconciliation (Photograph courtesy of Pujol, 2008).

The most obvious example was a photograph of the grounds outside the Parliament Building of Australia when Prime Minister Kevin Rudd apologized for offenses against the aboriginal peoples of Australia. During the nation's history, the Australian government's bad acts included permitting aboriginal children to be put up for adoption to white families in hopes of changing their color through breeding. Prime Minister Rudd issued the national apology only after the country's state parliaments, churches, and social welfare agencies had first apologized. The image of "SORRY. THE FIRST STEP" written on the Parliament lawn makes the visual argument that Australia's apologies were only an initial step in the dialogue, with an open invitation for further steps to help remedy the historical offenses against the nation's aborigines.

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[6] Cited image to the Sydney Harbor Bridge available from http://theconversation.com/the-case-for-gail-jones-sorry-22259.

Another example of an image of national apology that argues for a future, open dialogue is the photograph of U.S. President Bill Clinton snapped when he visited Ugandan school children at Kisowera School of Mukono in 1998. President Clinton did not officially apologize for slavery at the site but did tell the children that, "European Americans received the fruits of the slave trade and we were wrong in that" (Bennett, 1998) and promised 120 million dollars in educational improvements as a form of reparations. The image places the focus on reconciliation for the future, as the President joins hands with the school children, Uganda's future.[7] It also recalls the memory of the United States' history with slavery by staging a reenactment of the compositional elements of a remarkably similar photograph, one that captured an image of then President Abraham Lincoln, who had hopes for future reconciliation as he walked through



Digital Public Library of America

Abraham Lincoln's entry into Richmond at the end of the Civil War provides a template for future apologia images (Nast, 1866).

the streets of Richmond at the end of the Civil War.[8] Clinton, like Lincoln, towered over the children as he walked hand-in-hand with them; adults flanked both sides of the two leaders as they moved forward.

3.4 Long-term Reunion vs. Short-term Gain

A final distinction between apologia and reconciliation relates to the desired outcomes from the transgressor's response. Apologia focuses on short-term gains achievable by regaining favor with audiences already predisposed to the speaker's arguments (Towner, 2010). Reconciliation, by contrast, has a goal of understanding the long-term processes of image restoration and mutual respect between the aggrieved and the transgressor. Attempts at credible reconciliation utilize symbols of reunion to demonstrate that the aggrieved has *genuinely* granted the forgiveness sought by the offender (Hatch, 2006). Visual images freeze the moment of genuine forgiveness and, when replayed in the online environment, carry forward the steps of reunification into perpetuity.

The most common symbol of reunion following a national apology is the handshake, denoting respect between the two parties. Accompanying facial expressions, such as smiles and direct eye contact, contribute to the handshake image's ability to argue that sincere forgiveness has occurred. At times, the demographic characteristics of the

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[7] Cited image of William Clinton available http://media.nola.com/politics/photo/10607176-large.jpg.

participants shaking hands become reinforcing evidence for the authenticity of the reconciliation attempt. After former South African President William De Klerk apologized for 4 decades of rule by his nation's white supremacist government, for example, the stark contrast between the skin tones of President De Klerk and Bishop Desmond Tutu, then acting in his role as Secretary General of the South African Council of Churches, makes a visual argument for the reunion of the races, the goal strived for during the proceedings of South Africa's Truth and Reconciliation Commissions.[9]



White House TV

Even though Tuskegee study survivor Herman Shaw is not looking directly at Pres. Clinton, the close distance between the two shows that the nation's apology was accepted (Photograph courtesy of White House, 1997).

Besides the handshake, the use of physical space in images associated with national apologies can argue for genuine reunion between the transgressor and the aggrieved. Consider the widely circulated image of President Clinton and Mr. Herman Shaw, one of the few remaining survivors of the Tuskegee Syphilis study. The photographers snapped the picture after Clinton apologized to the survivors, family members, children, and grandchildren of those the U.S. government had told were receiving treatment for syphilis, but instead denied them treatment after failing to obtain their consent to participate in the study. The Clinton-Shaw image records such a close personal distance between the two men that, even though Mr. Shaw does not look directly at President Clinton, his acceptance of the apology appears genuine.

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[9] Cited image of Bishop Tutu and William De Klerk, available from *www.time.com/time/ specials/packages/article/0,28804,1997272_1997273_1997279,00.html*.

Other compositional elements of photographs can also contribute to the perception of a genuine, successful reconciliation. An image of a meeting between President Barack Obama, Vice President Joseph Biden, Harvard Professor Henry Gates, and Sergeant Joseph Crowley illustrates a number of other visual strategies available to signal that genuine reconciliation has occurred. Prior to the meeting President Obama had announced that Sergeant Crowley "acted  stupidly" when he arrested Gates during his response to a call about an alleged burglary attempt at Gates' home. Physical presence and setting, seating arrangements, props, and dress that the photographer captured in the image all invite the audience to infer that the previous conflict between the men was in the past. The image documents that each of the men agreed to be present at the informal meeting on the White House lawn. The alternating seating of the black and white participants visually responds to the underlying charge of racism that magnified the arrest into a national news story. The beers and the willingness of the nation's two top leaders to remove their suit jackets reinforce the conclusion that the men share an informal camaraderie. Together, the image functions as visual evidence that the men have moved past the incident and forgiven each other for the misunderstanding.



Pete Souza for the White House Photo Office

Compositional elements – physical presence, setting, seating arrangements, propos, and costume - can indicate that genuine reconciliation has been achieved (Photograph courtesy of White House, 2009).

4. Conclusion

While studies of the verbal discourse of apologia yield important insights into how speakers can restore their previously damaged reputations with the public across a myriad of contexts, complementary studies of visual argument provide a much needed corrective for a public that has a growing reliance on internet sources for information. This study has revealed that the field of argumentation studies has much to contribute to interdisciplinary conversations currently underway about what Internet content goes viral and accordingly, what offending images should prompt a response that incorporates visual argument.  The resilient presence of content on the Internet creates a situational exigency where visual argument strategies consistent with reconciliation, rather than apologia, produce a more lasting, and arguable more effective, response from the transgressor.

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Hans V. Hansen: Hans V. Hansen was born in Denmark and educated in Canada and the United States, receiving philosophy degrees from Lakehead University (Thunder Bay) the University of Manitoba (Winnipeg) and Wayne State University (Detroit). He is now at the University of Windsor where he is a Fellow in the Centre for Research in Reasoning, Argumentation and Rhetoric (CRRAR) and a member of Philosophy Department. Since the 1980's he has been involved with the journal, *Informal Logic*, and now serves as one of the co-editors. He is also a co-organizer of the conferences of the Ontario Society for the Study of Argumentation (OSSA), which have taken place biennially since 1995. Lately, Hansen's research has focussed on (i) John Stuart Mill's theory of argumentation, (ii) methods of informal logic, and (iii) classifying the arguments in political campaigns. Hansen is the co-editor of *Fallacies: Classical and Contemporary Readings* (1995) and the editor of *Riel's Defence* (2014), a collection of essays devoted to the trial speeches of Louis Riel, the famous Métis leader who was executed for high treason in Saskatchewan, Canada, 1885.

James Klumpp: James F. Klumpp is Professor of Communication at the University of Maryland. He is a rhetorical critic and argumentation theorist with special attention to rhetorical argument in politics and social change. He was the keynote speaker at the NCA/AFA Summer Conference on Argumentation in 2005, and at the International Society for the Study of Argumentation conference in 2009. He received the Senior Scholar Award for Lifetime Achievement at the NCA/AFA Summer Conference on Argumentation in 2013, the Distinguished Research Award of the International Society for the Study of Argumentation in 2009, and the National Communication Association's Douglas Ehninger Distinguished Rhetorical Scholar Award in 2013. He is co-author/compiler and *American Rhetorical Discourse*, editor of *Argument in a Time of Change: Definitions, Theories, and Critiques*, and author or co-author of over fifty essays in rhetoric, politics, argument, and the processes of social change.

Marcin Lewiński is a post-doctoral researcher at Argumentation Lab – a research unit within the IFL. Before joining IFL in 2010, he studied social communication and philosophy at the University of Wrocław (Poland), Erasmus University Rotterdam and finally University of Amsterdam, where he received his PhD in Argumentation Theory (2010). His main field of interest and expertise lies at the intersection of argumentation theory (in particular pragma-dialectics), political theory, practical philosophy, pragmatics and the analysis of information and communication technologies. He is currently involved in two projects sponsored by the Portuguese Foundation for Science and Technology (FCT):Argumentation in the virtual public sphere: Between ideal models and actual practices (FCT-funded individual post-doctoral project) and Argumentation, Communication and Context (FCT-funded

institutional project in ArgLab). Marcin's task in these two projects is to study practical argumentation in multi-party activities (argumentative *polylogues*), especially in political contexts such as online discussions.Argumentative polylogues, which involve more than two opposing positions, are common in political discourse, yet are little analysed and theorised in the form of argumentation models.

Dima Mohammed: Dima Mohammed is a postdoctoral researcher at the Argumentation Lab of the Institute of Philosophy of Language (IFL). Dima is interested in the study of argumentation in institutionalised contexts in general and in argumentation in political contexts, in particular. Her domain of specialisation includes argumentation theory, philosophy of language, persuasion research and political philosophy. Before joining the IFL, Dima was a lecturer and a researcher at the Department of Speech Communication, Argumentation Theory and Rhetoric at the University of Amsterdam, The Netherlands. She also worked as a researcher and programme manager at the Institute of Communication and Health of the Faculty of Communication Sciences at the University of Lugano, Switzerland. Her current research project investigates the rationality of public political arguments [http://www.arglab.ifl.pt/rationality-political-argument/]. The project aims at integrating political norms of rationality into the argumentative analysis and evaluation of public political arguments. The project is funded by the Portuguese Foundation for Science and Technology (FCT). She is also currently involved in the FCT-funded project Argumentation, Communication and Context [http://www.arglab.ifl.pt/communication-context/] conducted in the Argumentation Lab.

Ronald Placone: Ronald J.  Placone, Ph. D., is an Assistant Teaching Professor of Business Management Communication at the Tepper School of Business, Carnegie Mellon University.  Ron teaches a range of communication courses to graduate and undergraduate students.  Previously, Ron was the Assistant Vice President for Learning & Development at Carnegie Mellon University.  Ron has served as an executive consultant to numerous corporate and not-for-profit organizations.  Ron earned a Ph.D. in Rhetoric-English from Carnegie Mellon University.  His research interests include civility, argumentation and influence.

Ron Von Burg: Ron Von Burg is an Assistant Professor in the Department of Communication and Core Faculty in the Interdisciplinary Program in Humanities at Wake Forest University. His research interests include rhetoric of science, public argument, public discourses on religion and science, and science fiction film studies. His work has appeared in *Critical Studies in Media Communication*, *Southern Journal of Communication*, *Journal of Public Deliberation*, and *POROI*.

Carol Winkler: Carol Winkler is a scholar of presidential foreign policy rhetoric, argumentation and debate, and visual communication. Her recent book, In the Name of Terrorism (SUNY 2006), won the outstanding book award in political communication from the National Communication Association.  It traces the behind-the-scenes development of the leadership's public communication strategies since

the Vietnam War in response to terrorism. Her research appears in the *Quarterly Journal of Speech, Controversia, Argumentation and Advocacy, Political Communication and Persuasion, Rhetoric and Public Affairs,* and *Terrorism*. She has won the National Communication Association's Visual Communication Commission's Award for Excellence in Research for her work on linkages between visual images and ideology.

David Zarefsky: David Zarefsky is Owen L. Coon Professor Emeritus of Argumentation and Debate, and Professor Emeritus of Communication Studies, at Northwestern University, where he was a member of the faculty for 41 years and Dean of the School of Communication for 12-1/2 years.  He is a former president of both the National Communication Association and the Rhetoric Society of America.